



283 Manny's Corners Road  
Amsterdam, New York 12010

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**TOWN OF AMSTERDAM  
NOTICE OF PUBLIC HEARING  
PROPOSED LOCAL LAW NO. 4 OF 2016**

**Amending the Town of Amsterdam Zoning Law  
To Regulate Solar Energy Systems**

NOTICE IS HEREBY GIVEN that the Amsterdam Town Board will hold a public hearing on proposed Local Law No. 4 of 2016, on October 19, 2016 at 6:50 p.m. at the Amsterdam Town Hall at 283 Manny's Corners Road, Amsterdam, New York 12010. Local Law No. 4 of 2016 amends zoning law of the Town of Amsterdam as follows: Article II – Section 4 Definitions, Article IV-Sections 7 through 13 – Use Regulations, Article VIII – Section 35 Solar Collectors and Installations, and Schedule A – Area and Height Regulations of the Town of Amsterdam Zoning Law.

A copy of the proposed Local Law No. 4 is available for public inspection at the office of the Amsterdam Town Clerk, 283 Manny's Corners Road, Amsterdam, New York 12010.

Any interested persons wishing to speak may be heard at said time and place.

BY ORDER OF THE TOWN BOARD

Linda Bartone Hughes, Town Clerk  
Town of Amsterdam

**DRAFT  
TOWN OF AMSTERDAM**

**PROPOSED LOCAL LAW NO. \_\_\_ OF THE YEAR 2016**

**A LOCAL LAW TO AMEND THE TOWN OF AMSTERDAM ZONING LAW  
TO REGULATE SOLAR ENERGY SYSTEMS**

**BE IT ENACTED** by the Town Board of the Town of Amsterdam as follows:

**Article II - Section 4 Definitions, Article IV - Sections 7 through 13 - Use Regulations, Article VIII - Section 35 Solar Collectors and Installations, and Schedule A – Area and Height Regulations of the Town of Amsterdam Zoning Law are hereby amended as follows:**

**1. The following Definitions are added to ARTICLE II – SECTION 4 DEFINITIONS:**

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

**COLLECTIVE SOLAR:** Solar installations owned collectively through subdivision homeowner associations, college student groups, “adopt-a-solar-panel” programs, or other similar arrangements.

**FLUSH-MOUNTED SOLAR PANEL:** Solar collector systems, panels, and tiles that are installed flush to the surface of a roof or wall of a principal and/or an accessory structure and which cannot be angled or raised.

**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 and is used for the direct conversion of solar energy into electricity.

**GLARE:** The effect produced by light with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**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 at the end of the month.

**PHOTOVOLTAIC (PV) SYSTEMS:** A solar energy system that produces electricity by the use of the semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

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

**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 ARRAY:** A group of multiple solar panels or modules with the purpose of harvesting solar energy.

**SOLAR ENERGY EQUIPMENT AND SYSTEMS:** Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and or 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.

**SMALL-SCALE SOLAR ENERGY SYSTEM:** A solar energy system that is designed and/or built primarily to provide power for use by the owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, including “collective solar” installations. A small-scale solar energy system may sell excess power through a “net-metering” arrangement in accordance with New York Public Service Law 66-j or similar state or federal law or regulation.

**UTILITY-SCALE SOLAR ENERGY SYSTEM:** A solar energy system that is designed and/or built to provide energy as an ongoing commercial enterprise, or for commercial profit, or designed to distribute energy generated to a transmission system for distribution to customers rather than for use on the site. A utility-scale solar energy system may include solar energy system equipment and uses, such as but not limited to supporting posts and frames, buildings and/or other structure(s), access drives, inverter equipment, wires, cables and other equipment for the purpose of supplying electrical energy produced from solar technologies, whether such use is a principal use, a part of the principal use or an accessory use or structure.

