

LOCAL LAW FILING

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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.

Town of LeRay

Local Law #2 of 2021

This local law shall be known and cited as "Regulation of Solar Energy and Battery Energy Storage Systems in the Town of LeRay being Local Law number 2 of 2021. It is known as the "Solar Energy System and Battery Energy Storage System Law of the Town of LeRay.

A Local Law to amend and restate Section 158-130 of the Code of the Town of LeRay.

Be it enacted by the Town Board of the Town of LeRay as follows:

Section 1. Authority

This Solar Energy and Battery Energy Storage Systems Local Law is adopted pursuant to sections 261-263 of the Town Law of the State of New York, which authorize the Town of LeRay to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and, in accordance with the Town Law of New York State, "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and battery energy storage systems and access to sunlight necessary therefor."

Section 2. Statement of Purpose

This Solar Energy and Battery Energy Storage System Local Law is adopted to advance and protect the public health, safety, and welfare of LeRay by creating regulations for the installation and use of solar energy systems and equipment, and battery energy storage systems with the following objectives:

- A. To take advantage of an abundant and renewable energy resource.
- B. To potentially decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses.
- C. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources.
- D. To create synergy between solar and other stated goals of the community pursuant to its Comprehensive Plan.

- 1) The areas do not occupy more than 10% of the building area of the story in which they are located.
- 2) A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing Battery Energy Storage Systems or other energy system equipment.

FARMLAND OF STATEWIDE IMPORTANCE: Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey that is of state-wide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

GLARE: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure that generates electricity for onsite or offsite consumption.

LARGE-SCALE SOLAR ENERGY SYSTEM: A Solar Energy System with system capacity greater than 100 kW AC for off-site sale or consumption.

MEDIUM-SCALE SOLAR ENERGY SYSTEM: A Solar Energy System with a system capacity greater than 30 KW AC and less than or equal to 100 KW AC for on-site or off-site consumption.

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 (NYSDEC).

OCCUPIED COMMUNITY BUILDING: Any building in Occupancy Group A, B, E, I, R, as defined in the International Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

OFF-SITE CONSUMPTION: Off-site Solar Energy Systems generate energy to be sold to the grid commercially and used on other sites, not for use on the site it is generated.

ON-SITE CONSUMPTION: On-site Solar Energy Systems generate energy to be used primarily on the site it is generated.

NET-METERING: Net metering is a billing mechanism that credits Solar Energy System owners for the electricity they add to the grid. For example, if a residential customer has a PV system on their roof, it may generate more electricity than the home uses during daylight hours.

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

Medium-Scale Solar Energy System	31 kW	0.031 MW
Medium-Scale Solar Energy System	100 kW	0.1 MW
Large-Scale Solar Energy System	101 kW	0.101 MW
Large-Scale Solar Energy System	1,000 kW	1 MW
Large-Scale Solar Energy System	10,000 kW	10 MW

130-2. Applicability

A. The requirements of this Local Law shall apply to all Solar Energy Systems and Battery Energy Storage Systems permitted, installed, or modified in the Town of LeRay after the effective date of this Local Law, excluding general maintenance and repair, and excluding Passive and Building-Integrated Solar Energy Systems.

B. Solar Energy Systems or Battery Energy Storage 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. Modifications to, retrofits, or replacements of an existing Battery Energy Storage System that increases the total Battery Energy Storage System designated discharge duration or power rating shall be subject to this Local Law.

E. All Solar Energy Systems and Battery Energy Storage 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 National Fire Protection Association (NFPA) codes and standards, the National Electric Code (NEC), the NYS Energy Conservation Code ("Energy Code"), and the Town of LeRay Code.

F. Solar Energy Systems and Battery Energy Storage Systems shall be permitted within the Town of LeRay Zoning Districts as specified on the Chart at Appendix A, and subject to review requirements contained in this law.

