

LOCAL LAW # _____ OF 2021 AMENDING
CHAPTER 174 TO THE SWEDEN TOWN CODE
CONCERNING SOLAR ENERGY SYSTEMS

Be it enacted by the Sweden Town Board, County of Monroe, State of New York
(hereinafter referred to as the Town Board), as follows:

SECTION 1. TITLE (§174-1)

This Local Law shall be referred to as "Local Law # _____ of 2021 Amending Chapter
174 to the Sweden Town Code Concerning Solar Energy Systems".

SECTION 2. AUTHORIZATION (§174-2)

This Local Law is adopted pursuant to the legislative authority in Municipal Home Rule
Law §10, Town Law §261-§264, General Municipal Law §96-a and §119-dd and Public Service
Law Article 10.

SECTION 3. PURPOSE AND INTENT (§174-3)

The Town of Sweden (hereinafter referred to as Sweden) finds that solar energy, as
properly regulated, is clean, readily available and a renewable energy source beneficial to
Sweden, its residents and the general public. Among other things, solar energy can potentially
take advantage of a safe, abundant, renewable and nonpolluting energy resource and can also
decrease the cost of energy to commercial and residential properties. Sweden encourages the use
of community choice aggregation to partner with community solar projects as a means to provide
the benefits of solar energy directly to residents. Solar energy can increase employment and
business development in Sweden by furthering the installation of solar energy systems and solar
energy farms. Sweden finds a growing need to properly site and regulate solar energy systems
and solar energy farms within Sweden to protect residential, commercial, business and other
areas or land uses, to preserve the overall beauty, nature and character of Sweden, to promote the

effective and efficient use of solar energy resources and to protect the health, safety and general welfare of the citizens of Sweden. Solar energy systems and/or solar energy farms deplete land available for other uses, introduce industrial usage into other nonindustrial areas and can potentially pose environmental challenges. Solar energy systems and/or solar energy farms need to be regulated for removal when no longer utilized and/or useful in order to prevent environmental problems and/or abandonment of industrial properties, solar energy systems and/or solar energy farms.

SECTION 4. DEFINITIONS (§174-4)

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

A. BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials and shading over windows, which produce electricity for onsite consumption.

B. BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM – Land, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS), a Soli 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.

C. GLARE – The effect of 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.

D. 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 for the primary purpose of producing electricity for onsite consumption.

E. 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.

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

G. PRIME FARMLAND – Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristic for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

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

I. SOLAR ACCESS – Space open to the sun and clear of overhands or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

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

K. 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:

1) Tier 1 Solar Energy Systems include the following:

a) Roof-Mounted Solar Energy Systems.

b) Building-Integrated Solar Energy Systems.

2) Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with a system capacity up to 25kW AC and that generate no more than 100% of the electricity consumed on the site over the previous 12 months.

3) Tier 3 Solar Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

L. SOLAR FARMS: Solar Farms are to be considered Tier 3 Solar Energy Systems.

M. SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electrical energy.

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

SECTION 5. APPLICABILITY (§174-5)

A. The requirements of this law shall apply to all Solar Energy Systems permitted, installed, operated, maintained, modified or constructed in any Sweden district after the effective

date of this law, excluding general maintenance and repair and/or building-integrated photovoltaic systems with the proviso that same comport with noise and glare regulations contained in Sweden Town Code §175-46(G)(4).

B. Solar Energy Systems constructed or installed prior to the effective date of this law shall not be required to meet the requirements of this law.

C. Modifications to an existing Solar Energy System that increase the Solar Energy System capacity by more than 5% of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this law unless there is no change to the footprint of the Solar Energy System. Otherwise, any footprint change will require an amended site plan.

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 Sweden Town Code.

SECTION 6. GENERAL REQUIREMENTS (§174-6)

A. A building permit shall be required for installation of any Solar Energy System.

B. Issuance of permits and approvals by the Sweden Planning Board (hereinafter referred to as the Planning Board) shall include review pursuant to the State Environmental Quality Review Act (ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 {“SEQRA”}).