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

**SOLAR STORAGE BATTERY:** A devise that stores energy from the sun and makes it available in an electrical form.

**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.

**2. The following additions are made to ARTICLE IV – USE REGULATIONS:**

**Section 7. R-1 Residence District**

- Uses permitted:  
Add: 11. Small-Scale Solar Energy System as accessory use (Section 35 for thresholds)
- Uses permitted by the Planning Board as Special Permit Uses:  
Add: 10. Small-Scale Solar Energy System as accessory use (See Section 35 for thresholds)  
11. Utility-Scale Solar Energy System (See Section 35)

**Section 8. R-2 Residence District**

- Uses permitted by the Planning Board as Special Permit Uses:  
Add: 9. Small-Scale Solar Energy System as accessory use (See Section 35 for thresholds)  
10. Utility-Scale Solar Energy System (See Section 35)

**Section 9. R-M Mobile Home Residence District**

- Uses permitted:  
Add: 8. Small-Scale Solar Energy System as accessory use (See Section 35 for thresholds)
- Uses permitted by the Planning Board as Special Permit Uses:  
Add: 2. Small-Scale Solar Energy System as accessory use (See Section 35 for thresholds)  
3. Utility-Scale Solar Energy System (See Section 35)

**Section 10. A Agriculture District**

- Uses permitted by the Planning Board as Special Permit Uses:  
Add: 13. Utility-Scale Solar Energy System (See Section 35)

**Section 11. B-1 Business District**

- Uses permitted:  
Add: 20. Small-Scale Solar Energy System as accessory use (See Section 35)
- Uses permitted by the Planning Board as Special Permit Uses:  
Add: 7. Utility-Scale Solar Energy System (See Section 35)

**Section 12. B-2 Restricted Business District**

- Uses permitted:  
Add: 18. Small-Scale Solar Energy System as accessory use (See Section 35)
- Uses permitted by the Planning Board as Special Permit Uses:  
Add: 5. Utility-Scale Solar Energy System (See Section 35)

**Section 13. M-1 Manufacturing/Mixed Use District**

- Uses permitted by the Planning Board as Special Permit Uses:  
Add: 4. Utility-Scale Solar Energy System (See Section 35)

3. **ARTICLE VIII SUPPLEMENTARY REGULATIONS - SECTION 35 SOLAR COLLECTORS AND INSTALLATIONS** is replaced in its entirety by the following:

**SECTION 35. SOLAR ENERGY SYSTEMS AND EQUIPMENT**

**1. SMALL-SCALE SOLAR ENERGY SYSTEMS**

**A. Purpose and Intent**

1. The Town of Amsterdam recognizes that solar energy is a renewable and nonpolluting energy resource that can prevent fossil fuel emissions and reduce energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid when excess solar power is generated.
2. The purpose of these regulations is to balance the potential impact on neighbors when solar collectors may be installed near their property while preserving the rights of property owners to install solar collection systems without excess regulation. These regulations are not intended to override the New York State Agriculture and Markets Law.

**B. Applicability**

1. The requirements herein shall apply to all solar energy system installations modified or installed after the effective date of this section.
2. Solar energy system installations for which a valid building permit has been properly issued, or for which installation has commenced before the effective date of this section, shall not be required to meet the requirements of this section, except in accordance with Subsection E, Safety. Any modification, expansion or alteration to an existing solar collector system shall be permitted only in accordance with the regulations in this section.
3. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code.

**C. Rooftop and Building-Mounted Solar Collectors**

1. Rooftop and building-mounted solar collectors, including building integrated photovoltaic systems, are permitted in all zoning districts except for the Historic Overlay District. Rooftop and building-mounted solar collectors require a Building Permit issued by the Town Zoning/Code Enforcement Officer and must be shown on the plans submitted with the building permit application and shall comply with the following regulations:
  - a. Rooftop and building-mounted solar collector systems are permitted on all principal structures, and on accessory structures that meet the principal structure setbacks required in each zoning district.

- b. Height limitations for structures included in Article V, Area and Height Regulations and Schedule A shall apply.
- c. Solar collectors mounted on pitched roofs shall be installed at an angle that matches the pitch of the roof as closely as possible, shall not extend more than 18 inches from the surface of the angle of the roof, and shall not project vertically above the ridge line.
- d. Solar collectors mounted on flat roofs shall be screened from the street view to the maximum extent practicable.
- e. Rooftop units must be three feet from any chimney and shall not be permitted on any roof overhangs.
- f. Solar collectors mounted on building facades shall be an integrated with the architecture through color, texture, and rhythm.

