

Town of Hornby, Steuben County, New York

Local Law # 2 of 2017

**A local law amending the Town of Hornby Zoning Ordinance
Article 13 – Section 13.18 – Solar Energy Systems and Solar Access
by replacing the existing Section 13.18 in its entirety with the
following:**

Section 1 – Purpose and Intent

The purpose and intent of this local law is to oversee the development and operation of renewable energy systems based on sunlight, because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, in accordance with the Town of Hornby Comprehensive Plan. Solar energy systems are appropriate in all zoning districts when measures are taken, as provided in this chapter, to prevent adverse impacts on neighboring properties and protect the public health, safety and welfare.

Section 2 – Definitions

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM: A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

GROUND-MOUNTED SOLAR ENERGY SYSTEM OR FREESTANDING ENERGY SYSTEM: A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity or other useable forms of energy for onsite consumption.

MAJOR SOLAR COLLECTION SYSTEM or MAJOR SYSTEM or SOLAR FARM - An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid in order to sell electricity to or receive a credit from a public utility entity, but also may be for on-site use. Major solar collection systems are defined as those having, at minimum, ground-mounted systems with a total surface area 2000 square feet or greater. Additionally, major systems could include one or more roof-mounted solar collector devices, larger ground mounted

collection devices, other accessory structures and buildings, light reflectors, concentrators, heat exchangers, substations, electrical infrastructure, transmission lines and appurtenant facilities.

MINOR SOLAR COLLECTION SYSTEM or MINOR SYSTEM - A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat, accessory to the use of the premises for other lawful purposes. Minor solar collection systems are defined as roof- or building-mounted solar collectors greater than 60 square feet on any code-compliant structure, and ground-mounted solar collectors with the total surface area greater than 60 square feet and less than 2,000 square feet.

NET METERING - A billing arrangement that allows for solar customers to get credit for excess electricity generated on-site and delivered back to the grid.

PHOTOVOLTAIC (PV) SYSTEM - A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity when light strikes them.

QUALIFIED SOLAR INSTALLER - A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSEDA's or NABCEP's list of certified installers may still be deemed to be qualified solar installers if the Town of Hornby Code Enforcement Officer determines such persons to have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of the exposed parts.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

SOLAR COLLECTOR – A solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure affixed to the ground, a building, or other structure that harnesses solar radiation to directly or indirectly generate thermal, chemical, electrical, or other useable energy, or that reflects or concentrates solar radiation to a solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure that directly or indirectly generates thermal, chemical, electrical, or other useable energy.

SOLAR EASEMENT - An easement recorded pursuant to the NY Real Property Law § 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

SOLAR ENERGY EQUIPMENT: Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

SOLAR ENERGY SYSTEM: An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electrical energy or other useable forms of energy.

Section 3 –Applicability

A. To the extent practicable, and in accordance with Town of Hornby law, the accommodation of solar access to sunlight for such equipment and the protection of access to sunlight for such equipment shall be encouraged in the application of the various review and approval provisions of the Town of Hornby.

B. Rooftop and building-mounted solar collectors are permitted in all zoning districts in the Town of Hornby subject to the following conditions:

1. Building permits shall be required for installation of all rooftop and building-mounted solar collectors.
2. Height limitations of the Town of Hornby Zoning Code shall not be applicable to solar collectors that are rooftop mounted, provided that roof-mounted solar collectors are mounted to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve, and that such structures do not obstruct solar access to neighboring properties. This applies to solar collectors mounted on roofs so long as the units do not extend horizontally past the roofline.

3. Roof structures must be properly engineered to support collectors.
4. Rooftop units must be installed according to manufacturer's specifications.

C. Building-integrated photovoltaic (BIPV) systems are permitted outright in all zoning districts. No building permit is required if the system is installed when the structure the BIPV is part of is constructed.

