

Section XX-XX.SOLAR ENERGY PRODUCTION FACILITY

A. Purpose.

1. It is important to provide renewable energy facilities. It is equally important to protect our natural resources by providing standards for solar energy production facilities.
2. It is altogether reasonable that the Town Board makes adequate provisions for these facilities, it is imperative that such facilities do not adversely affect surrounding and nearby properties.
3. It is therefore the intent of this section to provide adequate safeguards for the location, siting and operation of solar energy production facilities.

§XX-xx. Permitted Locations.

A. A solar energy production facility as a principal use shall be constructed pursuant to a special permit so long as the solar energy production facility meets the criteria set forth below subject to obtaining all other necessary approvals. A solar energy production facility as a customary accessory use shall be constructed pursuant to a building permit so long as the solar energy production facility meets the criteria set forth in below, subject to obtaining all other necessary approvals. However, no solar energy production facility shall be located in the areas listed in Subsection B below unless a special permit is granted by the Town Board. Said uses shall be subject to the generic special permit criteria as set forth in Town Code Section XX-xx.

B. Areas of Potential Sensitivity:

1. 100 year Flood hazard zones considered V or AE zone on the FEMA Flood Maps.
2. Historic and/or culturally significant resources, in a historic district, or historic district transition zone,
3. Within 100 feet landward of a tidal or fresh water wetland.
4. Adjacent to, or within, the control zone of any airport, subject to approval by the Federal Aviation Administration.
5. Within Farm Protection Areas.

C. Solar energy production facility may be permitted as a principal use in any Industrial district when authorized by special permit from the Planning Board subject to the following terms and conditions in addition to those determinations required under §XX-xx of this chapter.

§XX-xxx. Accessory Uses

A. Solar energy system may be permitted as a customary accessory use in all commercial and industrial, Multi-Family, Planned Retirement Community, and Nursing Home districts. All applications for customary accessory use shall be subject to site plan review and shall comply with all the requirements. The following may be permitted:

1. Solar energy system as an accessory use shall be limited to one or more roof, wall and/or ground mounted solar collector devices and solar related equipment.

2. Solar Carports shall be permitted over existing and proposed parking facilities. For the purposes of this Article solar carports shall not be considered a structure as defined by Town Code.

§XX-xx. Special Permit Requirements:

Solar energy production facility as a principal use shall comply with all the Special Permit requirements herein, including but not limited to the following:

A. Minimum Lot Area

1. The minimum lot area for a Solar energy production facility shall be a minimum of [5 to 10] acres.

B. Maximum Lot Coverage

1. The total coverage of a lot with freestanding solar panels cannot exceed sixty (60%) percent lot coverage. Lot coverage shall be defined as the area measured from the outer edge(s) of the arrays, inverters, batteries, storage cells and all other mechanical equipment used to create solar energy, exclusive of fencing and roadways.

C. Height and Setback Restrictions:

1. The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed twenty (20) feet in height above the ground.

D. Buffer, Screening and Setback Restrictions:

1. A minimum thirty-five (35%) percent shall be preserved as natural and undisturbed open space. Site plans shall be developed that provide for the preservation of natural vegetation in large unbroken blocks that also allow contiguous open spaces to be established when adjacent parcels are developed.
2. A minimum seventy-five (75) foot perimeter buffer, consisting of natural and undisturbed vegetation, supplemented with evergreen plantings to screen the installation in accordance with Town standards as needed, shall be provided around all mechanical equipment and solar panel arrays to provide screening from adjacent residential properties and Town, County and State roads.
3. A minimum setback for a Solar energy production facility and equipment used in conjunction with the solar energy production facility shall be located at least one-hundred (100) feet from any residential dwelling or zone.
4. A minimum twenty-five (25) foot perimeter buffer, consisting of natural and undisturbed vegetation, supplemented with evergreen plantings in accordance with Town standards as needed, shall be provided around all mechanical equipment and solar panels arrays to provide screening to adjacent commercial or industrial properties.
5. A minimum setback for a Solar energy production facility and equipment used in conjunction with the solar energy production facility shall be located at least fifty (50) feet from any adjacent commercial or industrial properties.

