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**TOWN OF HARRISON
VILLAGE OF HARRISON
ATTORNEY'S OFFICE**

MEMORANDUM

TO: Ronald Belmont, Supervisor
Members of the Town Board

FROM: Frank P. Allegretti, Town Attorney 

DATE: April 23, 2021

RE: **Public Notice - Proposed Local Law No. __ of 2021**
Adding Chapter 206 entitled "Solar Energy"

Attached herewith is a Public Notice for a proposed Local Law regarding the above referenced matter.

If acceptable, please schedule this matter for a Public Hearing for the June 3, 2021 Town Board meeting.

If you have any questions or comments, please contact me.

FPA:ap
Attachment

PUBLIC NOTICE

Proposed Local Law No. ____ of 2021

**Adding Chapter 206, entitled “Solar Energy”
of the Town Code of the
Town of Harrison**

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Harrison, at its meeting to be held at 7:00 P.M., on June 3, 2021 will hold a Public Hearing to be held by video conference using the platform Zoom as follows:

When: June 3, 2021 07:00 P.M. Eastern Time (US and Canada)

Topic: Town Board Meeting June 3, 2021 at 7:00 P.M.

Register in advance for this webinar:

https://us02web.zoom.us/webinar/register/WN_65az74A9SgGLOskR7sm9CQ

pursuant to Article 2, Section 10 and Article 3, Section 20 of the Municipal Home Rule Law, to add Chapter 206, entitled “Solar Energy” in the Town Code of the Town of Harrison as follows:

(new material is underlined and deletions are in brackets []).

SOLAR ENERGY

Section 206-1. Statutory authority and jurisdiction

- A. This section is hereby enacted pursuant to the provision of §10 of the Municipal Home Rule Law and §261 and §263 of the Town Law of the State of New York, which authorize the Town of Harrison 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.
- B. The authority to issue special use permits pursuant to this section is hereby delegated to the Planning Board.

- C. References herein to zoning districts in the Town of Harrison are references to such districts as described in this Chapter 235 of the Code of the Town of Harrison.

Section 206-2. Statement of purpose and intent.

- A. Solar energy is an abundant and nonpolluting energy resource that reduces fossil fuel emissions, reduces dependence on the electrical power grid that generates power from nonrenewable and nuclear sources of fuel, reduces impacts to residential and commercial property resulting from power interruptions resulting from man-made or natural events, and reduces the Town's energy load.
- B. The use of solar energy to provide electrical power for the needs of the Town's residents and businesses is consistent with the Town of Harrison's commitment to green infrastructure and practices, and consistent with its goal of promoting long-term sustainability.
- C. This section is intended to permit and regulate solar energy systems and the requisite provision of, and access to, adequate sunlight; to mitigate the potential impacts to the environment and neighboring properties, while promoting the use of solar energy systems in residential, and non-residential districts, in accordance with applicable laws and regulations.
- D. This section is adopted to advance and protect the public health, safety, and welfare of the Town of Harrison, including:
1. Taking advantage of a safe, abundant, and nonpolluting energy resource;
 2. Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; and
 3. Increasing employment and business development in the region by furthering the installation of solar energy systems;
 4. Decreasing the use of fossil fuels, which reduces the carbon footprint of the Town, aids in energy independence of the Town and nation, and reduces polluting greenhouse gas emissions;
 5. Increasing resiliency of the energy grid during storm events and times of peak energy demand.
- E. The Town values its open space, natural areas, and unique character. Maintaining high environmental quality and values are a mainstay of the Town's efforts in its guidance and regulation of development in the Town. As such, the Town, in guiding

the development of solar installations, will prioritize their placement first on the roofs of existing commercial buildings, or in existing parking lots. The installation of solar installation in undeveloped wooded areas that exist in a natural state, is discouraged.

Section 206-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated, unless the context or subject matter requires otherwise.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS - A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the relief of the roof.

CARBON SEQUESTRATION ASSESSMENT -An assessment detailing the loss of trees and other vegetation to be removed and the quantity of carbon sequestered by this vegetation compared to the reduction in carbon emissions representative of the electrical output of the proposed solar facility that would otherwise be produced from a traditional fossil fuel electrical generation plant.

