

**§ 165-60. Solar energy systems and wind energy systems. [Added 6-25-2018 by L.L. No. 1-2018]**

- A. Authority. This "Town of Washington Solar and Wind Zoning Code" is adopted pursuant to §§ 261 through 263 of the Town Law of the State of New York, which authorize the Town of Washington to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.
- B. Statement of purpose. The purpose of this section is to establish standards and limitations for the installation and operation of solar and wind systems within the Town of Washington. The Town of Washington intends to encourage the use of natural energy resources in accordance with its Comprehensive Master Plan.

- C. Definitions. As used in this section, the following terms shall have the meanings indicated:

110% LIMITATION — Shall have the meaning ascribed to it in Subsection E(1) below.

ADJOINING PARCELS — Shall have the meaning ascribed to it in Subsection E(5) of this section.

BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM — A combination of photovoltaic building components integrated into any building envelope system such as vertical facades, including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

CONSENT — Shall have the meaning ascribed to it in Subsection F(3)(c) of this section.

GLARE — The effect produced by reflections of light with an intensity sufficient to cause significant annoyance, discomfort or loss in visual performance and visibility.

GROUND-MOUNTED SOLAR ENERGY SYSTEM — A solar energy system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure, and in which the anticipated annual total amount of electric energy generated from such system does not exceed 110% of the anticipated annual total amount of electric energy used by the applicant's parcel (this 110% limitation is hereinafter referred to as the "110% limitation").

NONRESIDENTIAL PROPERTY — Real property that is not considered residential property.

NYSERDA — The New York State Energy Research and Development Authority.

RESIDENTIAL PROPERTY — Real property that is primarily used for residential purposes and contains a one- or two-family residence.

ROOF-MOUNTED SOLAR ENERGY SYSTEM — A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for on-site or off-site consumption.

SOLAR ENERGY EQUIPMENT — Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

SOLAR ENERGY SYSTEM — An electrical generating system composed of a combination of both solar panels and solar energy equipment.

SOLAR PANEL — A photovoltaic device capable of collecting and converting solar energy into electrical energy.

- D. Applicability. The requirements of this section shall apply to all solar energy systems installed or modified after its effective date, excluding general maintenance and repair.
- E. General provisions.
- (1) Solar energy systems installed for the purpose of supplying power measured by the personal use of the property shall be permitted as an accessory use so long as the solar energy system satisfies the other provisions of this section. A solar energy system shall be limited to a power generating capacity not in excess of 110% of the anticipated annual total amount of electric energy used by the applicant's parcel (this 110% limitation is hereinafter referred to as the "110% limitation").
  - (2) All solar energy systems shall be installed in accordance with applicable electrical and building codes (including the New York State Uniform Fire Prevention and Building Code) in effect at the time of installation, the manufacturer's installation, and industry standards, and prior to operation the electrical connections must be inspected by the Town Zoning Administrator or by an appropriate electrical inspection person or agency, as determined by the Town of Washington. In addition, any connection to the public utility grid must be inspected by the appropriate public utility. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
  - (3) When solar storage batteries are included as part of the solar energy system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code when in use and when no longer used shall be disposed of in accordance with all applicable laws and regulations.
  - (4) The installation of any ground-mounted solar energy system shall be outside any land area exhibiting sensitive environmental characteristics such as freshwater wetlands, 100-year flood hazard areas, severe topography (slopes more than 15%), stream corridors, wetland transition areas, historic and/or culturally significant areas or other areas regulated under Article IX, Wetlands and Watercourses, of this chapter. No solar energy system shall be within any conservation easement or conservation deed restricted area unless within the approved building envelope.
  - (5) It is acknowledged that an applicant may own one or more adjoining parcels which technically consist of more than one legal parcel. In such case, there may a solar energy system on one parcel which produces electricity primarily for the needs of that parcel and/or the needs of one or more of such other adjoining parcels (the "adjoining parcels"). In such case, for purposes of the definition of "ground-mounted solar energy system," the term "applicant's parcel" shall include the adjoining parcels.
  - (6) All solar energy systems shall require a building permit and a certificate of occupancy/compliance upon completion.

