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Article XV: Solar Energy Systems
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Abstract

Kingston amended its zoning ordinance to permit small-scale solar energy systems by right and ground-mounted solar energy systems as accessory structures in all zoning districts. Large-scale solar energy systems are allowed in the Town by a Special Use Permit.

Resource

See separate PDF below.

§ 425-89. Authority.

This Zoning for Solar Energy Law is adopted pursuant to §§ 261 through 263 of the Town Law of the State of New York, which authorize the Town of Kingston 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."

§ 425-90. Statement of purpose.

The purpose of this article is to encourage and promote solar energy systems while protecting the health and safety of the residents and the existing nature of the Town of Kingston by establishing regulations for the installation of large- and small-scale solar energy systems for residential and commercial purposes.

§ 425-91. Definitions.

As used in this article, the following terms shall have the meanings indicated:

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.

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, for the primary purpose of producing electricity for on-site consumption.

LARGE-SCALE SOLAR ENERGY SYSTEM — A solar energy system that is ground-mounted and produces energy primarily for the purpose of off-site sale or consumption.

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.

§ 425-92. Applicability.

The requirements of this article shall apply to all solar energy systems installed or modified after its effective date, excluding general maintenance and repair and building-integrated photovoltaic systems.

§ 425-93. Solar as accessory use or structure.

A. Roof-mounted solar energy systems.

- (1) Roof-mounted solar energy systems that use the electricity on-site or off-site are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
- (2) Height. Solar energy systems shall not exceed the maximum allowed height of the underlying zoning district.
- (3) Aesthetics. Roof-mounted solar energy system installations shall incorporate, when feasible, the following design requirements:
 - (a) 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 or off-site shall be exempt from site plan review under the local zoning code or other land use regulations.

B. Ground-mounted solar energy systems.

- (1) Ground-mounted solar energy systems that use 51% or more of the electricity on-site are permitted as accessory structures in all zoning districts.
- (2) Height. Ground-mounted solar energy systems shall not exceed 15 feet in height.

- (3) Lot coverage. Ground-mounted solar energy systems that exceed 20% lot coverage shall require a special use permit. The surface area covered by such solar panels shall be included in the total lot coverage.
- (4) Ground-mounted solar energy systems installed in side or rear yards shall comply with the setback requirements for a principal structure in the underlying zoning district. Ground-mounted solar energy systems installed in any front yard shall require a special use permit.
- (5) Ground-mounted solar energy systems within the Mixed-Use 2 and Residential Districts that use 51% or more of the electricity on-site shall be exempt from site plan review under the local zoning code or other land use regulations. Such systems within the Mixed-Use 1 District shall require site plan approval.

§ 425-94. Large-scale solar systems as special use.

- A. Subject to the requirements set forth in this section, large-scale solar energy systems are permitted through the issuance of a special use permit, including site plan approval, within all zoning districts. Applications for the installation of a large-scale solar energy system shall be reviewed by the Planning Board for its review and action, which can include approval, approval on conditions, and denial.
- B. Special use permit application requirements. For a special permit application, the site plan application is to be used as supplemented by the following provisions:
 - (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, shall be submitted.
 - (2) Blueprints showing the layout of the solar energy system signed by a professional engineer or registered architect shall be required.
 - (3) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
 - (4) Documentation from the utility company, verifying that the utility-scale solar collector system is active, shall be provided

annually to the Town of Kingston Clerk and Code Enforcement Officer.

(5) Property operation and maintenance.

(a) Plan. The applicant shall submit an operation and maintenance plan, which shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming. Compliance with this plan shall be made a condition of the issuance of a special use permit under this section.

(b) Surety. Prior to the issuance of a building permit for the utility-scale solar collector system and any associated accessory structures, the applicant shall post a surety in an amount and form acceptable to the Town for the purposes of construction and maintenance. The amount shall be up to 20% of the construction value. Acceptable forms shall include, in order of preference: cash; letter of credit; or a bond that cannot expire; or a combination thereof. Such surety will be used to guarantee compliance with the conditions of the approval for the utility-scale solar collector.