130-5. Permitting Requirements for Roof-Mounted Solar Energy

All Roof-Mounted Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from Site Plan review, Special Use Permits under the local zoning code or other land use regulation, subject to a Zoning Permit issued by the Town, as well as the following conditions for each type of Solar Energy Systems:

- A. Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:
 - 1) Solar panels on pitched roofs shall be mounted with a maximum distance of 18 inches between the roof surface the highest edge of the system.
 - 2) Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
 - 3) Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
 - 4) 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.
- B. Glare: All solar panels shall have anti-reflective coating(s). Particular attention shall be paid to orientation with regard to airport runway locations, and airplane flyover/approach patterns to minimize glare impact on airplane pilots.
- C. Height: All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified within the underlying zoning district.

130-6. Permitting Requirements for Small-Scale Ground-Mounted Solar Energy Systems

All Small-Scale Ground-Mounted Solar Energy Systems shall be permitted in all zoning districts with a Zoning Permit, subject to the following conditions:

- A. Setbacks: Small-Scale Ground-Mounted Solar Energy Systems shall be subject to the setback regulations specified for structures within the underlying zoning district. In residential districts, all Small-Scale Ground-Mounted Solar Energy Systems shall be installed in side or rear yards with a minimum 20-foot setback. Waterfront parcels are considered to have two front yards, and therefore regulations are to follow the setback stated for front yards in both setbacks.
- B. Height: Small-Scale Ground-Mounted Solar Energy Systems shall be subject to a 15-foot height limit.
- C. Screening and Visibility:
 - 1) All Small-Scale Ground-Mounted Solar Energy Systems shall have views minimized from adjacent properties to the extent deemed appropriate by the Zoning Officer.

130-10. Permitting Requirements for Large-Scale Solar Energy and Large-Scale Battery Energy Storage Systems

All Large-Scale Solar Energy Systems and Large-Scale Battery Energy Storage Systems are permitted through the issuance of a Site Plan review and Special Use Permit within all zoning districts, and subject to the following application requirements:

- A. Site Plan application: For any Solar Energy or Battery Energy Storage System requiring a Special Use Permit, a Site Plan Review shall be required. Any Site Plan application shall include the following information:
- 1) Property lines and physical features, including roads, for the project site.
 - 2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
 - 3) A three-line electrical diagram detailing the Solar Energy System layout or Battery Energy Storage System, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
 - 4) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the completion of the project.
 - 5) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System or Battery Energy Storage System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
 - 6) Property Operation and Maintenance Plan: Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, snow plowing, snow storage, and snow removal.
 - 7) With an acre or more proposed soil disturbance, erosion and sediment control and storm water management plans prepared to the NYSDEC standards will be required.
 - 8) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of land for the duration of the project, including easements and other legally binding agreements, shall be submitted as part of application.
 - 9) Vegetation and tree-cutting: Areas within 10 feet on each side of the Large-Scale Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Since specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground cover shall be permitted to be exempt provided they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

- h. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

B. Special Use Permit Standards:

- 1) Lot size: The minimum lot size for Large-Scale Solar Energy Systems or Large-Scale Battery Energy Storage Systems shall meet the lot size requirements of the underlying zoning district.
- 2) Setbacks: Large-Scale Solar Energy Systems or Large-Scale Battery Energy Storage Systems shall be setback a minimum of the district setback of primary structures, plus an additional 100-feet for the buffer and screening areas from a public street, residential lot line and/or across a public street from a residential lot line.
- 3) Height: The maximum height for Large-Scale Solar Energy System or Large-Scale Battery Energy Storage Systems shall be 15-feet.
- 4) Lot coverage:
 - a. The following components of a Large-Scale Solar Energy System or Large-Scale Battery Energy Storage System shall be considered included in the calculations for lot coverage requirements:
 - I. When calculating the lot coverage, the surface area covered by the Solar Energy System Solar Panels shall be included in the calculation of total lot coverage.
 - II. All mechanical equipment of the Solar Energy System or Large-Scale Battery Energy Storage System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
 - III. Paved access roads servicing the Solar Energy System and Battery Energy Storage System.
 - b. Lot coverage of the Solar Energy System and Battery Energy System, as defined above, shall not exceed 65%.
- 5) Fencing Requirements: All mechanical equipment, including any structure for battery storage batteries, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.
- 6) Buffering, Screening and Visibility:
 - a. **Solar Energy Systems and Battery Energy Storage Systems** shall have views minimized from adjacent properties to the extent reasonably practicable, as determined by the Planning Board Based on site specific conditions, including natural topography, adjacent structures, public roadways, and homes across public roadways reasonable efforts shall be made to minimize visual impact while preserving natural

- iv. Buffers/screening/vegetation shall be maintained for the life of the project.

