



Department of Planning & Sustainability

COMMISSIONER
Katherine Borgella
DEPUTY COMMISSIONER
M. Megan McDonald

121 E. Court St, Ithaca, N.Y. 14850 | Phone: (607) 274-5560 | tompkinscountyny.gov/planning

October 26, 2023

Robin Cargian, Town Clerk
Town of Groton
PO Box 36, 101 Conger Blvd
Groton, NY 13073

Re: Review Pursuant to §239 -l, -m and -n of New York State General Municipal Law

Proposed Action: Updates to Local Law #2 2023

Dear Mrs. Cargian:

This letter acknowledges your referral of the proposed action identified above for review by the Tompkins County Department of Planning and Sustainability pursuant to §239 -l, -m and -n of the New York State General Municipal Law.

We have determined the proposed action will have a significant county-wide or inter-community impact. Therefore, we recommend modification of the proposed action. If the decision-making body does not incorporate the recommended modifications, such approval will require a vote of a majority plus one of all members of the decision-making body.

Recommended Modifications

- *We recommend that the proposed town law define and regulate medium-scale solar energy systems.* The proposed law defines large-scale solar energy systems as ground-mounted systems larger than 4,000 square feet in total area. We are recommending a more nuanced regulatory approach. Such an approach would reduce the regulatory demands on solar energy systems that would be sized to meet the energy needs of a moderate to large business or agricultural operation.

For example, a small- to moderate- sized agricultural or commercial operation in Tompkins County could use up to 100,000 kWh of electricity annually. And larger-scale agricultural operations in Tompkins County can use up to 1 million kWh. The small- to moderate-sized operation would likely require a solar panel array right around 4,000 sf, while the larger-scale operations would need substantially more than 4,000 sf just to serve the on-site operations.

With these types of potential users in mind, the Town should define more than just two tiers of solar energy systems and tailor regulations appropriately. We would be happy to work with the town to discuss how development standards for different size systems could be administered. In considering adding an additional regulatory tier, the Town may find the following information helpful:

- The [Model Solar Energy Local Law](#) prepared by NYSERDA uses a four-tiered system to describe and regulate solar energy systems. In summary these are: (1) Tier 1 includes roof-mounted systems; ground mounted systems with a capacity of up to 25 kW OR with a total solar panel surface area of up to 4,000 square feet; and all on-farm solar energy systems; (2) Tier 2 includes ground-mounted systems up to 1 MW OR with a total facility area of up to 8 acres which generate no more than 110% of the electricity consumed on-site; (3) Tier 3 includes ground-mounted systems up to 5 MW OR with a

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total facility area of up to 40 acres; and (4) Tier 4 includes all larger systems. The definition of Tier 1 solar energy systems is roughly equivalent to the Town's definition of small-scale solar energy systems.

- Other communities in the Tompkins County have established three levels of local regulation. The Town of Ithaca divides ground-mounted photovoltaic systems into three categories: small-scale with a footprint of up to 2,000 sf; medium scale, between 2,000 and 7,000 sf; and large-scale, between 7,000 sf and 35 acres. The Town of Danby also uses three categories: small-scale solar energy systems with up to 5,000 sf of lot coverage; large-scale solar energy systems, between 5,000 and 10,000 sf of lot coverage; and solar energy facilities with greater than 10,000 sf of lot coverage.

Groton need not follow any one of these exactly, but we do recommend at least one more level of solar energy systems to distinguish between systems designed to support on-site usage by agricultural and commercial operations and systems used to generate electricity primarily for off-site usage. We encourage the Town to review the [Model Solar Energy Local Law](#) which describes the multi-tiered approach in more detail.

