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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City
Town of Hillsdale
Village

Local Law No. 2 of the year 2017

A local law amending the Zoning and Land Use Control Law of the Town of Hillsdale as follows: adding Solar Farms and Solar Power Plants to the Use Table found at Chapter 3, Section 3.2; adding a new Section 8.18, entitled Solar Energy Installations, to Chapter 8; and amending Chapter 14 to incorporate various new definitions required by the addition of the new Section 8.18.

Be it enacted by the Town Board of the

County
City
Town of Hillsdale as follows:
Village

Section 1. Enactment.

The Zoning and Land Use Control Law of the Town of Hillsdale, Chapter 3 (Allowable Uses), Section 3.2 (Use Table) is amended to add the following Use Category to the list of Business Uses:

BUSINESS USES	RU	HM	HB
Solar Farms and Solar Power Plants	S	--	S

The Zoning and Land Use Control Law of the Town of Hillsdale, Chapter 3 (Allowable Uses), Section 3.2 (Use Table) is amended to add the following Use Category to the list of Accessory Uses:

ACCESSORY USES	RU	HM	HB
Rooftop and Building-Mounted Solar Systems	P	P	P
Building-Integrated Photovoltaic Systems	P	P	P
Freestanding and Ground-Mounted Solar Energy Systems	P	P	P

The Zoning and Land Use Control Law of the Town of Hillsdale, Chapter 8 (Supplementary Regulations) is amended to add the following:

8.18 Solar Energy Installations

8.18-1 Authority

This Solar Energy Installations Law is adopted pursuant to Sections 261-263 of the Town Law of the State of New York, which authorize the Town of Hillsdale 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 the sunlight such systems and equipment require.

8.18-2 Statement of Purpose

This Solar Energy Installations Law is adopted to advance and protect the public health, safety, and welfare of the Town of Hillsdale, including: taking advantage of a safe, abundant, renewable, and non-polluting energy resource; decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; and increasing employment and business development in the region by furthering the installation of Solar Energy Systems and Equipment.

The goal of this Solar Energy Installations Law is to promote the accommodation of Solar Energy Systems and Equipment and the access to the sunlight such systems and equipment require, and to balance the potential impact on neighbors when Solar Collectors may be installed near their property, and on the community when Solar Farms or Solar Power Plants are constructed within the Town of Hillsdale, while preserving the rights of property owners to install Solar Energy Systems and Equipment without excess regulation.

This Solar Energy Installations Law is also adopted in accordance with the Town of Hillsdale's Comprehensive Plan, which seeks to protect the Town's environmental and agricultural resources, while also encouraging economic development.

8.18-3 Applicability

- A. The requirements of this article shall apply to all Solar Energy Systems and Equipment installations modified or installed after the effective date of this article.
- B. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the State Building Code and the Town Local Laws and Regulations.
- C. Solar Collectors, unless part of a Solar Farm or Solar Power Plant, shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, but nothing contained

in this provision shall be construed to prohibit Collective, Community, or Shared Solar Installations or the sale of excess power through a net-billing or net-metering arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute.

8.18-4 Permit required; construction and placement requirements.

- A. Solar Energy Systems and Equipment shall not be installed or operated in the Town except in compliance with the provisions of this Solar Energy Systems Law.
- B. Rooftop and Building-Mounted Solar Systems. Rooftop and Building-Mounted Solar Systems are permitted in all zoning districts in the Town subject to the following conditions:
 - i. Building permits shall be required for installation of all Rooftop and Building-Mounted Solar Systems. For installations with a rated capacity of 25kW or less, the required permit shall be the New York State Unified Solar Permit, as amended.
 - ii. Rooftop and Building-Mounted Solar Systems shall not exceed the maximum allowed height of the principal use in any zoning district.
- C. Building-Integrated Photovoltaic (BIPV) Systems. BIPV systems are permitted in all zoning districts and shall be shown on the plans submitted with the building permit application for the building containing the system.
- D. Freestanding and Ground-Mounted Solar Energy Systems. Freestanding and Ground-Mounted Solar Energy Systems are permitted as accessory structures in all zoning districts of the Town subject to the following conditions:
 - i. Building permits are required for the installation of all Freestanding and Ground-Mounted Solar Energy Systems. For installations with a rated capacity of 25kW or less, the required permit shall be the New York State Unified Solar Permit, as amended.
 - ii. A Minor Project Site Plan approval must be obtained from the Planning Board before a building permit may be issued for Freestanding and Ground-mounted Solar Energy Systems with a rated capacity of more than 25kW.
 - iii. The location of the Freestanding or Ground-Mounted Solar Energy System shall meet the setback requirements for accessory structures set forth in Section 4.9-5.