D. Small Solar Panels of less than 60 square feet shall not require a permit or engineering approval.

E. Minor Ground Mounted or Freestanding Solar Systems are permitted in all zoning districts in the Town of Hornby subject to the following conditions:

1. Building permits are required for all ground-mounted and freestanding solar collectors.
2. The unit must be installed in a side or rear yard.
3. The location of the solar collectors must meet all applicable setback requirements for accessory structures in the applicable zoning district.
4. Special permits from the Town of Hornby Zoning Board are required for all Ground mounted or freestanding solar collectors 10 feet or more in height above the ground. Height above ground is determined by the highest extension of any part of the solar array. For solar arrays that move to maintain optimal exposure to the sun, the highest extension of any array component in any attainable orientation shall serve as the limiting height.
5. Solar collectors and other facilities shall be designed and located to prevent reflective glare toward any inhabited buildings on adjacent properties and roads.
6. The town encourages installations that would employ landscape screening and other methods of enhancing the appeal of the ground mounted and freestanding solar collector such as the use of architectural features, earth berms, or other screening which will harmonize with the character of the property and surrounding area.
7. For residential lots less than or equal to 5 acres, one 100 square foot solar array is permitted for each 10,000 square feet of lot area. For lot sizes greater than 5 acres,

one 100 square foot solar array is permitted for each 5,000 square feet of lot area. The total capacity of the solar arrays cannot exceed 125% of the estimated site electrical needs or 2000 square feet.

8. All solar collector installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards, and prior to operation the electrical connections must be inspected by the Town Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.
9. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Steuben County and other applicable laws and regulations.

F. MAJOR SOLAR COLLECTION SYSTEM

Major Solar Collection Systems are permitted in all zoning districts in the Town of Hornby and will require a building permit subject to the following:

1. Application Information and site plan shall include:
 - a) Name, address, phone number and signature of the project proponent, the project owner, the property owner and of the proposed, qualified, solar system installer.
 - b) Blueprints or drawings of the solar photovoltaic installation shall show the proposed layout of the system and shall include all property lines, physical features and roads (if any) for the project sit. The blueprints or drawings shall include any potential shading from nearby structures. The blueprints or drawings shall be signed by a licensed Professional Engineer.
 - c) Blueprints or drawings that document the proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.

- d) A description of the solar energy facility and the technical, economic and other reasons for the proposed location and design shall be prepared and signed by a licensed professional engineer.
- e) A confirmation prepared and signed by a licensed professional engineer that the solar energy system complies with all applicable Federal and State standards.
- f) One or three line electrical diagram detailing the solar farm layout, solar collector installation, associated components including the panels, mounting system and inverter and electrical interconnection methods. This diagram shall include all National Electrical Code compliant disconnects and over-current devices
- g) An operation and maintenance plan which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.
- h) Information on noise (Inverter) and reflectivity/glare of solar panels and identify potential impacts to adjacent properties.
- i) Proof the owner has submitted notification to the appropriate utility company of the owner's intent to install an interconnected customer-owned electrical generation system. Off-grid systems are exempt from this requirement.

2. Minimum Requirements. In any district requiring a Special Use Permit for a Solar Farm, the development shall conform to the following standards which shall be regarded as minimum requirements:

- a) Solar Farms of less than 26 (kW) shall be on a parcel of not less than five (5) acres, otherwise a minimum of (10) acre parcel shall be required.
- b) All ground-mounted panels shall not exceed ten (10) feet in height unless special permit has been requested of and approved by the Town of Hornby Planning Board. Height above ground is determined by the highest extension of any part of the solar array. For solar arrays that move to maintain optimal exposure to the sun, the highest extension of any array component in any attainable orientation shall serve as the limiting height.

