

ZONING LAWS FOR SOLAR

Southern Tier West

Webinar

October 14, 2020

Overview

This presentation will discuss the different types of solar projects that could be proposed in a community; from rooftop to large Article 10 projects, and the different types of local laws that have been written to regulate these proposed projects. It will be based on actual laws that have been written and their impact on projects that have been proposed.

Presenter

Andrew C. Reilly

Engineer and Planner

Wendel

Represented Municipalities for over 35 years

SEQR Expert

Created Solar laws, processed projects through laws, and amended laws

Representing Municipalities on Article 10 projects

Not an attorney – cannot give legal advice!



Experiences

- Small Systems
- Large Non-Article 10 projects
- Article 10 projects
- Writing and Amending Local laws
- Processing projects through processes and construction
- Providing consultation to Solar companies



Presentation Outline

Presenter and Background

Experiences

Types of Solar

How do Municipalities Regulate

Article 10 and New 94 C Process

Other Issues

Who Is in the Audience?

- Planning Board, Other Board Members, others?
- Do you have a solar project currently before your Community?
- Do you have a solar law and how old is it?

Solar:

TYPES OF INSTALLATIONS

- Rooftop, Building mounted, Building Integrated
- Ground-mounted: backyard units
- Ground mounted: larger scale
- Ground mounted: “Industrial scale” – Article 10.

If your law is older than 2 years, you probably need to look at it. If it is less than 2 years old, you still may want to review and see if it addresses the necessary issues!

Regulations for Rooftop Mounted

- Building permit; can regulate by zoning ; most don't
- Submittal of materials to meet conditions
- Glare
- Fire and Health Safety
- Have seen unique issues dealing with aesthetics, especially in Historic areas



Building Mounted/ Building Integrated

- Building mounted – like rooftop but in other locations on the building
- Building Integrated – Roof shingles, etc.
- Meet Fire and Health safety codes – typically building permit
- Can regulate through approval process – such as site plan approval



Ground Mounted – Small Scale (Tier 2)

- Can regulate as an accessory structure (such as a garage). Need size and other bulk requirements.
- Can regulate through site plan approval; allowed use in prescribed districts.
- Regulate size, setbacks, height, limitations on tree removal, glare, etc.
- Can restrict as you deem necessary

The Solar Law

- NYS Model law and other samples
- Intent Section
- Definitions (types of systems)
- Where allowed; Processes required
- Bulk zoning requirements
- Submittal materials
- Other requirements; including specifics to your community.
- Required sections of the law





Ground Mounted – Larger Scale (Tier 3)

- Determine Where Allowed (look to Comprehensive Plan) – Ag lands, other important features, etc.
- Process for approval; Site Plan, Special Use Permit
- Limit size; create other category
- Bulk zoning requirements; setbacks, height, etc.
- Other technical requirements (long list)
- Construction requirements (bonds, insurances, etc.).
- Host Community agreement, etc.

Common Issues For Solar Projects

- Glare
- Setbacks
- Screening/ aesthetics
- Hazardous materials
- Lot coverage
- Impacts to Agriculture
- Property values
- Other; decommissioning, PILOTS, etc.
- Host Community Agreements



Common Issues For Solar Projects Continued

- Tree Clearing
- Battery storage
- Economic impacts
- Native vegetation
- Site plan requirements
- Noise (inverters)
- Underground utilities
- Solar sky-space
- Operation and Maintenance Plans



Unique Issues to your Community

- Different types of categories
- Restrictions to certain zoning districts
- Approval processes; SUP, Incentive zoning, pre-permitted, etc.
- Restrictions on types of soils impacting (Ag)
- Unique features of community
- Bonds and Insurances
- Property value impact funds
- Home Rule – What is allowed under NYS Implementing regulations

Article 10 – Tier 4

- Large projects with highly regulated NYS procedure.
- No local approvals needed
- Can hire legal and other professional help to assist (funded by applicant – Intervenor funds)
- Must try and meet local zoning but can get waivers
- Current process has resulted in projects taking many years to get through the process.
- NYS passed new law to help expedite.
- Projects in Article 10 can switch over and new projects will go in new process.



Article 94c; New Process

- Legislation passed and new rules out for comment.
- NYS Office of Renewable Energy Siting (ORES)
- Presently hiring consultants to help with setting up procedures and to help process projects
- It has been stated by some that new process will even further limit local control
- Mandates timeframes for approval process
- One major recommendation; have an up- to- date Comprehensive Plan addressing Green Energy and law reflecting Plan!

Thank You.