

**TOWN OF PREBLE
PROPOSED LOCAL LAW NO. A FOR THE YEAR 2017**

**A LOCAL LAW TO AMEND THE ZONING ORDINANCE
OF THE TOWN OF PREBLE TO ADD NEW PROVISIONS REGULATING
SOLAR ENERGY SYSTEMS IN THE TOWN**

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

SECTION 1. AUTHORITY.

This local law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law §10.

SECTION 2. AMENDMENTS TO ARTICLE II (“DEFINITIONS”), SECTION 210, OF THE ZONING ORDINANCE OF THE TOWN OF PREBLE.

The Zoning Ordinance of the Town of Preble is hereby amended by **revising the definition of “ACCESSORY USE OR STRUCTURE”** set forth in Article II, Section 210 to read follows:

“**ACCESSORY USE OR STRUCTURE:** A use or structure on the same lot and of a nature customarily incidental and subordinate to the principal use or structure.”

SECTION 3. AMENDMENTS TO ARTICLE II (“DEFINITIONS”), SECTION 210, OF THE ZONING ORDINANCE OF THE TOWN OF PREBLE.

The Zoning Ordinance of the Town of Preble is hereby amended by **deleting the definition of “ALTERNATE ENERGY SYSTEM”** set forth in Article II, Section 210.

SECTION 4. AMENDMENTS TO ARTICLE II (“DEFINITIONS”), SECTION 210, OF THE ZONING ORDINANCE OF THE TOWN OF PREBLE.

The Zoning Ordinance of the Town of Preble is hereby amended by **deleting the definition of “SOLAR ACCESS”** set forth in Article II, Section 210.

SECTION 5. AMENDMENTS TO ARTICLE V (“ZONING DISTRICT USES”), SECTION 503, OF THE ZONING ORDINANCE OF THE TOWN OF PREBLE.

Section 503 of the Zoning Ordinance of the Town of Preble is hereby amended to add “Ground-Mounted Solar Energy Systems” as a permitted accessory as follows:

“Ground-Mounted Solar Energy Systems (subject to site plan review; *see* Section 717).”

SECTION 6. AMENDMENTS TO ARTICLE V (“ZONING DISTRICT USES”), SECTION 523, OF THE ZONING ORDINANCE OF THE TOWN OF PREBLE.

Section 523 of the Zoning Ordinance of the Town of Preble is hereby amended to add “Ground-Mounted Solar Energy Systems” as a permitted accessory as follows:

“Ground-Mounted Solar Energy Systems (subject to site plan review; *see* Section 717).”

SECTION 7. AMENDMENTS TO ARTICLE V (“ZONING DISTRICT USES”), SECTION 533, OF THE ZONING ORDINANCE OF THE TOWN OF PREBLE.

Section 533 of the Zoning Ordinance of the Town of Preble is hereby amended to add “Ground-Mounted Solar Energy Systems” as a permitted accessory as follows:

“Ground-Mounted Solar Energy Systems (subject to site plan review; *see* Section 717).”

SECTION 8. AMENDMENTS TO ARTICLE V (“ZONING DISTRICT USES”), SECTION 543, OF THE ZONING ORDINANCE OF THE TOWN OF PREBLE.

Section 543 of the Zoning Ordinance of the Town of Preble is hereby amended to add “Ground-Mounted Solar Energy Systems” as a permitted accessory as follows:

E. “Ground-Mounted Solar Energy Systems (subject to site plan review; *see* Section 717).”

SECTION 9. AMENDMENTS TO ARTICLE II (“DEFINITIONS”), SECTION 210, OF THE ZONING ORDINANCE OF THE TOWN OF PREBLE.

The Zoning Ordinance of the Town of Preble is hereby amended by **adding new definitions** to Article II, Section 210, as follows:

“NET-METERING - A billing arrangement that allows solar customers to receive credit for excess electricity which is generated from the customer’s Solar Energy System and delivered back to the grid so that customers only pay for their net electricity usage for the applicable billing period.

QUALIFIED SOLAR INSTALLER - A person who has skills and knowledge related to the construction and operation of Solar Energy Systems (and the components thereof) and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSEERDA’s list of eligible installers or NABCEP’s list of certified installers

may be deemed to be qualified solar installers if the Town Code Enforcement Officer or such other Town officer or employee as the Town Board designates determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

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 SYSTEM - A complete system of Solar Collectors, Panels, controls, energy devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected and converted into another form of energy including but not limited to thermal and electrical, stored and protected from dissipation and distributed.