- c) All mechanical equipment on a Solar Farm, including any structure for batteries or storage cells, are completely enclosed by a minimum 8' high fence with a self-locking gate.
- d) The total surface area of all ground-mounted and freestanding solar collectors, including solar voltaic cells, panels and arrays, shall not exceed 80% of the total parcel area.
- e) The installation of a vegetated perimeter buffer to provide year round screening of the system from adjacent properties.
- f) Because of neighborhood characteristics and topography, the Town of Hornby Planning Board shall examine the proposed location on a case by case basis; ensuring that the potential impact to its residents, businesses or traffic is not a detriment to the Community.
- g) All solar energy production systems are designed and located in order to prevent reflective glare toward any habitable buildings, as well as streets and rights-of-way.
- h) All onsite utility and transmission lines are, to the extent feasible, placed underground.
- i) The installation of a clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- j) The system is designed and situated to be compatible with the existing uses on adjacent and nearby properties.
- k) All major solar energy system components shall have a 50 foot setback, unless abutting residential uses, where the solar energy system shall be located a minimum of 200' from property lines.
- l) Solar modular panels shall not contain hazardous materials.
- m) All appurtenant structures including but not limited to equipment shelters, storage facilities, transformers and substations shall be architecturally compatible with each other and shall be screened from the view of persons not on the parcel.

- n) Lighting of "Solar Farms" shall be consistent with State and Federal Law. Lighting of appurtenant structures shall be limited to that required for safety and operational purposes and shall be shielded from abutting properties. Lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.
- o) A sign is required that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a 24-hour basis.
- p) There shall be a minimum of one (1) parking space to be used in connection with the maintenance of the solar photovoltaic facility and the site. However, it shall not be used for the permanent storage of vehicles.

G. Additional Conditions

- 1. The solar farm owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar farm facility shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- 2. No solar farm shall be approved or constructed until evidence has been given to the Town of Hornby Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar farm owner's or operator's intent to install an interconnected customer-owned generator.
- 3. A solar farm owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access and condition shall be maintained to a level acceptable to the Town of Hornby Fire Chief, Town Supervisor, and Highway Supervisor. The owner or operator shall be

responsible for the cost of maintaining the solar farm and any access road(s), unless accepted as a public way.

4. Roads shall be left in as good as or better than condition as they were prior to the construction, to be determined by the Town of Hornby Road Supervisor. Access roads must be maintained to the specs of the Town of Hornby Highway Department.
5. The applicant shall submit and deposit with the Town a sum of money equal to the amount determined by the Hornby Town Board to offset the estimated direct and indirect adverse impacts on the Town's highway system anticipated to be incurred by the Town as a result of the approval of such application.
6. A valid performance bond assigned to the Town of Hornby for any major solar collection system with dates and monetary amounts to be determined by the Hornby Town Board for decommissioning purposes as set forth by the decommissioning plan.

H. Decommissioning/Removal

All applications for a solar farm shall be accompanied by a Decommissioning Plan, which includes the cost of decommissioning and removal, to be implemented upon abandonment and/or in conjunction with removal of the facility. Prior to removal of the solar farm, a permit for removal activities shall be obtained from the Town of Hornby Code Enforcement Officer. The Decommissioning Plan shall include the following provisions:

1. The owner, operator, his successors in interest shall remove any ground-mounted solar collectors which have reached the end of their useful life or have been abandoned. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Town of Hornby Code Enforcement Officer by certified mail of the proposed date of discontinued operations and plans for removal.
2. Absent notice of a proposed date of decommissioning and written notice of extenuating circumstances, the solar farm shall be considered abandoned

when it fails to operate for more than 150 consecutive days without the written consent of the Town of Hornby Planning Board. If the owner or operator of the solar farm fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation. The cost of decommissioning or removal shall be borne by the owner of the property and/or by the owner/operator of the solar farm system.

3. Decommissioning will include the following actions:

- a) Physical removal of all ground-mounted solar collectors, cabling, electrical components, accessory structures, and transmission lines from above and below ground.
- b) Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.
- c) Disturbed earth shall be graded and reseeded as necessary to stabilize the site so as to minimize erosion.
- d) Permission to allow some site alterations (example: an internal road) to remain unrestored may be obtained by written request to the Town of Hornby Planning Board.

This local law shall take effect immediately upon filing with the Secretary of State.