7) Agricultural Resources: For projects located on agricultural lands:

- a. Any Large-Scale Solar Energy System or Large-Scale Battery Energy Storage Systems located on the areas that consist of Farmland of Statewide Importance shall not exceed 50% of the area of Farmland of Statewide Importance on the parcel.

Also, Large-Scale Solar Energy Systems or Large-Scale Battery Energy Storage Systems on Farmland of Statewide Importance shall be required to seed 20% of the total surface area of all solar panels on the lot with native perennial vegetation designed to attract pollinators.

- b. To the maximum extent practicable, Large-Scale Solar Energy Systems or Large-Scale Battery Energy Storage Systems located on Farmland of Statewide Importance shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.
- c. Large-Scale Solar Energy System or Large-Scale Battery Energy Storage System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.
- d. Buffers/screening/vegetation shall be maintained for the life of the project.

8) Fort Drum: The applicant shall notify Fort Drum personnel in the Plans, Analysis, and Integration Office upon application submission to determine potential impacts on Fort Drum airfield and training operations. The applicant shall provide a letter of response from Fort Drum.

9) Watertown International Airport or any private airfield: The applicant shall notify the Airport Manager upon application submission to determine potential impacts on the airport. The applicant shall provide a letter of response from the Airport Manager.

C. Underground Requirements: All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

D. Vehicular Paths: Vehicular paths within the site shall be a minimum of 20-feet in width and designed to minimize the extent of impervious materials and soil compaction.

E. Signage:

- a. The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town Attorney and/or Engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 125% of the cost of removal of the Large-Scale Solar Energy System or Large-Scale Battery Energy Storage System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System or Battery Energy Storage System.
- b. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
- c. In the event of default or abandonment of the Solar Energy System or Battery Energy Storage System, the system shall be decommissioned as set forth in Section 10(b) and 10(c) herein.

J. Ownership Changes: If the owner or operator of the Solar Energy System or Battery Energy Storage System changes or the owner of the property changes, the Special Use Permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the Special Use Permit, Site Plan approval, and Decommissioning Plan. A new owner or operator of the Solar Energy System or Battery Energy Storage System shall notify the zoning enforcement officer of such change in ownership or operator within 30 days of the ownership change.

130-11. Safety

- A. Solar Energy Systems, Solar Energy Equipment, Battery Energy Storage Systems and Battery Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
- B. Solar Energy Systems and Battery Energy Storage 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 and, if the Large-Scale Solar Energy System is located in an ambulance district, the local ambulance corps.
- 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 and any applicable federal, state, or county laws or regulations. On-going Training shall be provided to the local Fire Department regarding proper safe techniques to fight potential fires caused by battery storage incident or malfunction.

130-12. Permit Time Frame and Abandonment

- A. Special Use Permit or Site Plan approval for a Solar Energy System or Battery Energy Storage System shall be valid for a period of 12 months, provided that construction is commenced. In the event construction is not completed in accordance with the Final Site Plan, as may have been

(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 2021 of the Town of LeRay was duly passed by the Town Board on January 14, 2021, in accordance with the applicable Town Board provisions of law.

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 20 ____ of the (County)(City)(Town)(LeRay) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. ____ of 20 ____ of the (County)(City)(Town)(LeRay) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____ (Elective Chief Executive Officer*)

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 20____, in accordance with the applicable provisions of law.

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 20____ of the (County)(City)(Town)(LeRay) of _____ was duly passed by _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local (Elective Chief Executive Officer)

law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

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 LeRay, or the supervisor of a Town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. ____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.