- iv. The height of the Solar Collector and any mounts shall not exceed 15 feet when oriented at maximum tilt.
 - v. Freestanding and Ground-Mounted Solar Energy Systems shall be screened when possible and practicable from adjoining lots and street rights-of-way through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and surrounding area. The proposed screening shall not interfere with normal operation of the Solar Collectors.
 - vi. Solar Energy Systems and Equipment shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for Solar Collectors.
 - vii. Solar Energy Systems and Equipment shall not be sited within any required buffer area.
 - viii. The area beneath Freestanding and Ground-Mounted Solar Energy Systems shall be included in the Building Area, as defined in Chapter 14 of this Law, in calculating whether the lot meets maximum permitted lot building coverage and lot surface coverage requirements for the applicable district.
- E. Solar Thermal Systems. Solar Thermal Systems are permitted in all zoning districts subject to the following conditions:
- i. Building permits are required for the installation of all Solar Thermal Systems.
 - ii. Ground-mounted and freestanding Solar Thermal Systems shall be subject to the same requirements set forth in Subsection D above as for Freestanding and Ground-Mounted Solar Energy Systems.
- F. Solar Energy Systems and Equipment shall be permitted only if they are determined by the Town not to present any unreasonable safety risks, including, but not limited to, the following:
- i. Weight load.
 - ii. Wind resistance.
 - iii. Ingress or egress in the event of fire or other emergency.

- G. Solar Collectors and related equipment shall be surfaced, designed, and sited so as not to reflect glare onto adjacent properties and roadways.

8.18-5 Safety.

- A. All Solar Collector installations must be performed by a Qualified Solar Installer.
- B. Prior to operation, electrical connections must be inspected by the Town Building Inspector and by an appropriate electrical inspection person or agency, as determined by the Town.
- C. Any connection to the public utility grid must be inspected by the appropriate public utility.
- D. Solar Energy Systems and Equipment shall be maintained in good working order.
- E. Rooftop and Building-Mounted Solar Systems shall meet New York’s Uniform Fire Prevention and Building Code standards.
- F. If Solar Storage Batteries are included as part of the Solar Collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations.
- G. Marking of equipment.
 - i. 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.
 - ii. 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.
 - iii. In the event any of the standards in this Subsection **G** for markings are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code (the “State Code”), they shall be deemed to be guidelines only and the standards of the State Code shall apply.

8.18-6 Solar Farms and Solar Power Plants.

- A. Solar Farms and Solar Power Plants are permitted through the issuance of a special permit by the Zoning Board of Appeals within the RU and HB Districts, subject to the additional requirements set forth in this subsection, including site plan approval, except that Solar Farms and Solar Power Plants are not permitted in the Ridgeline and Steep Slope Overlay Districts. Furthermore, it is in the interest of the Town to protect the best agricultural lands from development in order to preserve the rural character of the Town and to maintain the availability of agricultural soils for productive use. Accordingly, Solar Farms and Solar Power Plants shall be located on a parcel in such a manner as to avoid, to the maximum extent feasible, soils classified as “Prime” or of “Statewide Importance” by the Natural Resources Conservation Service of the United States Department of Agriculture.
- B. All Solar Farms and Solar Power Plants are Major Projects for purposes of special permit review and, therefore, site plan approval by the Planning Board is also required.
- C. Applications for the installation of Solar Farms and Solar Power Plants shall be reviewed by the Zoning Officer and referred, with comments, to the Zoning Board of Appeals for special permit approval and the Planning Board for site plan review.
- D. The Town of Hillsdale shall require any applicant to pay all associated costs incurred by the Town for any application review, including but not limited to engineering, legal, environmental, planning, and the review under SEQRA. When the Planning Board or Zoning Board of Appeals determines that a review is anticipated to require engineering, legal, environmental, or planning costs, they shall provide an estimate to the applicant. Subsequently, funds adequate to cover such estimated costs shall be placed into escrow by the applicant prior to commencement of any further Planning Board or Zoning Board of Appeals review, and shall be replenished or increased at the direction of either of such boards.
- E. Additional Special Permit Application Requirements.
 - i. 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, shall be submitted.
 - ii. Blueprints showing the layout of the Solar Farm or Solar Power Plant, including all Solar Energy Systems and Equipment, signed by a Professional Engineer or Registered Architect licensed to practice in the State of New York shall be required.