GROUND MOUNTED SOLAR ENERGY SYSTEM - A free-standing solar energy system that is anchored to the ground on a pole, column, structural foundation or other mounting system, detached from any other structure, that generates energy for on-site or off-site consumption.

GLARE -The effect produced by light with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

NATIVE PERENNIAL VEGETATION -Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

POLLINATOR - Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

ROOF-MOUNTED SOLAR ENERGY SYSTEM - A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

SOLAR ACCESS - Space open to the sun and clear of overhanging structures, natural features or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

SOLAR ENERGY EQUIPMENT - Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

SOLAR ENERGY SYSTEM - The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems:

- a. Roof-Mounted Solar Energy Systems
- b. Building-Integrated Solar Energy Systems

B. Tier 2 Solar Energy Systems:

- a. Ground-Mounted Solar Energy Systems with a total surface area of all solar panels on the lot of up to 950 square feet for generation of electricity consumed on the site.

C. Tier 3 Solar Energy Systems:

- a. Solar Energy Systems that are not included in the list for Tier 1 and Tier 2, or any Community Solar Facility where 100% of the energy generated at the site is utilized off-site.

SOLAR PANEL - A photovoltaic device capable of collecting and converting solar energy into electricity.

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

VISUAL IMPACT ASSESSMENT - The assessment of changes to a site or landscape resulting from the installation of a Solar Energy System as viewed from surrounding properties, adjacent roadways, or public viewpoints. This assessment shall consist of photographs, elevations, renderings and photo-simulations to adequately depict the comparison of existing conditions to the proposed developed condition.

Section 206-4. Applicability.

- A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town of Harrison 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 shall not be required to meet the requirements of this Local Law.
- C. Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 10% of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Local Law.

- D. All Solar Energy Systems shall 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 Harrison Code.

Section 206-5. General Requirements.

- A. A Building permit shall be required for installation of all Solar Energy Systems.
- B. All Town Boards are encouraged to take in to consideration the availability of unobstructed sunlight on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain functional over time.
- C. Issuance of approval by the Planning Board shall be subject to the requirements of the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].

Section 206-6. Solar Energy System Permitting Requirements.

All Solar Energy Systems shall be classified as either Tier 1, Tier 2 or Tier 3 as defined in Section 206-3. "Definitions – Solar Energy System" above. The permitting and approval for each Tier is as follows:

1. Tier 1 Solar Energy Systems

A Tier 1 Solar Energy System shall be permitted in all zoning districts in the Town of Harrison and shall be exempt from site plan review and approval, and Architectural Review Board review and approval, subject to the following conditions for each type of Tier 1 Solar Energy System. Energy generated from a Tier 1 Solar Energy System shall be consumed on-site, and shall not be generated for the sole purpose of supplying energy to the Con Ed electrical grid, except in instances where surplus energy, beyond the normal demands of the site, is produced.

A. Roof Mounted Solar Energy Systems

- B. A Roof Mounted Solar Energy System shall be permitted pursuant to the issuance of a Building Permit from the Town of Harrison Building Department.

C. All Roof-Mounted Solar Energy Systems shall comply with the following:

- a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface the highest edge of the system.

- b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
- c. Solar Panels on pitched roofs shall not extend higher than the peak of the roof surface on which they are mounted or attached.
- d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
- e. Glare: All Solar Panels shall have anti-reflective coating(s).
- f. Equipment: With the exception of solar panels, all equipment associated with Roof-Mounted Solar Energy Systems, including, but not limited to controls, energy storage devices, heat pumps, exchangers, or other hardware or equipment necessary for the process by which solar radiation is converted into electricity, shall be screened from view and shall not be located in the required front yard.
- g. Visual Impact Assessment:
If a Roof-Mounted Solar Energy System covers more than 10,000 square feet of roof area, a Visual Impact Assessment shall be prepared and submitted to the Building Department, who shall determine if the potential exists for adverse visual impacts. If such a determination is made, the Building Permit shall not be issued until the Architectural Review Board reviews the application and provides a recommendation to the Building Inspector. The ARB recommendation shall be issued within 30 days of receipt of the Building Inspectors referral.