- A. **BUILDING-INTEGRATED SOLAR ENERGY SYSTEM** - A Solar Energy System incorporated into and becoming part of the overall architecture, design and structure of a building in manner that the Solar Energy System is a permanent and integral part of the building structure.
- B. **FLUSH MOUNTED SOLAR ENERGY SYSTEM** - A Rooftop-Mounted Solar Energy System with Solar Panels which are installed flush to the surface of a roof and which cannot be angled or raised.
- C. **GROUND MOUNTED SOLAR ENERGY SYSTEM** - A Solar Energy System that is affixed to the ground either directly or by mounting devices and which is not attached or affixed to a building or structure.
- D. **ROOFTOP-MOUNTED SOLAR ENERGY SYSTEM** - A Solar Energy System in which Solar Collectors/Panels are mounted on the roof of a building or structure either as a flush-mounted system or as panels fixed to frames which can be tilted to maximize solar collection. Rooftop-Mounted Solar Energy Systems shall be wholly contained within the limits of the building's or structure's roof surface.

SOLAR FARMS - A Solar Energy System or collection of Solar Energy Systems 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 supplying electricity to a utility grid for wholesale or retail sales of electricity to the general public or utility provider. Solar Farms are prohibited in all zoning districts within the Town of Preble. (*See* Section 717(G)).

SOLAR PANEL - A device which converts solar energy into electricity.

SOLAR SKYSPACE - The space between a Solar Energy System and the sun through which solar radiation passes.

SOLAR STORAGE BATTERY - A device that stores energy from the sun and makes it available in an electrical form.”

SECTION 10. AMENDMENTS TO ARTICLE VI (“REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS”) OF THE ZONING ORDINANCE OF THE TOWN OF PREBLE.

The Zoning Ordinance of the Town of Preble is hereby amended by deleting Section 655 (“Alternate Energy Systems”) in its entirety.

SECTION 11. AMENDMENTS TO ARTICLE VII (“SUPPLEMENTARY REGULATIONS GOVERNING CERTAIN USES”) OF THE ZONING ORDINANCE OF THE TOWN OF PREBLE.

The Zoning Ordinance of the Town of Preble is hereby amended by **adding** a new Section 717 to be titled “SOLAR ENERGY SYSTEMS” as follows:

“SECTION 717 SOLAR ENERGY SYSTEMS

A. Purpose and Intent.

The Town of Preble recognizes that solar energy is a clean, readily available and renewable energy source. Development of solar energy systems offers an energy source that can prevent fossil fuel emissions, reduce the Town’s energy demands and attract and promote green business development within the Town. The Town of Preble has determined that comprehensive regulations regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents, and businesses. This Section is intended to promote the effective and efficient use of solar energy systems; establish provisions for the placement, design, construction and operation of such systems in order to uphold the public health, safety and welfare; and to ensure that such systems will not have a significant adverse impact on the aesthetic qualities and character of the Town.

B. Applicability.

This Section shall apply to all solar energy systems in the Town of Preble which are installed or modified after the effective date of this Section. All solar energy systems which are

installed or modified after the effective date of this Section shall be in compliance with all of the provisions hereof.

C. Building-Integrated Solar Energy Systems.

1. Districts where allowed. Building-Integrated Solar Energy Systems shall be permitted in all zoning districts within the Town subject to an application for and review and issuance of an applicable building permit consistent with Section 301 of the Town of Preble Zoning Ordinance.
2. Building-Integrated Solar Energy Systems shall be subject to the general requirements set forth at Section 717(F).

D. Rooftop-Mounted Solar Energy Systems.

1. Districts where allowed. Rooftop-Mounted Solar Energy Systems shall be permitted in all zoning districts within the Town subject to the following requirements:
 - (a) A building permit shall be required for installation of all Rooftop-Mounted Solar Energy Systems consistent with Section 301 of the Town of Preble Zoning Ordinance. An applicant shall submit the following application materials to the Code Enforcement Officer:
 - i. A Site Plan showing location of major components of the Solar Energy System and other equipment on the roof or legal accessory structure. This plan should represent relative locations of components at the site, including, but not limited to, location of arrays, existing electrical service locations, utility meters, inverter locations, system orientation and tilt angles. This plan should show access and pathways that are compliant with New York State Uniform Fire Prevention and Building Code, if applicable.
 - ii. One-Line or 3-Line Electrical Diagram.
 - iii. Specification Sheets for all manufactured components. If these sheets are available electronically, a web address will be accepted in place of an attachment, at the discretion of the Town.
 - iv. All diagrams and plans must be prepared by a professional engineer or registered architect as required by New York State law and include the following:
 - [1] Project address, section, block and lot number of the property;
 - [2] Owner's name, address and phone number;
 - [3] Name, address and phone number of the person preparing the plans; and

[4] System capacity in kW-DC.