- (7) All solar energy systems shall be maintained in good working order.
- (8) No solar energy system shall be permitted if such installation would require the installation of a new aboveground power line, power pole or an electrical substation; provided, however that i) if a new building structure is being constructed in connection with the solar energy system, a new power pole shall be permitted or ii) a new power pole shall be permitted if it is required by the local utility company to maintain the solar energy system's safe operation.
- (9) Prior to the installation of a solar energy system, the Town of Washington Building Inspector shall receive.
  - (a) A letter from a licensed engineer or other qualified professional or from the installer of the solar energy system stating in effect that the solar energy system will satisfy the 110% limitation; and
  - (b) Any applicable consent. The Town of Washington Building Inspector shall have the right to confirm the satisfaction of the 110% limitation by reviewing prior utility statements.
- (10) If a solar energy system causes any glare, the owner of such solar energy system shall use reasonable efforts to eliminate such glare within 60 days of notice of the existence of such glare from the Town of Washington.

F. Solar as an accessory use or structure.

- (1) Building-integrated photovoltaic system (BIPS). BIPS material shall be permitted in all zoning districts.
- (2) Roof-mounted solar energy systems.
  - (a) Roof-mounted solar energy systems are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
  - (b) Height. Roof-mounted solar energy systems shall not exceed the maximum height restrictions of the zoning district within which they are located.
  - (c) Aesthetics. Roof-mounted solar energy system installations shall incorporate, when feasible, the following design requirements:
    - [1] Panels must be mounted at the same angle as the roof's surface up to a maximum distance of 18 inches between the roof and highest edge of the system.
    - [2] The solar panels and all ancillary equipment for the solar energy system shall not extend beyond the edge of the roof.
    - [3] Solar energy equipment forming a part of the roof-mounted solar energy system shall be installed inside walls and attic spaces to reduce their visual impact. If such solar energy equipment is visible from a public road or adjacent property, it shall match the color scheme of the underlying structure.

- (d) Roof-mounted solar energy systems shall be exempt from site plan review under this chapter or other land use regulations.
- (3) Ground-mounted solar energy systems for a residential property:
  - (a) Ground-mounted solar energy systems for a residential property are permitted as accessory structures in the Town of Washington.
  - (b) In no event shall the height of the ground-mounted solar energy system for a residential property exceed 12 feet. This twelve-foot requirement shall be calculated when the solar energy system is oriented at maximum tilt.
  - (c) Subject to the terms set forth herein, a ground-mounted solar energy system for a residential property shall not be visible from any public road or from any other parcel. If a ground-mounted solar energy system for a residential property would be visible from any public road or other parcel, the ground-mounted solar energy system shall be screened from view at all times by existing vegetation or topography or through the use of architectural features, earth berms, landscaping, new plantings, fencing or a combination thereof. Plantings used for screening shall be of such a height and width, at the time of planting, so as to obscure the ground-mounted solar energy system from public roads and such other parcels. Notwithstanding anything herein to the contrary, a ground-mounted solar energy system for a residential property may be visible from another parcel if:
    - [1] The ground-mounted solar energy system is at least 300 feet from the affected parcel; or
    - [2] The owner of the affected parcel consents in writing (the "consent") to the ground-mounted solar energy system.
  - (d) All ground-mounted solar energy systems for a residential property shall have a minimum setback of the greater of:
    - [1] One hundred feet from the property line; or
    - [2] The setback required by this chapter.
  - (e) Ground-mounted solar energy systems for a residential property shall be exempt from site plan review under this chapter or other land use regulations.
  - (f) Ground-mounted solar energy systems for a residential property shall not be considered as a building for purposes of determining building coverage of the lot.
  - (g) Solar panels for a residential property shall not be included in any calculation of impervious surface or impervious cover, however the base or foundation of the solar panel shall be included in any calculation.
- (4) Ground-mounted solar energy systems for a nonresidential property:
  - (a) Ground-mounted solar energy systems for a nonresidential property are permitted as accessory structures in the Town of Washington.

