

# TOWN OF GAINES

## LOCAL LAW #1 OF 2019 - SOLAR ENERGY SYSTEMS

### § 1. Title

This Local Law will be referred to as, "Local Law No. 1 of 2019 - Solar Energy Systems."

### § 2. Legislative authority

This chapter is adopted pursuant to the legislative authority in Municipal Home Rule Law § 10, Town Law §§ 261 through 264, General Municipal Law § 96-a and § 119-dd and Public Service Law, Article 10.

### § 3. Purpose and intent

A. The purpose of this Solar Energy Systems Local Law is to advance and protect the public health, safety, and welfare of Gaines by regulating the installation and use of solar energy generating systems and equipment, with the following objectives:

- 1) To take advantage of a safe, abundant, renewable and non-polluting energy resource;
- 2) To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
- 3) To increase employment and business development in the Town of Gaines, to the extent reasonably practical, by furthering the installation of Solar Energy Systems; and
- 4) To mitigate the impacts of Solar Energy Systems on environmental resources and agricultural land.

### § 4. Definitions

**BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM:** A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

**GLARE:** The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM:** A solar energy system that is anchored to the ground and attached to a pole or other mounting system that is detached from any other structure and which generates electricity for onsite or offsite consumption.

**LARGE-SCALE SOLAR ENERGY SYSTEM:** A solar energy system that is ground-mounted and produces energy primarily for the purpose of on-site usage or consumption, with lot coverage of more than 4,000 sq. ft.

**LOT COVERAGE:** The land area occupied by a ground-mounted solar energy system. Lot coverage encompasses the entire area of the solar array, including spaces between the solar panels, as well as all fences, roadways, parking, structures and equipment.

**ROOF-MOUNTED SOLAR ENERGY SYSTEM:** A solar energy system, located on the roof of any legally permitted building or structure, which produces electricity for on-site or off-site consumption.

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**SOLAR ENERGY EQUIPMENT:** Electrical energy storage devices, material, hardware, inverters, conduit, storage devices, or other electrical photovoltaic equipment 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 FARM:** A Solar Energy System that generates electricity primarily for off-site sale, usage or consumption.

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

**STORAGE BATTERY:** A device that stores energy and makes it available in an electrical form.

### § 5. Applicability

- A. The requirements of this Local Law apply to all solar energy systems and/or solar farms proposed, installed, operated, maintained, modified or constructed in Gaines after the effective date of this Local Law, excluding general maintenance and repair.
- B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law are not required to meet the requirements of this Local Law.
- C. All Solar Energy Systems must be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”), and the Town of Gaines local laws and ordinances.

### § 6. Solar energy systems as an accessory use or structure

- A. Roof-mounted solar energy systems.
  - (1) Roof-mounted solar energy systems are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
  - (2) Height. Roof-mounted solar energy systems must not exceed the maximum height restrictions for buildings in the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.
  - (3) Aesthetics. Roof-mounted solar energy system installations must incorporate, when feasible, the following design requirements: panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
  - (4) Roof-mounted solar energy systems that use the energy on-site are not subject to Site Plan Review pursuant to the Town's zoning regulations.
  - (5) Roof-mounted installations may be installed on buildings in all zoning districts, subject to applicable permit requirements and New York State building codes.
- B. Ground-mounted solar energy systems as an accessory use.

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- (1) Ground-mounted solar energy systems that use the electricity primarily on site are permitted as accessory structures and must be installed to the side or rear of the principal building on the lot.
- (2) Setback. Ground-mounted solar energy systems must be set back a minimum of 100 feet from the centerline of the road except that the minimum front setback along Ridge Road is 120 feet. The minimum setback from the side and rear lot lines is 50 feet, except that solar energy systems must be set back a minimum of 100 feet from the boundary of the Commercial Historic District.
- (3) Height. Ground-mounted panels must not exceed 20 feet in height at maximum tilt.
- (4) Lot coverage. Lot coverage for solar energy systems, plus the area occupied by any other structure, driveway, or paved or impervious surface, must not exceed 80% of the lot area.
- (5) Ground-mounted solar energy systems are permitted in all zoning districts.
- (6) Site Plan Review is required for ground-mounted solar energy systems with lot coverage of 4,000 sq. ft. or more

