

Town of Bristol

Solar Energy Local Law

Section 1: Authority.

This solar energy law is adopted pursuant to §§261-263 of the New York State Town Law, which authorizes the Town of Bristol to adopt zoning regulations that advance and protect the health, safety, and welfare of the community, and to make provisions for, so far as conditions, may permit, the accommodation of solar energy systems and equipment, and access to sunlight necessary therefor.

Section 2: Purpose & Intent.

- A. The intent of this section of Town Code is to preserve and encourage a clean, naturally beautiful, rural environment with carefully planned growth and increased recreational opportunities, while promoting the preservation of agricultural lands.
- B. Solar energy is a renewable energy resource that can reduce fossil fuel emissions and lower a municipality's energy load. 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 encouraged and is a necessary component of the Town of Bristol current and long-term sustainability agenda, and further implements the goals set forth in the Town of Bristol's Comprehensive Plan.
- D. The requirements of this Local Law shall apply to all solar energy systems modified or installed after the effective date of this Local Law.
- E. All solar energy systems shall be designed erected and installed in accordance with the zoning regulations of the Town of Bristol.
- F. Solar energy collectors shall be permitted to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected. In addition, nothing contained in this provision shall be construed to prohibit "community

solar” installations or the sale of excess power through a “net billing” or “net-metering” arrangement.

- G. **Building-Integrated Photovoltaic (BIPV) Systems:** BIPV systems shall be required to follow the regular permitting process in all districts.

Section 3: Definitions.

BUILDABLE AREA: That portion of the established development parcel which can be devoted to buildings, structures, and other impervious surfaces and shall not include undevelopable lands including, but not limited to, regulated wetlands, regulated watercourses/waterbodies, or protected lands or habitats.

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

COMMUNITY SOLAR ARRAYS: Centralized solar facilities owned by shareholders, who receive credits on their electricity bill for the power produced. These are sometimes referred to as a “shared solar array” or “solar garden”.

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

HEIGHT: The height of a solar collector is calculated as perpendicular from the ground to the highest point.

LARGE-SCALE SOLAR ENERGY FACILITY: A Solar Energy System that exceeds one thousand (1,000) square feet in total area and/or has a rated direct current capacity of twenty-five (25) kilowatts or more.

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.

POWER PURCHASE AGREEMENT (P.P.A.): A contract between two or more parties, one which generates electricity (the seller) and the other who is looking to purchase electricity (the buyer). The P.P.A. defines all of the commercial terms for the sale of electricity between the two

parties, including when the project will begin commercial operation, schedule for delivery of electricity, payment terms, and termination. This is also known as an “Electricity Power Agreement”.

ROOFTOP OR BUILDING MOUNTED SOLAR SYSTEM: A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system, or as modules fixed to frames, which can be tilted toward the south at an optimal angle.

SMALL-SCALE SOLAR ENERGY SYSTEM: A Solar Energy System that is ground-mounted or roof-mounted and does not exceed 1,000 square feet in total area coverage and has a rated direct current capacity of less than twenty-five 25 kilowatts. The total area coverage shall include Buildable Area that is used for all equipment associated with the solar project.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade, including 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 EASEMENT: An easement recorded pursuant to New York 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/SYSTEM: Solar collectors, controls, 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.

Section 4: New York State Unified Permit.

A. The unified solar permitting process is available to all districts in the Town of Bristol for eligible photovoltaic installations that meet the following criteria:

1. Has a rated direct current capacity of less than twenty-five (25) kilowatts.
2. Does not require a zoning variance or special use permit.
3. Is mounted on a permitted roof structure, or a legal accessory structure as shown on a site plan showing location of major components of the solar and other equipment. The plan should represent relative location of components

at site, including, but not limited to, location of array, existing electrical service location, utility meter, inverter location, system orientation and tilt angle. This plan should show access and pathways that are compliant with New York State Fire Code, if applicable.

