

## **TOWN OF NORTH CASTLE**

### **Local Law No. 5 For the Year 2016 Adopted July 13, 2016**

**Section 1.** Create a new Chapter 258 of the Town of North Castle Town Code as follows:

#### **CHAPTER 258 – SOLAR INFRASTRUCTURE SITING**

##### **258-1. Purpose & Intent**

- A. The purpose of this legislation is to balance the potential impact of solar system installations while preserving the ability of property owners to install solar collection systems without excess regulation. The law aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefor.
- B. Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce the energy load within the Town of North Castle. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.
- C. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is a priority and is a necessary component of the Town's current and long-term sustainability agenda.

##### **258-2. Definitions**

**ACCESSORY STRUCTURE** -- A structure, the use of which is customarily incidental and subordinate to that of the principal building and is not attached thereto, and is located on the same lot or premises as the principal building.

**BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS** -- A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the relief of the roof.

**COLLECTIVE SOLAR** -- Solar installations owned collectively through subdivision homeowner associations, "adopt-a-solar-panel" programs, or other similar arrangements.

**FLUSH-MOUNTED SOLAR PANEL** -- Photovoltaic panels and tiles that are installed flush to the surface of a roof and which cannot be angled or raised.

**FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM** -- A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure.

**LARGE-SCALE SOLAR** -- Solar photovoltaic systems that produce ten or more kilowatts (kW) per hour of energy or solar-thermal systems which serve the building to which they are attached.

**NET-METERING** -- A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage.

**PHOTOVOLTAIC (PV) SYSTEMS** -- A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever 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 list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the Town determines such persons 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 exposed live parts.

**ROOFTOP MOUNTED SOLAR SYSTEM** -- A solar power system in which solar panels are mounted on top of the structure of a roof as a flush-mounted system.

**SMALL-SCALE SOLAR** -- A Photovoltaic System that produces up to, but less than, ten kilowatts (kW) per hour of energy and does not provide energy for any other buildings.

**SOLAR ACCESS** -- Space open to the sun and clear of overhangs or shade including, but not limited to, the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

**SOLAR COLLECTOR** -- 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 the generation of electricity or transfer of stored heat.

**SOLAR ENERGY EQUIPMENT/SYSTEM** -- Solar Collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic and concentrated solar.

SOLAR PANEL -- A device for the direct conversion of solar energy into electricity.

SOLAR-THERMAL SYSTEMS -- Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

### **258-3. Applicability**

- A. The requirements of this law shall apply to all Small and Large Scale solar energy systems (including, but not limited to, residential, commercial, multi-family and condominium) modified or installed after the effective date of this Ordinance.
- B. All solar energy systems shall be designed, erected, installed, operated and maintained in accordance with all applicable codes, regulations and standards.
- C. Solar energy collectors shall be permitted only to provide power for the owners, lessees, tenants, residents, or other occupants of the premises on which they are installed (whether by the lessees, tenants, residents, owners, or other occupants of the structure), but nothing contained in this provision shall be construed to prohibit “collective solar” installation or the sale of excess power through a “net billing” or Net-Metering arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute.

### **258-4 Permitting**

- A. No Small or Large Scale solar energy system or device shall be installed or operated in the Town of North Castle except in compliance with this article.
- B. To the maximum extent practicable, the accommodation of solar energy systems and 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 Code.
- C. Small and Large Scale Rooftop Solar Collectors shall be permitted in all zoning districts.
- D. Building-Integrated Photovoltaic Systems shall be permitted in all zoning districts.
- E. Building permits shall be required for installation of all solar collectors.
- F. Height limitations of the Town shall be applicable to solar collectors and all ancillary equipment.
- G. Placement of solar collectors on flat roofs shall be permitted in non-historic districts, provided that panels do not extend horizontally past the roofline.

- H. Small and Large Scale Ground-Mounted and Free Standing Solar Collectors shall not be permitted in residential zoning districts of the Town.
- I. Small Scale Ground-Mounted and Free Standing Solar Collectors shall be permitted in all non-residential zoning districts of the Town via Planning Board site plan approval.
- J. Large Scale Ground-Mounted and Free Standing Solar Collectors shall be permitted in all non-residential zoning districts of the Town via Town Board special use permit and Planning Board site plan approval.
- K. Where permitted, all Small and Large Scale Ground-Mounted and Free Standing Solar Collectors shall be subject to the following conditions:
  - 1. Building permits are required for the installation of all ground-mounted solar collectors.
  - 2. The location of the solar collector meets all applicable setback requirements for principal structures in the zoning district in which it is located.
  - 3. The height of the solar collector and any mounts shall not exceed 8 feet when oriented at maximum tilt. However, additional height may be permitted via Town Board special permit when the solar installation shall be used to provide a roof structure for parked vehicles.
  - 4. Solar energy equipment shall be located in a manner to minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate Solar Access for collectors.
  - 5. Freestanding solar energy collectors shall be adequately screened through the use of architectural features, earth berms, landscaping, or other screening that will harmonize with the character of the property and surrounding area.
- L. Solar-Thermal Systems: Solar-thermal systems are permitted in all zoning districts subject to securing Planning Board site plan approval and building permits for the installation of all solar-thermal systems.
- M. Solar energy systems and equipment shall be permitted only if they are determined by the Town not to present any unreasonable safety risks, including, but not limited to, the following:
  - 1. Weight load
  - 2. Wind resistance
  - 3. Ingress or egress in the event of fire or other emergency.