D. Building-Integrated Solar Energy Systems:

- a. A Building Integrated Solar Energy System, as part of the principal or accessory structure, shall comply with all applicable setback regulations of the zoning district within which it is situated.
- b. A Building Integrated Solar Energy System shall be permitted pursuant to the issuance of a Building Permit from the Town of Harrison Building Department.
- c. All equipment associated with Building Integrated Solar Energy Systems, including, but not limited to controls, energy storage devices, heat pumps, exchangers, or other hardware or equipment, shall be located within the principal or accessory structure it

serves. If the Building Inspector determined that a Building Integrated Solar Energy System is not sufficiently integrated into the existing building systems, and presents an appearance that is inconsistent or erratic, then the Building Permit shall not be issued until the Architectural Review Board reviews the application and provides a recommendation to the Building Inspector. The ARB recommendation shall be issued within 30 days of receipt of the Building Inspectors referral.

2. Tier 2 Solar Energy Systems:

A Tier 2 Solar Energy Systems shall be permitted as an accessory use in all zoning districts in the Town of Harrison. Tier 2 Solar Energy Systems consist of small-scale ground mounted systems that produce energy for-site consumption and shall not be generated for the sole purpose of supplying energy to the Con Ed electrical grid, except in instances where surplus energy, beyond the normal demands of the site, is produced. Tier 2 Solar Energy Systems shall be exempt from site plan review and approval, and Architectural Review Board review and approval, subject to the following conditions:

- a. A Tier 2 Solar Energy System shall be permitted pursuant to the issuance of a Building Permit from the Town of Harrison Building Department.
- b. A Tier 2 Solar Energy System shall not exceed 950 square feet.
- c. A Tier 2 Solar Energy System shall comply with the setback regulations for the underlying zoning district.
- d. A Tier 2 Solar Energy System shall only be installed in the side or rear yard, and shall in no instance be located in the front yard.
- e. A Tier 2 Solar Energy System shall not exceed 15 feet in height.
- f. All Tier 2 Solar Energy Systems shall be screened from adjacent properties, to the extent reasonably practicable.
- g. Solar Energy Equipment shall be located in a manner to avoid and/or minimize the blockage of views from surrounding properties and shading of property to the north, while still providing solar access.

3. Tier 3 Solar Energy Systems

A Tier 3 Solar Energy System shall be permitted as a Special Exception Use in the SB-100, SB-35, SB-1, SB-0, R-2.5, R-2, R-1 zoning districts, subject to the following safeguards and conditions:

- a. A Tier 3 Solar Energy System shall be permitted pursuant to the issuance of Site Plan Approval by the Planning Board in accordance with §235-71 of the Town Code, and the issuance of Special Exception Use Approval by the Planning Board and confirmed by the Town Board in accordance with §235 Article 8 of the Town Code.
- b. A Tier 3 Solar Energy System that produces 25 MW or greater shall obtain a permit at the state level through the siting process administered through the Office of Renewable Energy Siting.
- c. In the R-2.5, R-2 or R-1 districts, the parcel supporting a Tier 3 Solar Energy System shall be a minimum of 50 acres in size.
- d. A Tier 3 Solar Energy System shall not exceed 50% of the lot on which it is installed. Where a Tier 3 Solar Energy System is not the principal use of the site, the lot coverage may not exceed 30%.
- e. No more than 40% of the footprint of a Tier 3 Solar Energy System shall occupy land that is in a natural forested condition.
- f. In the R-2.5, R-2 or R-1 districts, a Tier 3 Solar Energy System shall not be located in any area between the front of an existing residence and the front property line, or in the case of a non-residential use or a vacant lot, a minimum of 100' back from the front property line.
- g. A Tier 3 Solar Energy System shall not encroach into the 100' special Purchase buffer.
- h. A Tier 3 Solar Energy System shall not be located in a side or rear yard setback.
- i. All sides of a Tier 3 Solar Energy System shall be screened by a vegetated buffer. The height of the vegetated screening to the south shall be equal to the height of the solar panels, solar canopies and associate equipment, to allow for proper solar exposure, but also suitable to screen the facility from public view. Screening on the sides when solar exposure is unnecessary, shall be of a height deemed adequate in the judgement of the Planning Board to suitably screen the facility from surrounding properties. Screening can consist of landscaping, berms, architectural features or other screening methods.
- j. A Tier 3 Solar Energy System shall not exceed 15 feet in height for a ground mounted solar array and 20 feet for a solar canopy above a parking lot.
- k. A Full Environmental Assessment Form with Visual Addendum shall be submitted with every application for a Tier 3 Solar Energy System.