#### **D. Ground-Mounted and Freestanding Solar Collectors**

- 1. Ground-mounted and freestanding solar collectors are permitted as Accessory Structures in all zoning districts and require a Building Permit issued by the Town Zoning/Code Enforcement Officer. Ground-mounted and freestanding solar collectors shall comply with the following regulations:
  - a. The solar collector may be located in a side or rear yard, but may not be located in a front yard.
  - b. The solar collector must have a minimum setback from all property lines a distance equal to the required setback for principal structures in its zoning district, or 1 ½ times the total height of the structure, whichever is greater.
  - c. The total height of the solar collector and any mounts shall not exceed 20 feet from the ground elevation when oriented at maximum tilt.
  - d. The total surface area of all ground-mounted and freestanding solar collectors on the lot shall not exceed 1,000 square feet.
  - e. Ground-mounted and freestanding solar collectors shall be screened from adjacent properties when possible and practicable through the use of fencing, landscaping or other screening that harmonizes with the character of the property and surrounding area.
  - f. In all Residential Zoning Districts (R-1, R-2, and R-M Districts), ground-mounted and freestanding solar collectors greater than 10 feet in height or 20 feet in length, or with a total surface area greater than 200 square feet in the aggregate, shall require Site Plan Review and a Special Permit issued by the Planning Board.
  - g. Ground-mounted and freestanding solar collectors in the Historic Overlay District shall require Site Plan Review and a Special Permit issued by the Planning Board.

- h. The Planning Board shall hold at least one public hearing on any solar energy application requiring Site Plan Review. Notice shall be published in the Town's official newspaper, at least ten (10) days before any hearing. The applicant shall be required to mail notice of the public hearing to all landowners whose property is located within one thousand (1,000) feet of the Site Boundary, at least ten (10) days prior to the date of said public hearing. Notification shall be made by regular U.S. Mail, and proof of such mailing shall be presented to the Board at the public hearing.
- i. Solar collectors and energy equipment shall be located in a manner that reasonably minimizes shading of adjacent property and blockage for surrounding properties while still providing adequate solar access for collectors.

#### **E. Safety**

1. All solar energy systems and solar collectors must obtain a building permit and shall be designed and installed in conformance with the New York Uniform Fire Prevention and Building Code Standards that are applicable when the building permit is issued.
2. All solar collector installations must be performed by a Qualified Solar Installer.
3. Prior to operation, electrical connections must be inspected by the Town Code Enforcement Officer, and by the New York Board of Fire Underwriters or other appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.
4. 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.
5. Solar Energy Systems and Equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. For residential applications, the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover. For commercial application, the marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.
6. If solar storage batteries are included, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use. When they are no longer in use, they shall be disposed of in accordance with the laws of New York State Fire Prevention and Building Code and local laws of the Town of Amsterdam and any other applicable laws or regulations.

7. Glare and heat. No direct or unreasonable glare or transmission of heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.

## **2. Utility-Scale Solar Energy System**

### **A. Purpose and Intent**

1. The purpose of these regulations is to provide criteria for siting utility-scale solar energy systems that balance the benefits of solar energy collection with the unique characteristics of each site, and prevent potential impacts on neighboring properties.
2. In any instances where specific permitted uses, area, or height standards, development guidelines and/or review procedures specifically set forth in this section conflict with any other general provision or requirements of the Town of Amsterdam Zoning Law, the particular provisions set forth herein shall take precedence and control.

### **B. Bulk and Area Requirements**

The following dimensional requirements shall apply to all utility-scale solar energy systems:

#### 1. Height

- a. The total height of the solar collector arrays and mounting system shall not exceed 20 feet from the ground elevation when oriented at maximum tilt.
- b. All buildings and accessory structures associated with the utility-scale solar energy system shall have a maximum height of 15 feet.

#### 2. Setbacks

All utility-scale solar energy systems and associated buildings, fences, accessory structures, and equipment shall have a minimum setback from any external property line of 100 feet.

#### 3. Lot coverage

The maximum permitted lot coverage for a utility-scale solar energy system is 50% of the site. For the purpose of this section, lot coverage shall include the total surface area of the solar panel arrays and the footprints of all buildings and accessory structures.

#### 4. Minimum lot size

The minimum lot size for utility-scale solar energy projects prior to any internal lot subdivision is:

- a. 50 acres in all Residential Zoning Districts (R-1, R-2, and R-M Districts).
- b. 20 acres in the A-Agriculture, B-1 Business, B-2 Restricted Business and M-Manufacturing /Mixed Use Zoning Districts.