(c) Revocation. If the owner of the site 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 by the applicant. 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.

(6) Decommissioning.

(a) Plan. The applicant shall submit a decommissioning plan which shall describe the method in which the owner shall dismantle and remove any accessory structures and/or equipment from the site when the utility-scale solar collector system has been inoperative or abandoned for two years. Compliance with this plan shall be made a condition of the issuance of a special use permit under this section.

(b) Surety. As a condition of the certificate of compliance, applicants shall post a surety in an amount and form acceptable to the Town for the purposes of removal or

abandonment. The amount shall be up to 20% of the construction cost. Acceptable forms shall include, in order of preference: cash; letter of credit; or a bond that cannot expire; or a combination thereof. Such surety will be used to guarantee removal of the utility-scale solar collector system should the system be abandoned.

- (c) Removal. Abandonment shall be assumed by the Town if the annual documentation is not provided by the owner, applicant or lessee for two consecutive years to the Town of Kingston Clerk and Code Enforcement Officer. The Town Building Inspector shall then provide written notice to the owner to remove the utility-scale solar collector system, and the owner shall have two years from written notice to remove the utility-scale solar collector system, including any associated accessory structures and/or equipment, and restore the site to a condition approved by the Planning Board. If the owner, applicant or lessee 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 by the applicant.

C. Special use permit standards.

- (1) Setback. Large-scale solar energy systems shall adhere to the height and side or rear setback requirements of the underlying zoning district. Such systems shall have front setbacks of 50 feet or that which is required by the underlying zoning district, whichever is greater.
- (2) Height. Large-scale solar energy systems shall not exceed 15 feet in height.
- (3) Lot size. Large-scale energy systems shall be located on lots with a minimum lot size of two acres.
- (4) Lot coverage. A large-scale solar energy system that is ground-mounted shall not exceed 60% of the lot on which it is installed. The surface area covered by solar panels shall be included in total lot coverage.
- (5) Clear-cutting. No more than 50% of the total existing brush, trees, and other screening vegetation on a parcel of property may be removed in order to accommodate a solar farm.
- (6) Screening. Landscaping, screening and/or earth berming shall be provided to minimize the potential visual impacts

associated with the utility-scale solar collector systems and its accessory buildings, structures and/or equipment. Additional landscaping, screening and/or earth berming may be required by the Town Board and/or the Planning Board to mitigate visual and aesthetic impacts.

- (7) Signs. A sign no greater than two square feet indicating the name of the facility owner(s) and a twenty-four-hour emergency telephone number shall be posted at all entrances to the site. In addition, "No Trespassing" or other warning signs may be posted. Safety warning signs may be posted as required by the New York State Uniform Code. All signage shall be maintained in legible condition and contain accurate information.
- (8) Noninvasive ground cover under and between the rows of solar panels shall be low-maintenance, drought-resistant, and non-fertilizer-dependent.
- (9) Transmission. All on-site power lines shall be installed underground, with the exception of the main service connection at the utility company right-of-way.
- (10) 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. Fire apparatus access roads shall be provided as required by the New York State Uniform Code and approved by the Fire Chief. Existing roadways shall be used for access to the site whenever possible and determined acceptable by the Planning Board through site plan review.
- (11) Fencing. All large-scale solar energy systems shall provide fencing as required by the New York State Uniform Code.
 - (a) The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts.
 - (b) Fence height shall not exceed the maximum fence height restrictions of the underlying zoning district.
 - (c) The fence shall be "wildlife friendly" and shall have five-inch by twelve-inch openings at ground level spaced no more than 100 feet apart to allow unencumbered travel by small animals.

- (12) Any application under this section 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.
- (13) The Planning Board may impose conditions on its approval of any special use permit under this section in order to enforce the standards referred to in this section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

§ 425-95. Enforcement.

Any violation of this Solar Energy Law shall be subject to the same civil and criminal penalties provided for in the zoning regulations of Town of Kingston.¹

1. Editor's Note: See § 425-65, Penalties for offenses.