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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 Kinderhook
Village

Local Law No. of the year 2017

A local law amending the Code of the Village of Kinderhook New York as follows: amending Chapter 110, Article III, Section § 110-6 to include solar considerations in subdivision planning; amending Chapter 130, Article I, Section 130-2 to incorporate various new definitions; adding Solar Farms and Solar Power Plants to the Use Table found at Chapter 130, Article III, Section 130-7; and amending Chapter 130, Article V, Section 130-22 to address Solar Energy Installations.

Be it enacted by the Village Board of the

County
City
Town of Kinderhook as follows:
Village

Section 1. Enactment.

The Code of the Village of Kinderhook New York, Chapter 110 (Subdivision of Land), Article III (Procedure for Filing Subdivision and Boundary Line Adjustment Applications), Section 110-6(D)(2) is amended and restated as follows:

- (2) Layout of streets. The second step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids or minimizes adverse effects on the conservation areas. Consideration should be given to street alignments that provide good solar access for active and/or passive solar energy systems for the lots in the subdivision. Street layout requirements of § 110-13 shall be followed.

The Code of the Village of Kinderhook New York, Chapter 110 (Subdivision of Land), Article III (Procedure for Filing Subdivision and Boundary Line Adjustment Applications), Section 110-6(D)(3) is amended and restated as follows:

- (3) Location of house sites. During this third step, potential house sites are tentatively located. Tentative locations of house sites shall be prepared for the

sketch plan and, later, proposed houses shown on the subdivision plat. House sites should generally be located not closer than 50 feet to conservation areas, unless further distances are required as setbacks from wetlands by the Department of Environmental Conservation. House sites should be laid out to provide, where possible, good solar access for active and/or passive solar systems.

The Code of the Village of Kinderhook New York, Chapter 130 (Zoning), Article I (Purposes and Definitions), Section 130-2 (Definitions) is amended to alphabetically incorporate the following definitions:

ALTERNATIVE ENERGY SYSTEMS - Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and which may be attached to or separate from the principal structure.

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 SOLAR INSTALLATIONS - Solar installations owned collectively through subdivision homeowner associations, college student groups, “adopt-a-solar-panel” programs, 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.

PERMIT GRANTING AUTHORITY - The Village Zoning Officer, which is charged with granting permits for the operation of solar energy systems.

PHOTOVOLTAIC (PV) SYSTEM - A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

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 Code of the Village of Kinderhook New York, Chapter 130 (Zoning), Article I (Purposes and Definitions), Section 130-2 (Definitions) is further amended by amending and restating the definition of "Structure" as follows:

STRUCTURE - When the word "structure" is used in this Chapter 130 hereof, except for § 130-23, it shall be defined as follows: a static construction of building materials, including buildings, stadiums, sheds, display stands, storage bins, signs, reviewing stands, gasoline pumps, mobile dwellings (whether mobile or stationary at the time), fences and the like, and Solar Energy Systems and Equipment as defined herein.

The Code of the Village of Kinderhook New York, Chapter 130 (Zoning), Article III (Use Regulations), Section 130-7 is amended to add the following Use Category to the list of Business Uses:

BUSINESS USES	F-1	A	AR	R-1	R	B-1	B-2
Solar Farms and Solar Power Plants

The Code of the Village of Kinderhook New York, Chapter 130 (Zoning), Article V (Supplementary Regulations), Section § 130-22 (Reserved) is amended and restated as follows:

130-22 Solar Energy Installations

A. Authority

This Solar Energy Installations Law is adopted pursuant to Sections 7-700 through 7-704 of the Village Law of the State of New York, which authorize the Village of Kinderhook 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.

B. Statement of Purpose

This Solar Energy Installations Law is adopted to advance and protect the public health, safety, and welfare of the Village of Kinderhook, 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, to balance the potential impact on neighbors when solar collectors may be installed near their property, and to protect the community from the construction of solar farms or solar power plants within the Village of Kinderhook, while preserving the rights of property owners to install solar energy systems and equipment without excess regulation.

C. Applicability

- (a) The requirements of this Section shall apply to all solar energy systems and equipment installations modified or installed after the effective date of this Section.
- (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 Village Code.
- (c) Solar collectors 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 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.

D. Permit required; construction and placement requirements.

- (a) No solar energy systems or equipment shall be installed or operated in the Village except in compliance with this article.
- (b) Rooftop and Building-Mounted Solar Systems. Rooftop and building-mounted solar systems are permitted in all zoning districts in the Village 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.

iii. Fire safety and emergency access.

1. In order to ensure firefighter and other emergency responder safety, except in the case of accessory buildings less than 1,000 square feet in area, there shall be a minimum perimeter area around the edge of the roof and structurally supported pathways to provide space on the roof for walking around all rooftop and building-mounted solar collectors. Additionally, installations shall provide for adequate access and spacing in order to:
 - a. Ensure access to the roof;
 - b. Provide pathways to specific areas of the roof;
 - c. Provide for smoke ventilation opportunity areas;
 - d. Provide emergency egress from the roof.
2. Exceptions to these requirements may be requested by the applicant, and may be granted by the Code Enforcement Officer, where access, pathway or ventilation requirements are reduced due to:
 - a. Unique site specific limitations;
 - b. Alternative access opportunities (as from adjoining roofs);
 - c. Ground-level access to the roof area in question;
 - d. Other adequate ventilation opportunities when approved by the Code Enforcement Office;
 - e. Adequate ventilation opportunities afforded by panel setback from other rooftop equipment (for example: shading or structural constraints may leave significant areas open for ventilation near HVAC equipment.);
 - f. Automatic ventilation device; or
 - g. New technology, methods, or other innovations that ensure adequate emergency responder access, pathways and ventilation opportunities.

- iv. Before issuing a building permit for a rooftop or building-mounted solar system the Code Enforcement Officer may require the applicant to provide a report by a New York State registered architect or licensed professional engineer certifying that the structure on which the rooftop or building-mounted solar system will be installed is sufficient to support the proposed installation.
- (c) Building-Integrated Photovoltaic (BIPV) Systems. BIPV systems are permitted in all zoning districts and shall be shown on the plans submitted for 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 Village 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. 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.
 - iii. The location of the freestanding or ground-mounted solar energy system shall meet the setback requirements for accessory structures set forth in Article IV.
 - iv. The height of the solar collector and any mounts shall not exceed 20 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 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 Code Enforcement Officer 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.

E. Safety.

- (a) All solar collector installations must be performed by a qualified solar installer, as determined by the Code Enforcement Officer.
- (b) Prior to operation, electrical connections must be inspected by the Code Enforcement Officer and by an appropriate electrical inspector or agency, as determined by the Village.
- (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 Village 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 less 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.

F. 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. The Code Enforcement Officer may request at any time satisfactory evidence demonstrating compliance with this Section.

Section 2. Enforcement.

This Local Law shall be enforced as provided in § 130-34 and violations of this Local Law shall be subject to the penalty provisions as provided in § 130-53.

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.