E. Design Standards:

1. Ground cover under and between the rows of solar panels shall be low maintenance, drought resistant, native, non-fertilizer dependent flora.
2. Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction.
3. All on-site utility and transmission lines shall, to the extent feasible, be placed underground.
4. All Solar energy production facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties as well as adjacent street rights-of-way.
5. All mechanical equipment of a principal Solar energy production facility including any structure for batteries or storage cells, shall be completely enclosed by a minimum eight (8) foot high anchored mini mesh chain link fence with two foot tip out and a self-locking gate. Said fence shall contain five inch high by sixteen inch wide grade level cut outs every seventy five feet to permit small animals to move freely into and out of the site. Landscape screening shall be provided in accordance with the landscaping provisions of this chapter.
6. A solar energy production facility connected to the utility grid shall provide a “proof of concept letter” from the local utility company acknowledging the solar energy production facility will be interconnected to the utility grid in order to sell electricity to the public utility entity.
7. All debris, materials and/or mulch generated by site clearing or construction shall be removed from the site.
8. All lighting shall conform to the Town’s exterior lighting standards.
9. Fire access roads and access for fire apparatus equipment shall be provided, as approved by the Town Fire Marshal.
10. All storm water and drainage shall be contained on site in accordance with the Town’s Green Landscaping and Design Standards.
11. Soil or material removal shall be in accordance with Town Code regarding soil and materials.
12. Grading shall be in accordance with Town grading requirements.

F. Signs

1. A sign not to exceed 2.25 square feet shall be attached to a fence adjacent to the main access gate and shall list the facility name, owner and phone number. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

§XX-xx. Abandonment:

A. All applications for a Solar energy production facility shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the Solar energy production facility or structure. Prior to issuance of a building permit, the owner or operator of the facility or structure shall post a performance bond

or other suitable guarantee in a face amount of not less than one hundred fifty (150) percent of the estimated cost to ensure removal of the facility or structure in accordance with the decommissioning plan described below. The form of the guarantee must be reviewed and approved by the Town Attorney, and the guarantee must remain in effect until the system is removed. Prior to removal of a Solar energy production facility or structure a demolition permit for removal activities shall be obtained from the Town of Brookhaven.

1. If the applicant ceases operation of the Solar energy production facility or structure for a period of 12 months, or begins but does not complete construction of the project within 12 months after receiving final site plan approval, the applicant will submit a decommissioning plan that ensures that the site will be restored to a useful, non-hazardous condition without delay, including but not limited to the following:
 - a. Removal of above ground and below ground equipment, structures and foundations.
 - b. Restoration of the surface grade and soil after removal of equipment.
 - c. Re-vegetation of restored soil areas with native seed mixes, excluding any invasive species.
 - d. The plan shall include a timeframe for the completion of site restoration work.
2. In the event that construction of the Solar energy production facility or structure has been started but is not completed and functioning within 18 months of the issuance of the final site plan the Town may notify the operator and/or the owner to complete construction and installation of the facility within 180 days. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of notification by the Town.
3. Upon cessation of activity of a fully constructed Solar energy production facility or structure for a period of 1 year, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within 180 days of notice being served, the owner and/or operator can either restore operation equal to 80% of approved capacity, or implement the decommissioning plan.
4. If the owner and/or operator fails to fully implement the decommissioning plan within the 180 day time period and restore the site as required, the Town may, at its own expense provide for the restoration of the site in accordance with the decommissioning plan and may in accordance with the law recover all expenses incurred for such activities from the defaulted owner and/or operator. The cost incurred by the Town shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes.

§XX-xx. Severability

Should any provisions of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.