

**Draft Solar Law
Town of Claverack
Summary
October 17, 2022**

Background

The Town of Claverack passed a solar law ([Local Law of 2020](#)) in late 2019 that amended current law regulating large solar installations. The local law was based largely on model legislation developed by the New York State Energy Research and Development Authority (NYSERDA) and various stakeholders. Since passage of the law, six large scale solar projects have been approved by the Town's Planning Board and several issues and concerns have been raised which prompted the Town Board to pass a three-month moratorium in April 2022, in order to review the law and address the concerns. The Town Board appointed a committee made up of representatives of the Town Board, Planning Board, Zoning Board of Appeals, and citizens to review the current law, updated NYSERDA model legislation, and various other sources to recommend updates of the town law. The committee's work was aided by the President of the Columbia Land Conservancy, who has expertise in solar and has worked with a number of other municipalities on solar issues.

The following actions have taken place since the appointment of the committee in April 2022:

- The committee released an [initial list of amendments](#) to the 2020 law in May 2022 and held a public meeting on June 2, 2022 to receive comments in-person as well as in writing. A summary of those comments were summarized and [published](#) on the town website on June 28, 2022.
- The Town Board took up a three-month extension of the moratorium at its July 14, 2022, meeting to give the committee additional time to review the comments received from the public.
- A third three-month extension of the moratorium will be taken up by the Town Board on September 8, 2022, as the committee finalizes its recommendations and presents them to the public in the coming month and then action by the Town Board.

The Town recognizes the potential benefits and desirability of solar power and renewal energy sources, but at the same time, it is important that the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources are mitigated as much as possible. Furthermore, it is critical that solar development is consistent with the Town's goals for economic development, housing, recreation and arts, historic character, farming, and natural resources.

Key Recommended Changes to the Current Solar Law

Key New Definitions

- Adds new Tier 4 for large solar projects.
- Adds Mineral Soil Groups as a definition instead of Farmland of Statewide Importance which likely matches what the assessor uses. Mineral Soil Groups 1-4 (MSG 1-4) are soils recognized by the New York State (NYS) Department of Agriculture and Markets as having the highest value based on soil productivity and capability, in accordance with the uniform statewide land classification system developed for the NYS Agricultural Assessment Program.

Permitting Requirements for Tier 2 Solar Energy Systems

- Tier 2 are Ground-Mounted Solar Energy Systems, and these applications must receive approval from the Planning Board. The proposed law lays out the criteria that must be met and the steps for this process. Additional criteria are included from current law. Increases qualifications from 110% to 150% of current or anticipated energy needs.
- Tier 2 Solar Energy Systems are limited to 15 feet at its highest point (current law has no height limits).

Permitting Requirements for Tier 3 Solar Energy Systems

- Tier 3 are Ground-Mounted systems that “feed the grid”. Tier 3 includes those systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Nameplate Capacity of up to 3.5 MW AC. This section adds additional details and criteria from existing law that must be met in order to obtain approval from the Planning Board.
- All Tier 3 Solar Energy Systems are permitted through the issuance of a Special Exception Permit within the Highway Commercial and Commercial Industrial Park zoning districts as well as the Mining Overlay areas within the Rural Agricultural zoning district. These projects must be reviewed and approved by the Planning Board and subject to site plan application requirements set forth in the zoning law. Current law allows Tier 3 Solar Systems in Rural Conservation (RC), Rural Residence (RR), Rural Agriculture (RA), Hamlet Residential (HR), Highway Commercial (HC), and Commercial Industrial Park (CIP) with Special Exception Permit and Site Plan approval from the Planning Board.
- Adds language to the Decommissioning section to ensure that the land is restored to its original situation. Also adds language to revisit the bond/security amount every 5 years and updated as needed to reflect any changes (due to inflation or other cost changes) to ensure that it will cover any Decommissioning costs (125% of the cost). The decommissioning amount shall not include the amount of the estimated salvage value of the Solar Energy System.
- Requires utility lines located outside of the Facility Area be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
- All Solar Panels shall have anti-reflective coating(s) to reduce glare.
- Lot size: The property on which the Tier 3 Solar Energy System is placed shall be greater than 5 acres (current law is minimum size of 10 acres).