- N. Installations in designated historic districts shall require a certificate of appropriateness from the Town's Landmark Preservation Committee.

#### **258-5. Safety**

- A. All solar collector installations must be performed by a qualified solar installer.
- B. Prior to operation, electrical connections must be inspected and approved by a Town Building Inspector and by an appropriate electrical inspection person or agency, as determined by the Town.
- C. Any connection to the public utility grid must be inspected and approved by the appropriate public utility prior to operation.
- D. Solar energy systems shall be maintained in good working order.
- E. Rooftop and building-mounted solar collectors shall meet New York's Uniform Fire Prevention and Building Code standards.
- F. If 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 the Town and all other applicable laws and regulations.
- G. If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than 90 days after the end of the twelve-month period.

Upon the failure of an owner, tenant or occupant responsible for the solar installation to comply with a notice to remove the installation, the Town Board may hold a public hearing. The public hearing shall be held upon notice posted conspicuously on the affected property and forwarded to the last known address of the property owner, as it appears on the current tax records of the Town, by certified mail, return receipt requested. Posting and service of such notice shall not be less than 10 days prior to the date of such hearing.

The Town Board, after a public hearing may order the removal of the nonperforming solar installation. Upon the failure of the owner, tenant or occupant, as applicable, to comply with any such order of the Town Board within [30 days] such removal shall be performed by a private contractor hired by the Town. The Town Board shall ascertain the cost of the proceeding and the costs of removal, and such costs shall be charged and assessed against the owner of the property. The expense so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town charges.

The removal of the solar installation by the Town of North Castle or its agents shall not operate to excuse such owner, tenant or occupant from properly maintaining any premises as required by this article, and such owner, tenant or occupant shall, notwithstanding such action, be subject to any other penalties provided for herein.

- H. Large Scale Solar installations shall provide a plan for the operation and maintenance of the large-scale solar installation, including, but not limited to, measures for maintaining safe access to the installation, stormwater controls, landscaping, and adequate security as well as general procedures for operational maintenance of the installation.
- I. Large Scale Solar installations shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request the owner or operator shall cooperate with emergency service providers in developing an emergency response plan. All means of shutting down the solar installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiry throughout the life of the installation.

**Section 2.** Amend Section 355-21 Single Family Residential Districts Column 3 Use 16 as follows:

16. Solar energy collectors, subject to the requirements of Chapter 258

**Section 3.** Amend Section 355-21 RMF-SCH Column 3 Use 3 as follows:

3. Solar energy collectors, subject to the requirements of Chapter 258

**Section 4.** Amend Section 355-22 SC Column 3 Use 6 as follows:

6. Solar energy collectors, subject to the requirements of Chapter 258

**Section 5.** Amend Section 355-22 NB Column 3 to add Use 12 as follows:

12. Solar energy collectors, subject to the requirements of Chapter 258

**Section 6.** Amend Section 355-22 CB-A Column 3 Use 7 as follows:

7. Solar energy collectors, subject to the requirements of Chapter 258

**Section 7.** Amend Section 355-22 CB-B Column 3 Use 8 as follows:

8. Solar energy collectors, subject to the requirements of Chapter 258

**Section 8.** Amend Section 355-23 OB Column 3 Use 6 as follows:

6. Solar energy collectors, subject to the requirements of Chapter 258

**Section 9.** Amend Section 355-23 OBH Column 3 to add Use 2 as follows:

2. Solar energy collectors, subject to the requirements of Chapter 258

**Section 10.** Amend Section 355-23 RO Column 3 to add Use 6 as follows:

6. Solar energy collectors, subject to the requirements of Chapter 258

**Section 11.** Amend Section 355-23 PBO-2A Column 3 Use 6 as follows:

6. Solar energy collectors, subject to the requirements of Chapter 258

**Section 12.** Amend Section 355-23 PBO Column 3 to add Use 6 as follows:

6. Solar energy collectors, subject to the requirements of Chapter 258

**Section 13.** Conflicting Standards.

Where the requirements of this Local Law impose a different restriction or requirement than imposed by other sections of the Code of the Town of North Castle, the Town Law of the State of New York or other applicable rules or regulations, the requirements of this Local Law shall prevail.

**Section 14.** Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid part or parts.

**Section 15.** Effective Date.

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.

Dated: July 13, 2016