- l. A Carbon Sequestration Assessment shall be submitted with every application for a Tier 3 Solar Energy System.
- m. A Visual Impact Assessment shall be submitted with every application for a Tier 3 Solar Energy System.
- n. A Tier 3 Solar Energy System shall comply with the Stormwater Management an Erosion and Sediment Control requirements of Chapter 130 of the Town Code.
- o. All on-site utility lines shall be placed underground.
- p. The area beneath the solar panels shall be a pervious surface, and to the extent feasible, planted with native vegetation with an emphasis on pollinator species.
- q. Maintenance driveways shall not utilize a new curb cut onto the adjacent public roadway and shall instead be accessed from an existing site driveway, where one exists.
- r. Maintenance driveways shall be designed to minimize site disturbances, tree removal and grading, and shall be constructed with a pervious surface.
- s. Signage:
 - a. No signage or graphic content shall be located so as to be visible from off-site or any public view.
 - b. Signage displaying the manufactures name, equipment specification information, safety information and 24-hour emergency contact information is permissible on the interior of the site, in a location that is not visible from a public vantage point.
 - c. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- t. All solar panels shall have a non-reflective coating.
- u. Lighting shall be limited to that minimally required for safety and operational purposes and shall be shielded and downward directed.

- v. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a 7-foot high fence, with a self-locking gate to prevent unauthorized access.

4. Safety

- A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes, as required.
- B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department.
- C. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town of Harrison and any applicable federal, state, or county laws or regulations.

5. Abandonment and Decommissioning.

- 1. All Tier 3 Solar Energy Systems shall submit a Decommissioning Plan along with the Building Permit application.
- 2. A Decommissioning Plan shall consist of the following:
 - a. Documentation of termination of the lease (if applicable).
 - b. Document the removal of all operator owned equipment, concrete, conduits, structures, fencing driveways and foundations.
 - c. Document the removal of any hazardous wastes from the site in accordance with local, County State and Federal waste disposal requirements.
 - d. Document the restoration to the property to the condition that existed prior to the installation of the Solar Energy System.
 - e. Restoration landscaping plan.
 - f. Timeframe for the completion of decommissioning activities.
 - g. Identify the party responsible for decommissioning.

3. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may 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 120 days of notification.
4. If the owner and/or operator fails to comply with decommissioning the facility upon any abandonment, the Town may, at its discretion, utilize the bond and/or security as defined below, for the removal of the Solar Energy System and restoration of the site in accordance with the Decommissioning Plan.
 - a. The owner/operator shall deposit a security in a form found suitable to the Town of Harrison, such as cash or a bond, in an amount sufficient to ensure the good faith fulfillment of the Decommissioning Plan. The amount of the bond or security shall be 125% of the cost of removing the Solar Energy System with an escalator of 2% annually for the life of the Solar Energy System. This amount can be reduced by the amount of the estimated salvage value of the Solar Energy System.
 - b. In the event the owner/operator fails to comply with the requirements of the Decommissioning Plan, and after proper notice and the expiration of any cure periods, the security shall be forfeited to the Town, which shall then utilize the funds to undertake or complete the Decommissioning Plan. The security shall remain in full force and effect until restoration of the property, as set forth in the Decommissioning Plan is completed.

This law shall take effect immediately upon filing with the Secretary of the State of New York.

ALL PERSONS HAVING AN INTEREST IN THE MATTER ARE INVITED TO
ATTEND AND BE HEARD.

BY ORDER OF THE TOWN/VILLAGE BOARD OF THE TOWN/VILLAGE OF
HARRISON.

Jacqueline Greer
Town Clerk

Dated: Harrison New York
April 23, 2021