- Setbacks: The Tier 3 Solar Energy Systems shall be setback a minimum of 200' from adjacent private property lines or 500' from an Occupied Residence, whichever is greater (current law is 100' from the property line). The Planning Board may reduce this setback, if, in its sole discretion and only after a site plan is presented and a site tour is provided to the majority of Planning Board members, that a reduced setback will have no significant impact on adjacent properties. Fencing, collection lines, access roads and landscaping may occur within the setback.
- Height: The Tier 3 Solar Energy Systems shall be no higher than 15' at its highest point. This height requirement can be waived by the Planning Board if the panels are being raised to accommodate continued or new agricultural purposes (current law has no height limits).
- Fencing Requirements: All mechanical equipment, including any structure for Battery Energy Storage System components, shall be enclosed by a 7-foot high fence, as required by NEC, with a self-locking gate to prevent unauthorized access. The Planning Board may add additional fencing requirements to help the project fit within the local community or meet other conservation needs such as requiring fencing that matches nearby agricultural fencing and/or is more suitable for wildlife movement.
- Screening and Visibility: For projects over 10 acres, requires that a visual assessment of the visual impacts of the Solar Energy Systems on public roadways, adjacent properties, and other residential properties within ½ mile of the project and clearly with the line-of-sight of the project as viewed from the residence. Gives the Town additional discretion to require more impact analyses for the viewshed of the proposed project. Also requires submission of screening and landscaping plan as part of the project when appearing before the Planning Board. Adds specific tree height and type of trees for screening purposes as well as annual replacement of trees if they die.
- Allows more than 50% coverage of a project if it incorporates an onsite activity or program which provides for the use of the land as a Farm Operation.
- Includes a requirement that if the owner or operator of the Solar Energy System changes, the Town must be notified in writing and all agreements/requirements of the previous owner/operator must be followed, including clarification of any non-written commitments made by the prior owner or operator.
- Tier 3 Solar Energy Systems for which the Facility Area includes lands consisting of MSG 1-4 shall adhere to the following requirements:
 - Tier 3 Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 25% of the area of MSG 1-4 within the Facility Area unless as otherwise allowed within this Section.
 - A Tier 3 Solar Energy System may exceed the 25% MSG 1-4 coverage threshold if it incorporates an onsite activity or program which provides for the use of the land as a Farm Operation. Exceedance beyond the 25% threshold will only be allowed with clear commitments from the applicant and based on the Planning Board's determination that the land is being used for a Farm Operation.
 - Subject to discretion of the Planning Board, if the landowner demonstrates that – notwithstanding the classification as MSG 1-4 – the land cannot be profitably employed due to excessive wetness, rocky conditions or slopes, the land may be excluded from the calculation required by this Section.
 - To the maximum extent practicable, Tier 3 Solar Energy Systems located on MSG 1-4 shall be constructed, monitored, and decommissioned in accordance with the NYS Department

of Agriculture and Markets' "Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands."

Permitting Requirements for Tier 4 Solar Energy Systems

- All Tier 4 Solar Energy Systems, including those that go through the NYS Office of Renewable Energy Siting, are permitted through the issuance of a Special Exception Permit within the Highway Commercial and Commercial Industrial Park zoning districts as well as the Mining Overlay areas within the Rural Agricultural zoning district, and are subject to the site plan and Special Exception Permit application requirements established for Tier 3 Solar Energy Systems (see above requirements).
- Includes a requirement for a Pre-Application Meeting with the Town prior to the Planning Board process, as well as a Community Engagement Plan.
- After the pre-application meeting, the Planning Board may request input from the Columbia County Farmland Protection Board (CCFPB). The CCFPB shall have 45 days to provide a response. Such a response shall be considered advisory only.
- Includes section that states that if a project ceases for 6 months, the Town may notify and instruct the owner/operator to implement a decommissioning plan.