4. The solar installation contractor complies with all licensing and other requirements of the Town of Bristol and New York State.
 5. If the structure is a sloped roof, solar panels are mounted parallel to the roof surface.
- B. If an applicant cannot meet the criteria for a NYS Unified Permit, they must submit a site plan and a special use permit application provided through the Town of Bristol Code Enforcement Office. The installation will then be subject to review by the Zoning Board of Appeals for Special Use Permit and the Planning Board for Site Plan approval.

Section 5: Permitting of Small-Scale Solar Energy Systems less than 25 kW.

- A. No Small-Scale Solar Energy System or device shall be installed or operated in the Town of Bristol except in compliance with this article.
- B. To the extent practicable, and in accordance with Town Law, 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 of Bristol Code.
- C. The equipment specifications shall be documented and submitted for all photovoltaic panels, electrical components, mounting systems, and inverters that are to be installed.
- D. **Rooftop and Building-Mounted Solar Collectors:** Rooftop and building mounted solar collectors are permitted as an accessory use in all zoning districts in the Town of Bristol when attached to any lawfully existing and lawfully permitted building subject to the following conditions:
 1. Building permits, electrical permits and or Unified Solar Permits shall be required for installation of all rooftop and building-mounted solar collectors,
 2. Rooftop Collectors must be mounted at the same angle as the roof's surface with a maximum distance of (18) inches between the roof and the highest edge of the system.

- E. **Ground-Mounted and Free-Standing Solar Collectors:** Ground-mounted and free-standing solar collectors are permitted as accessory structures in all zoning districts of the Town of Bristol, subject to the following conditions:
1. Building permits, electrical permits and or Unified Solar Permits are required for the installation of all ground-mounted solar collectors.
 2. The location of the solar collector will have a setback equal to two (2) times the setback that is required for accessory structures in the zoning district in which it is located.
 3. The height of the solar collector and any mounts shall not exceed twelve (12) feet when oriented at maximum tilt.
- F. **Planning and Zoning Regulations:**
1. All such systems in residential zoning districts may be installed on all areas of a parcel in accordance with local planning and zoning regulations.
 2. Freestanding solar energy collectors shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area, and do not impact the effective amount of solar energy to be produced.

Section 6: Permitting of Large-Scale Solar Energy Systems.

- A. Large Scale Solar Energy Systems are permitted through the issuance of a special use permit in all zoning districts, subject to the requirements set forth in this section including site plan approval. Applications for the installation of a Large-Scale Solar Energy System shall be reviewed by the Code Enforcement Officer and referred, with comments to the Zoning Board of Appeals for its review and action as well as to the Planning Board for Site Plan review, which can include approval, approval with conditions, or denial.
- B. **Special Use Permit Application Requirements.** In addition to the requirements set forth in Article Eighteen of Local Law No. 3 of the Laws of 2011, the current zoning regulations, the following information must be included with an application for a special use permit for Large Scale Solar Energy System.
1. If the property of the proposed project is to be leased, legal consent of all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements such as a P.P.A., shall be submitted.

2. Applicant shall provide a letter of credit acceptable to the Town Board and the Town Attorney to ensure that funds are available to build the facility and to decommission the facility in accordance with the Decommissioning Plan, as defined in Section 6 D.
3. Applicant shall provide escrow for legal and engineering fees, as determined by the Town Engineer.
4. Plans showing the layout of the solar energy system signed by a professional engineer or registered architect shall be required.
5. The equipment specifications shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
6. **Design Standards.**
 - a. Removal of trees and other existing vegetation shall be minimized or offset with planting elsewhere on the property.
 - b. All on-site utility and transmission lines shall be non-accessible and meet National Electrical Code regulations.
 - c. Buffering may be required and shall be designed and located within the buildable area in order to prevent reflective glare toward any inhabited buildings on adjacent properties and roads.
 - d. Fencing provided for screening and security shall be within the buildable area.
 - e. Vegetative buffering and screening shall be required adjacent to any residential properties or public roads visible from any part of the solar facility. Said vegetative buffering shall be located on the exterior side of any fencing and within the buildable area.
 - f. Any landscaping or vegetation planted shall be maintained in accordance with the applicant/owner/operator's Property Operation and Maintenance Plan as defined in Section 6 C. Any vegetation that dies shall be replaced by the applicant/owner/operator within thirty (30) days, weather permitting.
 - g. All electrical equipment shall be enclosed within the fenced compound and locked within suitable cabinets. Emergency contact information shall

