

## ADVERTISEMENT FOR PUBLIC HEARING

The Town of Schoharie has scheduled a Public Hearing October 14, 2020 at 7:30 pm to consider an Amendment to Local Law Number 1 of 2019, A Local Law Regulating Solar Energy Systems. The amendment would eliminate, as a Use in all zoning districts in the Town of Schoharie, Solar Energy Systems in excess of 200 kilowatts AC (i.e. eliminating Level 3 and Level 4 Solar Energy Systems from the Zoning Law). The Amendment is not intended to be retroactive for applications filed prior to the effective date of the Amendment if adopted.

The proposed Amendment has been posted to the Town's website <https://www4.schohariecounty-ny.gov/government/town-of-schoharie/> and is available for review by contacting the Town Clerk at (518) 295-6570 or by mail at P.O. Box 544, Schoharie, NY 12157. Written Comments are encouraged and may be submitted to the address above. Any individuals who choose not to attend the hearing but wish to attend remotely do to Covid Emergency Orders should contact the Town Clerk 48-hours in advance of the hearing.

## **1. Title**

This Local Law shall be referred to as “A Local Law Amending the Regulations for Solar Energy Systems”. Schedule A Town of Schoharie Land Use Chart, Article 12 Definitions and Article 4 Section 4.8 of the 2015 Town of Schoharie Zoning Law are hereby amended as follows.

## **2. Enactment**

This Local Law is adopted and enacted pursuant to the authority and power granted by the New York State Municipal Home Rule Law, the New York State Town Law and pursuant to Article 10 of the Town of Schoharie Zoning Law.

## **3. The 2015 Town of Schoharie Zoning Law, Schedule A: Town of Schoharie Land Use Chart is hereby amended as follows;**

- A) Schedule A tables are hereby amended to delete and eliminate Level 3 (Large) Solar Energy System in all zoning districts in the Town of Schoharie.
- B) Schedule A tables are hereby amended to delete and eliminate Level 4 (Undetermined) Solar Energy System in all zoning districts in the Town of Schoharie.

## **4. The 2015 Town of Schoharie Zoning Law, Article 12 – Definitions is hereby amended as follows:**

**The definition of Solar Energy System is deleted in its entirety and replaces as follows:**

### **Solar Energy System**

Solar Energy System: The arrangement, combination and placement of any of the following: collectors, controls, energy storage devices, or other materials, hardware or equipment necessary to the process by which solar radiation is (1) collected and (2) converted into electrical energy, and/or (3) stored, (4) protected from unnecessary dissipation and/or (5) distributed. Only photovoltaic, electricity-generating, systems are included in this definition. Systems for converting solar radiation into any other form of energy, including but not limited to thermal, mechanical, and chemical energy, are not included in this definition.

### **Level 1 Solar Energy System**

Any and all solar energy systems which have up to but not more than a capacity of 25 kW of electric energy; which are proposed as an accessory use for residential or other onsite consumption. These systems require a building permit.

### **Level 2 Solar Energy System**

Any and all onsite solar energy systems which have a capacity of more than 25 kW but not more than 200 kW of electric energy; which are proposed as accessory use for agricultural, multi-family residences, retail, or other commercial operation. These systems require a building permit and a Site Plan Review.

**5. Article 4 Section 4.8 entitled 'Solar Energy Systems' is amended as follows:**

Section 4.8-5 (“Level 3 Solar Energy Systems”), 4.8-6 (“4.8-6 Level 4 Solar Energy Systems”) and 4.8-7 (“Operation and Maintenance of Level 3 Solar Energy Systems”) are hereby deleted in their entirety.

Existing Section 4.8-8 is deleted in its entirety, renumbered and replaced with the following text:

**4.8-5 Abandonment or Decommissioning of Level 2 Solar Energy Systems**

A. Applicability and purpose. This section governing abandonment and decommissioning shall apply to Level 2 non-residential free standing solar energy systems with a rated capacity of more than 25 kW.

It is the purpose of this section to provide for the safety, health, protection and general welfare of persons and property in the Town of Schoharie by requiring abandoned Level 2 solar energy systems to be removed pursuant to the decommissioning plan. Abandoned Level 2 systems may become unsafe by reason of their energy producing capability, serve as an attractive nuisance, and create a negative visual impact on the Town.

B. Level 2 solar energy systems which have not been verified to be in active and continuous service for the prior year shall be removed at the owner's or operator's expense. Notification shall be provided by the Code Enforcement Officer (CEO) to the owner/operator that the decommissioning must commence.

C. Decommissioning and removal of a Level 2 solar energy system shall be completed within 120 days from receipt of the CEO’s notice and shall consist of:

- 1) Physical removal of all above-ground and below-ground equipment, structures and foundations, including but not limited to all solar arrays, buildings, security barriers, fences, electric transmission lines and components, roadways and other physical improvements to the site;
- 2) Disposal of all solid and hazardous wastes in accordance with local, state and federal waste disposal regulations;
- 3) Restoration of the ground surface and soil;
- 4) Stabilization and revegetation of the site with native seed mixes and/or plant species (excluding invasive species) to minimize erosion.

D. The Planning Board shall require a cash escrow account to be established to ensure the removal of any Level 2 solar energy system. The amount of the escrow account shall be 150% of the cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the solar energy system using prevailing wage rates, and in an amount satisfactory to the Planning Board. In the event that the solar energy system is not removed within 120 days and the site restored as required, the Town of Schoharie, after notice and hearing, may cause the same to be removed and the site restored using the funds in such escrow account.

### **Existing Applications**

Any application for a Level 3 or Level 4 Solar Energy System that has been received by the Town of Schoharie on or before July 1, 2020 shall be entitled to be processed under the solar regulations in place as of the date of the application. Any applications received after July 1, 2020 shall comply with the Zoning Law including this Amendment.

### **Validity**

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or in the application thereof to other persons or circumstances, and the Town Board of the Town of Schoharie hereby declares that it would have passed this local Law or the remainder thereof had such invalid application or invalid provision been apparent.

### **Severability**

The invalidity of any clause, sentence, paragraph or provision of this Local Law shall no invalidate any other clause, sentence, paragraph or part thereof.

### **Effective Date**

This Amendment to Local Law shall take effective immediately upon the filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law