- iii. Equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
- iv. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- v. Decommissioning Plan. To ensure the proper removal of Solar Farms and Solar Power Plants, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special permit under this Subsection. The Decommissioning Plan must specify that after the Solar Farm or Solar Power Plant can no longer be used, it shall be removed by the applicant or any subsequent owner. The plan shall demonstrate how the removal of all infrastructure, and the remediation of soil and vegetation, shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor at the applicant's expense. Cost estimates shall take into account inflation. In the event the Zoning Board of Appeals grants a special use permit, it must also establish the amount of such surety to be established by the applicant prior to building permit issuance. The surety may be in the form of escrowed funds, bonds or otherwise, but it is the intention of this provision to ensure that in the event that the applicant fails to comply with its decommissioning obligations the Town has sufficient funds available to remove the infrastructure, remediate the soil and vegetation, and restore the landscaping such that the parcel is returned to its original state prior to construction consistent Decommissioning Plan.
- vi. Statement Regarding Tax Penalty. A statement, cosigned by the applicant and the landowner, that the proposed Solar Farm or Solar Power Plant will not result in a tax penalty, pursuant to section 305 or 306 of the New York State Agriculture & Markets Law, due to the conversion of land to a non-agricultural use, and identifying the last year, if any, for which the subject lands received an agricultural real property tax exemption; **OR** that the establishment of the proposed utility-scale solar energy system will result in a tax penalty, pursuant to section 305 or 306 of the New York State Agriculture & Markets Law, and identifying the total amount of tax penalty to be imposed, including interest, and the total number of acres to be converted to a non-agricultural use.

F. Additional Site Plan Review Standards.

- i. Height and Setback. Solar Farms and Solar Power Plants shall adhere to the height and setback requirements of the underlying zoning district, except as otherwise provided herein.
- ii. Lot Size. Solar Farms and Solar Power Plants shall be located on lots with a minimum lot size of 20 acres.
- iii. Lot Coverage. A Solar Farm or Solar Power Plant that is ground-mounted shall not exceed the Maximum Impermeable Surface requirements of the underlying zoning district. The surface area covered by Solar Panels shall be included in total lot coverage.
- iv. All Solar Farms and Solar Power Plants shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Planning Board. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts.
- v. Any application under this Subsection shall meet any substantive provisions contained in local site plan requirements in the zoning code that, in the judgment of the Planning Board, are applicable to the system being proposed. If none of the site plan requirements are applicable, the Planning Board may waive the requirement for site plan review.

G. Additional supplementary regulations.

- i. Warning signage shall be posted at the site and clearly visible.
- ii. Solar Farm and Solar Power Plant buildings and accessory structures shall, to the extent reasonably possible, use materials, colors, and textures that will blend the facility into the existing environment.
- iii. Appropriate landscaping and/or screening materials may be required to help screen the Solar Farm or Solar Power Plant and accessory structures from major roads and neighboring residences.
- iv. The height of the Solar Panel arrays shall not exceed 12 feet.
- v. Solar Farm and Solar Power Plant panels and equipment shall be surfaced, designed, and sited so as not to reflect glare onto adjacent properties and roadways.

- vi. On-site power lines shall be, to the maximum extent practicable, placed underground.

8.18-7 Abandonment and Decommissioning.

Solar Energy Systems and Equipment are considered abandoned after one year without electrical energy generation and must be removed from the property no later than 90 days after the end of the twelve-month period.

8.18-8 Guidelines for future solar access.