be provided at the facility entrance, and to the Fire Department, the Code Enforcement Officer, and the Town Supervisor.

- h. Each Large-Scale Solar Energy System shall be designed to minimize the total acreage of developed land.
- i. Site plan and storm water management plan for Large Scale Solar Energy Systems shall be reviewed by the Town Engineer, Code Enforcement, and/or Ontario County Soil and Water District prior to final site plan approval. Applicant shall submit an engineered Storm Water and Erosion Control Plan and Storm Water Pollution Prevention Plan (SWPPP), as necessary, to the Town of Bristol for its review and approval. These plans shall demonstrate that post development runoff, storm drainage, and erosion will not be negatively impacted by placement of a Large-Scale Solar Energy System on the site.
- j. Solar facility owners/operators shall develop, implement, and maintain native vegetation to the extent practicable pursuant to the Property Operation and Maintenance Plan by using native plant species and seed mixes to provide perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators.
- k. In addition to providing a site plan, the applicant/landowner/operator will provide a visual site assessment showing how the facility will appear to neighboring properties.
- l. A Large-Scale Solar Energy System application shall include the CESIR (Coordinated Electric System Interconnection Review) report application submitted to the local utility.

C. Property Operation and Maintenance Plan.

- 1. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing, and trimming, safety concerns, and access.
- 2. The Property Operation and Maintenance Plan shall include details about the proposed use or uses of the remaining property not used for the Large-Scale Solar Energy System, as well as ingress and egress to all portions of the property.
- 3. The Property Operation and Maintenance Plan shall be updated as part of the renewal of the Operating Permit.

D. Decommissioning Plan. To ensure the proper removal of a Large-Scale Solar Energy System, a Decommissioning Plan shall be submitted as part of the application.

Compliance with this plan shall be made a condition of the issuance of a special use permit under this section. The Decommissioning Plan will be initiated when the facility is abandoned or at the end of the land lease.

1. In the event that the owner or lessee of any facility ceases for a period of six (6) months to use or operate the said facility then such facility shall be deemed to be abandoned.
2. If the applicant begins but does not complete construction of the project within eighteen (18) months after receiving final site plan approval, this may be deemed abandonment of the project and require implementation of the decommissioning plan to the extent applicable.
3. In the event that the land lease has expired or the facility has been deemed to be abandoned, the facility shall be dismantled and removed from the site and, where possible, recycled, and the site shall be restored to its natural state by the owner and/or lessee. Failure to dismantle and remove a facility and restore the site to its natural state within ninety (90) days after said facility has been declared abandoned by the Town Board will result in forfeiture of said Letter of Credit, cash bond, or surety posted by said owner or lessee of said facility. The ninety (90) day deadline for restoration of the site may be extended at the discretion of the Code Enforcement Officer. An annual report shall be provided to the Code Enforcement Officer to prove the ongoing operation of the facility.
4. The plan shall demonstrate how the removal of all infrastructures and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. Applicant shall utilize the most recent *Guidelines for Solar Energy Projects—Construction Mitigation for Agricultural Lands* available from the NYS Department of Agriculture and Markets.
5. The Decommissioning Plan shall also include an expected timeline for execution, extent of removal of nonutility-owned equipment, the party responsible for decommissioning, plans for updating the Decommissioning Plan, description of any agreement between the landowner and operator or any other party regarding decommissioning, and evidence that the decommissioning plan was recorded with the deed for the property(ies) included in the solar facility.
6. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by the applicant's Professional Engineer and reviewed and approved by the Town Engineer. Cost estimations shall take into account inflation and shall be reviewed and updated every year, no later than ten (10) days prior to the anniversary of the issuance of the building permit, with an updated cost estimate and written confirmation that the required financial security is still operable and valid and provided to the Town of Bristol to be kept