### § 7. Application and approval standards for large-scale solar energy systems

- A. Solar energy systems with lot coverage of 4,000 sq. ft. or more but less than 40,000 sq. ft. are permitted in the AR Agricultural Residential and C Commercial zoning districts subject to Site Plan Review in accordance with the Town of Gaines Zoning Ordinance.
- B. Solar energy systems with lot coverage of 40,000 sq. ft. or more are permitted in the AR Agricultural Residential and C Commercial Zoning Districts, subject to a Special Use Permit and Site Plan Review in accordance with the Town of Gaines Zoning Ordinance.
- C. Application requirements. Any application for a large scale solar energy system must include the following documentation:
  - (1) If the property of the proposed project is to be leased, legal consent between all parties specifying the use(s) of the land for the duration of the project, including easements and other agreements, must be submitted.
  - (2) Blueprints showing the layout of the solar energy system signed by a professional engineer or registered architect are required.
  - (3) The equipment specification sheets must be documented and submitted for all photovoltaic panels, significant components, mounting systems and inverters that are to be installed.
  - (4) Property operations and maintenance plan. Such plan must describe continuing photovoltaic maintenance property upkeep such as mowing and trimming.
- D. Standards.
  - (1) Setback. Large-scale solar energy systems must be set back a minimum of 100 feet from the centerline of the road except that the minimum front setback along Ridge Road will be 120 feet. The minimum setback from the side and rear lot lines will be 50 feet, except that solar energy systems must be set back a minimum of 100 feet from the boundary of the Commercial Historic District.
  - (2) Height. Ground-mounted panels must not exceed 20 feet in height at maximum tilt.

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- (3) Lot size. Large-scale solar energy systems must be located on lots with a minimum lot size of three (3) acres.
- (4) Lot coverage. The lot coverage of a large-scale solar energy system that is ground-mounted must not exceed 80% of the lot on which it is installed. The lot coverage of any ground-mounted solar energy system includes all equipment and site improvements necessary or required for the system, including but not limited to the solar array, spaces between the solar panels, fences, roadways, driveways, and parking areas.
- (5) All large-scale energy systems must be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information must be placed on the entrance and perimeter of the fencing. The type of fencing must be specified in the application. The Zoning Board of Appeals may require additional screening, fencing or landscaping to avoid adverse aesthetic impacts.
- (6) All applications must comply with all applicable Site Plan Review requirements specified in the Town's Zoning Ordinance.
- (7) The Zoning Board of Appeals may impose conditions on its approval of a the Site Plan as needed to enforce the standards in this local law or to mitigate or minimize any potential environmental impacts identified during the State Environmental Quality Review (SEQR) process.

### § 8. Additional Requirements for Solar Farms

- A. This section establishes standards for the placement, design, construction, operation, monitoring, modification and removal of Solar Farms.
- B. In addition to any site plan approval required by the Gaines Zoning Board of Appeals for systems with 4,000 sq. ft. or more of lot coverage, a special use permit is required for a solar farm with 40,000 sq. ft. or more of lot coverage. The Zoning Board of Appeals will evaluate each proposed solar farm on a case-by-case basis and will consider neighborhood characteristics, topography, and potential impact to residents, business and community character in determining whether to issue the Special Use Permit.
- C. The following application information is required to be submitted with an application for a Solar Farm:
  - (1) Blueprints or drawings of the solar photovoltaic installation signed by a licensed professional engineer showing the proposed layout of the system and any potential shading from nearby structures.
  - (2) Proposed changes to the landscape of site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
  - (3) A description of the solar farm facility and the technical, economic and other reasons for the proposed location and design. Certification prepared and signed by a licensed professional engineer that the solar farm complies with all applicable federal and state standards.
  - (4) One- or three-phase line electrical diagram detailing the solar farm layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices.
  - (5) Documentation of the major system components to be used, including the PV panels, mounting system and inverter.

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- (6) An operation and maintenance plan which must include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
- (7) Information on noise (inverter) and reflectivity/glare of solar panels and identify potential impacts to abutters.
- (8) If the property of the proposed project is to be leased, legal consent between all parties specifying the use(s) of the land for the duration of the project, including easements and other agreements must be submitted.

D. The following standards are minimum requirements for solar farms:

- (1) For solar farms with lot coverage of 4,000 sq. ft. or more, the minimum lot size is three (3) acres.
- (2) Setback. Ground-mounted solar energy systems must be set back a minimum of 100 feet from the centerline of the road except that the minimum front setback along Ridge Road is 120 feet. The minimum setback from the side and rear lot lines is 50 feet, except that solar energy systems must be set back a minimum of 100 feet from the boundary of the Commercial Historic District.
- (3) Height. The maximum height for ground-mounted solar systems is 20 feet at maximum tilt.
- (4) All mechanical equipment on a solar farm, including any structure for batteries or storage cells, must be completely enclosed by a minimum eight-foot-high fence with a self-locking gate.
- (5) The lot coverage of the solar farm must not exceed 80% of the total parcel area.
- (6) A vegetated perimeter buffer must provide year-round screening of the system from adjacent properties.
- (7) All solar energy production systems must be designed and located to prevent reflective glare toward any habitable buildings, as well as toward streets, driveways and vehicular access rights-of-way.
- (8) All on-site utility and transmission lines must be, to the extent feasible, placed underground.
- (9) The installation of a clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- (10) The system must be designed and situated to be compatible with the existing uses on adjacent and nearby properties.
- (11) All appurtenant structures, including but not limited to equipment shelters, storage facilities, transformers and substations, must be architecturally compatible with each other and must be screened from view from neighboring parcels and streets.
- (12) Lighting of solar farms must be consistent with all state and federal laws. Lighting of appurtenant structures will be limited to that required for safety and operational purposes and must be reasonably shielded from abutting properties. Where feasible, lighting must be directed downward and must incorporate full cutoff fixtures to reduce light pollution.
- (13) No signs are permitted except announcement signs, such as "no trespassing" signs or signs required to warn of danger. A sign no larger than eight (8) sq. ft. in area is required