- (b) In no event shall the height of the ground-mounted solar energy system for a nonresidential property exceed 12 feet. This twelve-foot requirement shall be calculated when the solar energy system is oriented at maximum tilt.
- (c) Subject to the terms set forth herein, a ground-mounted solar energy system for a nonresidential property shall not be visible from any public road or from any other parcel (unless the owner of such other parcel executes a consent). If a ground-mounted solar energy system for a nonresidential property would be visible from any public road or other parcel (and a consent is not executed by the affected owner), the ground-mounted solar energy system shall be screened from view at all times by existing vegetation or topography or through the use of architectural features, earth berms, landscaping, new plantings, fencing or a combination thereof. Plantings used for screening shall be of such a height and width, at the time of planting, so as to obscure the ground-mounted solar energy system from public roads and such other parcels.
- (d) All ground-mounted solar energy systems for a nonresidential property shall have a minimum setback of the greater of:
  - [1] One hundred feet from the property line; or
  - [2] The setback required by this chapter.
- (e) Ground-mounted solar energy systems for a nonresidential property shall require a special permit and site plan review under this chapter or other land use regulations.
- (f) Ground-mounted solar energy systems for a nonresidential property shall not be considered as a building for purposes of determining building coverage of the lot.
- (g) Solar panels for a nonresidential property shall not be included in any calculation of impervious surface or impervious cover; however, the base or foundation of the solar panel shall be included in any calculation.

G. Abandonment and decommissioning.

- (1) Solar energy systems are considered abandoned after one year without electrical energy generation and must be removed from the property. An applicant shall have the right to request a one year extension of that time upon notice to, and approval from, the Town of Washington Planning Board. If a property owner fails to remove a solar energy system as required by this section, then the Town of Washington may elect, at its sole and absolute discretion, to remove such solar energy system from the property, in which case all of the costs and expenses incurred by the Town of Washington, together with interest at the annual rate of 16%, or such lower rate required by any applicable usury law or regulation, shall be immediately paid by the property owner. In addition, any violation of this section shall result in a fine of \$350 per day for each day such violation exists. 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. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- (2) In the case of a ground-mounted solar energy system for a nonresidential property, the Town of Washington Planning Board may, at its discretion, require the adoption of an abandonment, restoration and decommissioning plan in connection with any approval of such project.
- H. Enforcement. Any violation of this section shall be subject to the same civil and criminal penalties provided for in this chapter (except that any violation of Subsection G hereof shall result in the fines and penalties set forth therein).
- I. Real estate tax exemption. Owners of solar energy systems shall be entitled to the real estate tax exemption set forth in Real Property Tax Law (RPTL) § 487, as amended and supplemented through time.
- J. SEQRA. Building-integrated photovoltaic systems, ground-mounted solar energy systems for a residential property and roof-mounted solar energy systems shall be considered Type II actions for SEQRA purposes. At the option of the Town of Washington Planning Board, ground-mounted solar energy systems for a nonresidential property shall be considered for action for SEQRA purposes.
- K. Wind energy systems. Based on an assessment by NYSERDA, the geographical territory of the Town of Washington is not conducive to wind energy systems. Accordingly, no type of wind turbines, wind towers or similar systems shall be permitted in the Town of Washington. If, in the future, circumstances change and NYSERDA notifies the Town of Washington that wind energy systems can be conducive to the economic production of wind technology, then the Town of Washington shall revisit this section.
- L. Severability. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision or phrase of the aforementioned sections as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision or phrase, which shall remain in full force and effect.<sup>1</sup>

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1. Editor's Note: Original Sec. 350, Supplementary area and bulk regulations, which immediately followed, was redesignated as § 165-65 with the 2024 codification. Original Secs. 361, 362 and 364 were redesignated as §§ 165-61, 165-62 and 165-63, respectively, with the 2024 codification; subsequent sections renumbered accordingly.