- A. New structures will be sited to take advantage of Solar Access insofar as practical, including the orientation of proposed buildings with respect to sun angles, the shading and windscreen potential of existing and proposed vegetation on and off the site, and the impact of Solar Access to adjacent uses and properties.
- B. To permit maximum Solar Access to proposed lots and future buildings, wherever reasonably feasible, consistent with other appropriate design considerations and to the extent practicable, new streets shall be located on an east-west axis to encourage building siting with the maximum exposure of roof and wall area to the sun. The Planning Board shall also consider the slope of the property and the nature and location of existing vegetation as they affect solar access.
- C. The impact of street trees on the Solar Access of the surrounding property shall be minimized to the greatest possible extent in selecting type and locating shade trees. Every effort shall be made to avoid shading possible locations of Solar Collectors.
- D. When the Planning Board reviews and acts upon applications for subdivision approval or site plan approval, it shall take into consideration whether the proposed construction would block access to sunlight between the hours of 9:00 a.m. and 3:00 p.m. Eastern Standard Time for existing approved Solar Collectors or for Solar Collectors for which a permit has been issued.
- E. The Planning Board may require subdivisions to be platted so as to preserve or enhance solar access for either passive or active systems, consistent with the other requirements of the Town Local Laws and Regulations.
- F. The plan for development of any site within cluster subdivisions shall be designed and arranged in such a way as to promote Solar Access for all dwelling units. Considerations may include the following:
 - i. In order to maximize Solar Access, the higher-density dwelling units should be placed on a south-facing slope and lower-density dwelling units sited on a north-facing slope.

- ii. Subject to the Town’s setback requirements, structures should be sited as close to the north lot line as possible to increase yard space to the south for reduced shading of the south face of a structure.
- iii. A tall structure should be sited to the north of a short structure or else offset laterally to the east or west.

8.18-9 Enforcement.

Any violation of this Solar Energy Installations Law shall be subject to the same civil and criminal penalties provided for in Chapter 10.

8.18-10 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.

The Zoning and Land Use Control Law of the Town of Hillsdale, Chapter 14 (Definitions) is amended to alphabetically incorporate the following definitions:

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS: 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.

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

FLUSH-MOUNTED SOLAR PANEL: A photovoltaic panel or tile that is installed flush to the surface of a roof and which cannot be angled or raised.

FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered freestanding or ground-mounted solar energy systems for purposes of this chapter.

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.

QUALIFIED SOLAR INSTALLER: A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSEERDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the Town Code Enforcement Officer determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

ROOFTOP OR BUILDING-MOUNTED SOLAR SYSTEM: A solar power system in which solar panels are mounted on top of the structure of a roof 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 COLLECTOR: A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR ENERGY SYSTEMS AND EQUIPMENT: Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and 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 Energy Systems include solar thermal, photovoltaic and concentrated solar. For the purposes of this chapter, a solar energy system does not include any solar energy system of four square feet in size or less.

SOLAR FARM OR SOLAR POWER PLANT: Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

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

SOLAR STORAGE BATTERY: A device 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.

The Zoning and Land Use Control Law of the Town of Hillsdale, Chapter 14 (Definitions) is further amended by amending and restating the definition of “Structure” as follows:

STRUCTURE: A static construction of building materials affixed to the ground, such as a building, dam, display stand, fence, gasoline pump, installed mobile home or trailer, reviewing stand, shed, sign, stadium, storage bin, or wall, including all Solar Energy Systems and Equipment as defined herein.

Section 2. Enforcement.

This Local Law shall be enforced by the Zoning Officer and Building Inspector of the Town of Hillsdale.

Section 3. Supersession.

To the extent that this Local Law is inconsistent with any State statute or regulation, it is the intent of this Law to supersede any such statute or regulation.

Section 4. Severability.

Should any section or provision of this Local Law be declared null, void, voidable, or

invalid, such binding shall not affect the validity of the remaining provisions of this Local Law.

Section 5. Effective Date.

This Local Law shall take effect in accordance with the provisions of the General Municipal Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2017 of the (County)(City)(Town)(Village) of Hillsdale was duly passed by the Town Board on _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, _____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____, _____, _____, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, _____, and (approved)(not disapproved)(repassed after disapproval) by the _____ on _____, _____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____, _____, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, _____, and (approved)(not disapproved)(repassed after disapproval) by the _____ on _____, _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, _____, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer)*

***Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