### C. General Provisions

1. Permitted Zones. Utility-scale solar energy systems are permitted in all zoning districts in the Town of Amsterdam and are subject to Site Plan and Special Permit Review and Approval by the Planning Board.
2. Public Hearing. The Planning Board shall hold at least one public hearing on the application. Notice shall be published in the Town's official newspaper, at least ten (10) days before any hearing. The applicant shall be required to mail notice of the public hearing to all landowners whose property is located within one thousand (1,000) feet of the Site Boundary, at least ten (10) days prior to the date of said public hearing. Notification shall be made by regular U.S. Mail, and proof of such mailing shall be presented to the Board at the public hearing.
3. Visual
  - a. Utility-scale solar energy systems shall be sited in a manner to have the least possible practical visual effect on the environment. Appropriate landscaping, screening, and/or earth berming shall be required to create a visual buffer and effectively screen the facility and its accessory buildings, structures and equipment from public roads and neighboring residences.
  - b. The buildings and accessory structures shall use materials, colors and textures that will help the facility blend into the existing environment to the extent possible. The solar panels and arrays shall be surfaced, designed and sited to minimize reflectivity to adjacent properties and roadways.
  - c. A Landscaping Plan and planting schedule shall be required, showing the existing vegetation and treelines, the proposed vegetation, landscaping and screening, and topography and potential berms.
  - d. A Visual Assessment Report including appropriate modeling and photography assessing the visibility from key viewpoints may be required by the Planning Board. In residential zoning districts, the applicant must demonstrate that the facility will not be visible from neighboring residences and public roads.
4. Installation. All solar collector installations must be performed by a Qualified Solar Installer. Prior to operation, electrical connections must be inspected by the Town Code Enforcement Officer and by the New York Board of Fire Underwriters or other appropriate electrical inspection person or agency, as determined by the Town. In addition, the connection to the public utility grid must be inspected by the appropriate public utility.
5. Safety. The owner/operator shall coordinate with local emergency responders to clarify on-site safety procedures. Identification and appropriate warning signage shall be posted at the site and clearly visible. Solar energy equipment shall be marked with weather resistant markings in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. The marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.

5. Lighting. No utility-scale solar energy system shall be artificially lighted unless otherwise required by a federal, state or local authority. Exterior lighting may be provided for associated accessory structures and access entrances as may be determined appropriate for security purposes only.
6. Utilities. The applicant shall provide written confirmation that the electric grid has the capacity to support the energy generated from the utility-scale solar energy system. Electrical power lines and utility lines serving the site shall be placed underground.
7. Access. The applicant shall indicate on a site plan all existing and proposed access to the site, including road, electric power, emergency access, land-based telephone line connection, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible.
8. Glare and heat. No direct or unreasonable glare or transmission of heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.
9. Ownership. In the case of an application for a utility-scale solar energy system to be located on private lands owned by a party other than the applicant or the Town, a copy of the lease agreement with the property owner shall be filed with the Town.
10. Proof of insurance. The applicant and the owner of the property where the utility-scale solar energy system is to be located shall file with the Town proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation thereof.
11. Security provisions. Each site shall have a minimum of an 8 foot security fence to prevent unauthorized access and vandalism to the utility-scale solar collectors and a security program for the site.
12. Noise. Noise-producing equipment shall be sited and/or insulated to minimize noise impacts on adjacent properties.
13. Annual Documentation. Verification by the utility company that the utility-scale solar energy system is still active shall be provided annually to the Town of Amsterdam Code Enforcement Officer.

#### **D. Decommissioning and Abandonment**

1. Decommissioning Plan. The applicant shall submit a Decommissioning Plan for review and approval by the Planning Board and Town Attorney during Site Plan Review. The Decommissioning Plan shall identify the anticipated life of the project, method and process for removing all components of the utility-scale solar energy system and returning the site to its pre-existing condition, and estimated decommissioning costs, include any salvage value.

2. Required Sureties for construction, maintenance and removal of utility-scale solar energy systems:

- a. Performance bond and other security. Prior to the issuance of a building permit, the Town shall require that a performance bond or other security shall be provided by the applicant or owner/operator that is sufficient to cover the full cost of removal and disposal of the utility-scale solar energy system and associated accessory structures and the restoration of the site to pre-development conditions. This cost shall be determined by an estimate prepared as part of the Decommissioning Plan and approved by the Town Attorney. Any such security must be provided pursuant to a written security agreement with the Town, approved by the Town Board and the Town Attorney as to form, sufficiency and manner of execution. The form of security shall be limited to those permissible under NYS Town Law. If the applicant or owner/operator fails to comply with any conditions of the approval during construction or as part of the long-term maintenance of the site, all costs of the Town incurred to comply with conditions of the approval shall be paid using the surety provided. Failure to comply with the conditions of the approval or to maintain an acceptable level of surety will result in revocation of the Certificate of Occupancy.
  