SECTION 7. PERMIT REQUIREMENTS FOR TIER 1 SOLAR ENERGY SYSTEMS (§174-7)

A. Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning code or other land use regulation, subject to the following conditions:

1) Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:

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 highest point 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).

2) All Solar Panels shall have anti-reflective coating.

3) All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

B. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

**SECTION 8. PERMIT REQUIREMENTS FOR TIER 2
SOLAR ENERGY SYSTEMS (§174-8)**

Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be exempt from site plan review under the local zoning code or other land use regulations, subject to the following conditions:

A. All Solar Panels shall have anti-reflective coating.

B. Tier 2 Solar Panels shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts.

C. All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.

D. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.

E. Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district and shall not exceed 80% of the lot on which it is installed.

SECTION 9. PERMIT REQUIREMENTS FOR TIER 3
SOLAR ENERGY SYSTEMS (§174-9)

A. Application for a Tier 3 Solar Energy System must be made to and approved by the Town Board through Incentive Zoning as specified in Sweden Town Code Chapter 175. A Tier 3 Solar Energy System may be permitted in all Zoning Districts subject to the regulations of this law and approval of Incentive Zoning by the Town Board.

B. Upon the Town Board's approval for the Tier 3 Solar Energy System through Incentive Zoning, application is to then be made to the Sweden Planning Board for approval pursuant to the guidelines set forth herein. Concurrent application can be made to the Town Board and the Planning Board if time is an issue. No application will be approved by the Planning Board unless Incentive Zoning is granted by the Town Board.

C. Tier 3 Solar Energy Systems are to be permitted through the issuance of a special use permit and subject to site plan application requirements set forth herein. Applications for the installation of a Tier 3 Solar energy System shall be:

1) reviewed by the Building Department for completeness. Applicants shall be advised within 10 business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

2) subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town of Sweden shall have a notice printed in a newspaper of general circulation in the Town of Sweden at least 5 days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 1000 feet of the property at least 10 days prior to such hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.

3) referred to the Monroe County Department of Planning and Development pursuant to General Municipal Law §239-m if required.

D. 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.

E. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

F. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information and 24 hour emergency contact information (said information being within an area no more than 8 square

feet). As required by National Electric (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.

G. All Solar Panels shall be anti-reflective coating(s).

H. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

I. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.

J. Site plan application. A Tier 3 Solar Energy System requires a special use permit, site plan/subdivision application and approval of same. 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 one or three line electrical diagram detailing the Solar Energy System layout, 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 issuance of building permit.

5) The name, mailing address, and contact information of any proposed or potential system installer and the owner/operator of the Solar Energy System, same to be submitted prior to the issuance of building permit.

6) The name, mailing address, phone number, and signature of the project applicant, along with written confirmation from any property owner indicating their consent to the application along with any related easement and/or related property agreements.

7) Current zoning district designation for the parcel(s) of land comprising the project site.

8) A Property Operation and Maintenance Plan describing continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

9) Submission of any applicable erosion and sediment control and storm water management plans prepared in conformity with Planning Board and New York State Department of Environmental Conservation standards.

K. Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

L. Special use Permit Standards.

1. The property on which the Tier 3 Solar Energy System shall be placed shall consist of a minimum of 10 acres (Appendix 1).

2. A Tier 3 Solar Energy System shall meet the setback requirements in Appendix 2.

3. A Tier 3 Solar Energy System shall comply with the height limitations in Appendix 3.

4. Lot coverage.

a) The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:

i) Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.

ii) All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.

iii) Paved access roads servicing a Tier 3 Solar Energy System.

b) Lot coverage for a Tier 3 Solar Energy System shall not exceed the maximum lot coverage requirement of the underlying zoning district and shall not exceed 80% of the lot size on which it is installed.

5. A Tier 3 Solar Energy System, including any structures for batteries or storage cells shall be completely enclosed by a minimum eight foot high fence with a self-locking gate.

6. Because of neighborhood characteristics and topography, the Planning Board shall examine the proposed location on a case-by-case basis to minimize any potential impact to residents, businesses, or traffic.