- *We recommend that small-scale solar energy systems be required to meet the same setback requirements as any other accessory use.* Section 366.3 of the proposed law requires excessive setbacks for small-scale solar energy systems – 75 feet from side and rear lot lines to the fenced perimeter and an additional 25 feet from the fence. The Town's existing land use and development code ordinance requires side setbacks for any other use of 8 to 10 feet for principal uses and 6 feet for accessory uses. The required rear setback for any other use is 25 feet for principal uses and 6 feet for accessory uses. The [Model Solar Energy Local Law](#) does not establish any special setback requirements for Tier 1 solar energy systems (equivalent to the Town's proposed small-scale solar energy systems).
- *For the two-tiered regulatory system proposed by the Town, we recommend that setbacks from rear and side property lines be no more than 50 feet for large-scale solar energy systems.* Section 367.8 (b) of the proposed law requires the same setbacks for large-scale solar energy systems as it does for small-scale systems. If the Town were to use a multi-tiered system for permitting solar energy systems, these very large setbacks might be suitable for the largest systems; however, they are excessive for moderately sized systems. The [Model Solar Energy Local Law](#) does not establish special setback requirements for Tier 2 solar energy systems. For Tier 3 solar energy systems, it recommends 100-foot setbacks in residential low-density districts and in all other districts a front setback of 30 feet, a side setback of 15 feet, and a rear setback of 25 feet. For Tier 4 solar energy systems, it recommends 100-foot setbacks in residential low-density districts and 50-foot setbacks in all other districts. They also establish a setback requirement for Tier 4 systems from non-participating occupied residences of 250 feet in all districts.

Comments

In addition to the recommended modifications, we have the following comments on the proposed action:

- Terminology in the ordinance distinguishes between on-site and off-site usage of energy. With the use of net metering, virtually all solar energy systems (even small-scale residential systems) generate energy that feeds directly into the grid. The energy exported to the grid is then credited to the owner's account. It would be better for the Town's proposed law to reference solar energy systems that are designed to meet the energy needs for on-site users and those sized to generate excess energy to sell to the grid. The [Model Solar Energy Local Law](#) describes solar energy systems which generate no more than 110% of the electricity consumed on-site which is a clearer way of defining and regulating on-site vs. off-site solar energy systems.

- Section 367.4 (Large-Scale Wind Installations) defines fall zones and allows the fall zones to extend onto adjoining properties with the adjoining property owner’s permission. However, the next sentence requires that fall zones meet the minimum yard depth requirements plus the fall zone. The language should clarify that this requirement only applies to setbacks from property lines where the adjoining property owner does not have such an agreement or easement.
- Section 367.6 (b) requires that large-scale energy systems be operational within two years of permit approval. However, even after being fully constructed, it can take more than nine months for systems to receive an interconnection from the utility. In order to reduce the number of extension requests received by the Town, we suggest defining fully operational as ready to be connected to the grid or extending the validity of the special permit to three years.
- Section 367.7 (f) requires the application to include a host community agreement. Such an agreement would be nearly impossible to complete before the system is fully designed. The site plan review process may result in substantial changes to the original proposal affecting the contents of the host community agreement.
- Section 367.8 (l) (1) references “wetlands as identified by Tompkins County.” The wording should be updated to read “wetlands adopted by the Tompkins County Water Resources Council.”
- Section 367.12 states that any Town costs for decommissioning the site not covered by the required surety would be assessed against the property, become a lien on the property, and be part of the tax payment. In Tompkins County, the responsibility for maintaining and assessing taxes lies with the County. In the past, Tompkins County has worked with Towns to levy such costs, but the vast majority of these were smaller charges and the County has guaranteed them. The County has, on occasion, worked with towns on some larger charges to ensure the bill ultimately gets paid by putting the charge on the bill and, once the property is sold at foreclosure or the taxes paid, sending the money to the town. The County cannot guarantee that this practice will continue in the future. We therefore suggest that the Town require the developer to obtain insurance performance bonds to cover any costs associated with decommissioning. We also direct the Town’s attention to [NYSERDA’s Solar Guidebook](#) publication on decommissioning solar energy systems which discusses some of the legal and fiscal concerns with requiring financial guarantees for decommissioning sites.

We look forward to receiving notification on the final action taken by your municipality within 30 days of decision, as required by State law.

Sincerely,



M. Megan McDonald
Deputy Commissioner of Planning and Sustainability

cc: Lee Shurtleff, Tompkins County Legislator, District 9