- b. Removal. The utility-scale solar energy system, including any accessory structures and/or equipment, shall be dismantled and removed from the site when the system has been inoperative or abandoned for 12 consecutive months and the site shall be restored to pre-development conditions. The full cost of the removal and site restoration shall be paid by the performance bond or other security posted by the owner/operator as required in Section 35.2.D.2.a. Abandonment shall be assumed by the Town if the annual documentation as required in Section 35.2.C.13 is not provided by the owner/operator for one year to the Town of Amsterdam Code Enforcement Officer. The Code Enforcement Officer shall then provide written notice to the owner/operator to remove the utility-scale solar energy system, who shall have three months from written notice to remove the utility-scale solar energy system, including any associated accessory structures and/or equipment, and restore the site to a condition approved by the Planning Board. If the owner/operator fails to remove any associated structures or restore the site to the condition approved by the Planning Board, all costs of the Town incurred to comply with this condition shall be paid using the surety provided.

**E. Fees**

The Town Board may set application, review and/or approval fees by resolution, from time to time, as it deems appropriate.

**F. Effective date.**

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

## Linda Bartone-Hughes

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**From:** Kathleen Tatara <KTatara@delawareengineering.com>  
**Sent:** Wednesday, September 21, 2016 2:12 PM  
**To:** Tom DiMezza - Gmail; toadie927@yahoo.com; Ken Krutz RR; Mary Maines; rdicapri@nycap.rr.com; jbpartyka@yahoo.com  
**Cc:** Linda Bartone-Hughes  
**Subject:** solar law  
**Attachments:** Draft Solar Zoning Amendment TB 9-21-16 50%lot coverage.doc

Tom,

I noticed that I goofed up and the maximum lot coverage in the September versions of the law is 25%. Linda told me to change it to 50% on July 21st. I am attaching the latest version with the maximum lot coverage at 50%.

kt

Kathleen Tatara  
Senior Planner/GIS Coordinator  
Delaware Engineering, D.P.C.  
28 Madison Ave. Extension  
Albany, NY 12203  
518-452-1290

## **Linda Bartone-Hughes**

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**From:** Kathleen Tatara <KTatara@delawareengineering.com>  
**Sent:** Wednesday, September 21, 2016 12:29 PM  
**To:** Linda Bartone-Hughes  
**Cc:** Tom DiMezza - Gmail; Chuck Swartz LF; toadie927@yahoo.com; Ken Krutz RR; Mary Maines; rdicapri@nycap.rr.com; jbpartyka@yahoo.com  
**Subject:** RE: Solar Amendment Update  
**Attachments:** Draft Solar Zoning Revision Resolution 9-21 REV.doc; Draft Solar Zoning Amendment TB 9-21-16.doc

Linda,

Added the neighbor notification for both small-scale and utility-scale solar energy applications that require Site Plan review.

Also revised the resolution describing the changes to the draft law.

kt

**From:** Linda Bartone-Hughes [mailto:lhughes@townofamsterdam.org]  
**Sent:** Wednesday, September 21, 2016 11:24 AM  
**To:** Kathleen Tatara <KTatara@delawareengineering.com>  
**Cc:** Tom DiMezza - Gmail <tdimezza@gmail.com>; Chuck Swartz LF <cswartz@schwartzlf.com>; toadie927@yahoo.com; Ken Krutz RR <tkrutz@nycap.rr.com>; Mary Maines <mainesmary@gmail.com>; rdicapri@nycap.rr.com; jbpartyka@yahoo.com; Linda Bartone-Hughes <lhughes@townofamsterdam.org>  
**Subject:** Solar Amendment Update

Kathy,

After speak with Tom this morning concerning the amendment to zoning law pertaining to solar, we would like to add some similar wording like in the Small Wind Energy Facility Review – See No. 5 attached requiring the applicant to mail notice of public hearing to landowners.

Linda

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