7. A Tier 3 Solar Energy System shall be designed and situated to be compatible with the existing uses on adjacent and nearby properties.

8. A Tier 3 Solar Energy System shall be designed and located in order to prevent reflective glare towards any habitable buildings as well as streets and rights-of-way.

9. The installation of a clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted inverter, transformer and substations.

10. Solar panels, associated electronics, and battery systems shall not release hazardous materials.

11. Screening and Visibility.

a) A Tier 3 Solar Energy System shall be required to:

i) Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analysis, including for example a digital viewshed report, may be required .

ii) Submit a screening and landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.

iii) The screening and landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Sweden Town Code.

12. All appurtenant structures, including but not limited to equipment shelters, storage facilities, inverters, transformers and substations shall be architecturally compatible with each other and shall be screened from the view of the persons not on the parcel.

13. Lighting of a Tier 3 Solar Energy System shall be consistent with all state and federal laws. Lighting of appurtenant structures shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Where feasible,

lighting of a Tier 3 Solar Energy System installation shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.

14. There shall be no signs except a sign is required that identifies the owner/operator with an emergency telephone number where the owner/operator can be reached on a twenty four hour basis. Any signage laws, regulations and/or ordinances, including the National Electric Code and/or Emergency Services, shall prevail over the requirements contained in the previous two sentences of this subsection in the event that a conflict between same arises. A no trespassing sign and/or danger sign is allowed.

15. There shall be a minimum of one parking space to be used in connection with the maintenance of the facility and the site, same shall not be used for permanent storage of vehicles.

16. A Tier 3 Solar Energy System owner/operator shall provide a copy of the project summary, electrical schematic and site plan to the Sweden Fire Marshal. Upon request, the owner/operator shall cooperate with all local equipment services in developing an emergency response plan. All means of shutting down the facility shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries through the life of the installation.

17. No Tier 3 Solar Energy System shall be approved or constructed until satisfactory evidence has been provided that the utility company operating the electrical grid where the installation is to be located has authorized the interconnected customer-owner generator.

18. A Tier 3 Solar Energy System owner/operator shall maintain the facility in good condition. Maintenance shall include, but not limited to, painting, structural repairs and

integrity of security measures. Site access shall be maintained to a level acceptable to the Sweden Fire Marshal and emergency services. The owner/operator shall be responsible for the cost of maintaining a Tier 3 System and any access road, unless same is accepted as a public roadway.

19. For projects located on agricultural lands:

a) Any Tier 3 Solar Energy System located on the areas that consist of prime farmland or farmland of statewide importance shall not occupy or exceed 50% of the entire lot.

b) To the maximum extent practicable, a Tier 3 Solar Energy Systems located on prime farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.

c) A Tier 3 Solar Energy System owners/operators 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/operators shall use native plant species and seed mixes.

K. If the owner/operator of the Solar Energy System changes, the special use permit shall remain in effect provided that any successor owner/operator assumes in writing all obligations of the special use permit, site plan approval and decommissioning plan prior to change in ownership or operator.

L. Abandonment and decommissioning considerations for a Tier 3 Solar Energy Storage System shall follow Sweden Town Code §178.

SECTION 10. SAFETY (§174-10)

A. Solar Energy Systems and Solar Energy Equipment shall be certified under any and all 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 the level acceptable to the local fire department and, if a Tier 3 Solar Energy System is located in an ambulance district, the local ambulance corp.

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.

SECTION 11. PERMIT TIME FRAME (§174-11)

Any required special use permits and site plan approval contemplated in this law shall be valid for a period of 18 months. In the event any necessary construction is not completed in accordance with the final site plan, as may have been amended and approved within 18 months after approval, the applicant or the Planning Board may extend the time to complete construction for 180 days. If the owner/operator fails to complete construction within the aforesaid 24 months, all approvals shall expire.

SECTION 12. ENFORCEMENT (§174-132)

Any violation of this law shall be subject to the same enforcement and requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of Sweden.

SECTION 13. SEVERABILITY AND/OR VALIDITY (§174-13)

The invalidity or enforcement of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any