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that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a twenty-four-hour basis. Signage provisions in the Town Zoning or other laws, regulations and/or ordinances, State building code requirements, and Federal standards including the National Electrical Code and/or Emergency Services, will prevail over the requirements in this subsection in the event that a conflict arises.

- (14) A minimum of one parking space must be provided in connection with the maintenance of the solar energy facility and the site. However, it must not be used for the permanent storage of vehicles.

### E. Safety and Maintenance Requirements

- (1) The solar farm owner or operator must provide a copy of the project summary, electrical schematic and site plan to the local Fire Chief. Upon request, the owner or operator must cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar farm facility must be clearly marked. The owner or operator must identify a responsible person for public inquiries through the life of the installation.
- (2) No solar farm will be approved or constructed until evidence has been given to Gaines that the utility company operating the electrical grid where the installation is to be located has authorized the interconnected customer-owner generator.
- (3) A solar farm owner or operator must maintain the facility in good condition. Maintenance must include, but not be limited to, painting, structural repairs and integrity of security measures. Site access must be maintained to a level acceptable to the local Fire Chief and emergency medical services. The owner or operator must be responsible for the cost of maintaining the solar farm and any access road(s), unless accepted as a public way.

## § 9. Abandonment and decommissioning

- A. A large-scale solar energy systems and/or solar energy farm will be considered abandoned after six months without electrical energy generation and must be removed from the property. The Gaines Zoning Board of Appeals may grant an extension for a period of up to six months after such abandonment.
- B. All applications for any large-scale solar energy system and/or solar energy farm must include a decommissioning plan that includes the following components:
  - (1) An affirmative obligation that after any large-scale solar energy system and/or solar energy farm can no longer be used it will be removed by the applicant and/or any subsequent owner.
  - (2) Description of how the removal of all infrastructure and the remediation of soil and vegetation will be conducted to return the parcel to its original state prior to construction. Include an expected time line for execution and completion.
  - (3) A cost estimate detailing the projected expense of executing the decommissioning plan, prepared by a professional engineer or registered architect.
  - (4) Obligate the owner, operator and/or successors in interest to remove any ground-mounted solar collectors which have reached the end of their useful life or have been abandoned; they must physically remove the installation no more than six months after the date of discontinued operations and they must notify Gaines by certified mail of the proposed date of discontinued operations and plans for removal.

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- (5) An obligation to physically removal all ground-mounted solar collectors, structures, equipment, security barriers and transmission lines from the site.
  - (6) An obligation to dispose of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.
- C. Upon cessation of electricity generation of a Solar Farm or Large Scale Solar Facility on a continuous basis for 6 months, the Gaines Zoning Board of Appeals will notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within six months of notification. If the owner or operator of any large-scale solar energy system and/or any solar farm fails to remove the installation in accordance with the decommissioning plan within six months of abandonment or the proposed date of decommissioning, Gaines may enter the property and physically remove the installation upon application to a court of appropriate jurisdiction to obtain access to the property for that purpose.
- D. If the Gaines Zoning Board of Appeals approves an application for a solar farm, the applicant must provide or establish a bond, surety bond, financial deposit, undertaking, financial escrow or other financial security to ensure that sufficient funds are available to remove the installation and restore landscaping in the event that the applicant fails to comply with its decommissioning obligations. The Zoning Board of Appeals will review the form and amount of financial security annually. To assist in this review, the owner or operator must provide financial documentation, financial statements or any other information requested by said Board to ensure the sufficiency of the financial security. Gaines reserves the right to request reasonable access to the property upon notice and consent.

### **§ 10. Enforcement**

Any violation of this chapter will be subject to the same civil and criminal penalties provided for in the Gaines Town Code, including any applicable zoning regulations, and/or the laws of the State of New York.

### **§ 11. Severability and/or validity**

If any clause, sentence, paragraph, subdivision, section or part of this chapter, or the application thereof to any person, individual, firm or corporation, or circumstance, is found by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment will not affect, impair or invalidate the remainder thereof, but will be confined to the clause, sentence, paragraph, subdivision, section or part of this chapter, or in its application to the person, individual, firm or corporation, or circumstance, directly involved in the controversy in which said order or judgment will be rendered.

### **§ 12. Effective Date**

This chapter will take effect upon the date it is filed in the Office of the New York State Secretary of State in accordance with the Municipal Home Rule Law § 27.