on file. A Letter of Credit, bond, or surety shall be issued to the Town of Bristol for an amount no less than one hundred twenty-five (125) percent of the cost estimate to cover contingencies with the remainder to be provided back to the applicant/landowner/operator after the decommissioning is completed to the Town's satisfaction. The estimate may include anticipated salvage value of materials, but the credit, bond, or surety shall not include these values for decommissioning costs.

7. Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan.
8. If the Large-Scale Solar Energy System is not decommissioned after being considered abandoned, the Town may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality, in addition to any other remedies available to the Town.

E. **Special Use Permit Standards.** No special use permit for large-scale solar energy shall be issued unless the Zoning Board of Appeals specifically finds that the proposed project is in compliance with each of the following:

1. Solar arrays shall not be allowed on lands where a P.D.R. (Property Development Rights) has been obtained.
2. **Setbacks.** Large-Scale Solar Energy Systems shall adhere to the following setback requirements:
 - a. A front setback of two hundred (200) feet.
 - b. Side and rear setbacks of one hundred (100) feet.
 - c. A setback of three hundred (300) feet from any structure with a residential use.
 - d. Measurement of all setbacks will be to the closest buffering of the project.
3. **Height.** Large-Scale Solar Energy Systems shall not exceed twelve (12) feet in height at maximum tilt.
4. The total footprint for any Large-Scale Solar Energy System shall include the entire area inside the perimeter fence, plus any driveway and parking area. The total footprint shall not exceed thirty (30) percent of the total parcel area and shall not exceed a maximum of ten (10) acres.

5. No Large-Scale Solar Energy System shall be placed on a ridgeline or within fifty (50) feet of a ridgeline.

Section 7: Administrative Relief.

- A. If an individual is found to be in violation of the provisions of this Local Law for either Small- or Large-Scale Solar Energy Systems, appeals should be made in accordance with the established procedures of the Town of Bristol Code.
- B. If a building permit for a solar energy device is denied because of a conflict with other goals of the Town of Bristol the applicant may seek relief from the Zoning Board of Appeals, which shall regard solar energy as a factor to be considered, weighed and balanced along with other factors.

Section 8: Transfer of Ownership of Large Scale Solar Energy Systems.

Large Scale Solar Energy Systems must be inspected prior to transfer of ownership, or transfer of lease, by the Code Enforcement Officer to ensure system is in compliance with original conditions of the Special Use Permit. The Code Enforcement Officer shall also verify that all letters of credit, bonds, or sureties, and decommissioning means, are still in place.

Section 9: Penalties for Offenses.

- A. The owner or general agent of a building or premises of land where violation of any provision of this chapter has been committed or shall exist, or the lessee or tenant of an entire building or entire premises or land where such violation has been committed or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises or land in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises or land or any part thereof in which any violation shall exist, shall be guilty of a violation/offense and subject to a maximum fine of \$250 or imprisonment for a period of not more than 15 days, or both, and, in addition, may be ordered to pay all costs and expenses, including fees and expenses of attorneys and engineers and other experts involved in the enforcement hereof.
- B. Every such person, firm, company, corporation, partnership, limited liability company or other entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue from the expiration of the

period stated in the notice to remedy. Each week's continued violation shall constitute a separate additional violation.

- C. In addition, the Town authorities shall have such other remedies as are provided by law to restrain, correct, or abate any violation of this chapter, and the violator shall be liable to the Town of Bristol for a civil penalty of \$500 for each violation.

Section 10: Severability.

The provisions of this local law are declared to be severable, and, if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this local law.

Section 11: When Effective.

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