- (b) Rooftop-Mounted Solar Energy Systems shall not exceed the maximum allowed height of the principal use in the zoning district in which the System is located.
- (c) Rooftop-Mounted Solar Energy Systems shall be mounted parallel to the roof plane on which they are mounted. However, in the case of commercial buildings which have a flat roof, a tilted-mount may be permitted provided the panels are not visibly objectionable from the property line.
- (d) In order to ensure firefighter and other emergency responder safety, except in the case of accessory buildings under 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-Mounted Solar Energy Systems. Additionally, installations shall provide for adequate access and spacing in order to:
 - i. Ensure access to the roof.
 - ii. Provide pathways to specific areas of the roof.
 - iii. Provide for smoke ventilation opportunity areas.
 - iv. Provide for emergency egress from the roof.
 - v. Exceptions to these requirements may be requested where access, pathway or ventilation requirements are reduced due to:
 - [1] Unique site specific limitations;
 - [2] Alternative access opportunities (such as from adjoining roofs);
 - [3] Ground level access to the roof area in question;
 - [4] Other adequate ventilation opportunities when approved by the Codes Office;
 - [5] Adequate ventilation opportunities afforded by panels setback from other rooftop equipment (for example: shading or structural constraints may leave significant areas open for ventilation near HVAC equipment);
 - [6] Automatic ventilation devices; or
 - [7] New technology, methods or other innovations that ensure adequate emergency responder access, pathways and ventilation opportunities.

- (e) Permit Review and Inspection Timeline. Permit determinations will be issued within 14 days upon receipt of a complete and accurate application.
- 2. Rooftop-Mounted Solar Energy Systems shall be subject to the general requirements set forth at Section 717(F).

E. Ground-Mounted Solar Energy Systems.

- 1. Districts where allowed. Ground-Mounted Solar Energy Systems are permitted as accessory structures in the R-1 Residential, AG Agricultural, C Commercial and I Light Industrial Districts of the Town, subject to the granting of site plan approval by the Planning Board and further subject to the following requirements:
 - (a) A building permit (consistent with Section 301 of the Town of Preble Zoning Ordinance) and site plan approval (consistent with Article X of the Town of Preble Zoning Ordinance) shall be required for installation of all Ground-Mounted Solar Energy Systems.
 - (b) Ground-Mounted Solar Energy Systems are prohibited in front yards.
 - (c) Ground-Mounted Solar Energy Systems shall not be placed or installed on a septic field.
 - (d) Ground-Mounted Solar Energy Systems shall comply with the most restrictive area, yard and bulk regulations in each applicable zoning district in which the Ground-Mounted Solar Energy System is constructed.
 - (e) Setbacks. Further setbacks, area and yard requirements and bulk restrictions may be required by the Planning Board in addition to those set forth in Section 717(E)(d) above in order to protect the public's safety, health and welfare.
 - (f) The height of the Solar Collector/Panel and any mounts shall not exceed 15 feet in height when oriented at maximum tilt measured from the ground and including any base.
 - (g) As part of the site plan approval, a 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 the surrounding area. The proposed screening shall not interfere with the normal operation of the Solar Collectors/Panels.
 - (h) The Ground-Mounted Solar Energy System shall be located in a manner to reasonably minimize view blockage for surrounding properties.
 - (i) Neither the Ground-Mounted Solar Energy System, nor any component thereof, shall be sited within any required buffer area.

- (j) The total surface area of all Ground-Mounted Solar Energy System components shall not exceed the area of the ground covered by the building structure of the largest building on the lot measured from the exterior walls, excluding patios, decks, balconies, screened and open porches, and attached garages.
 - (k) The provisions and criteria for site plan review as set forth in Article X shall be demonstrated for each application as applicable.
 - (l) Fees. Fees for applications and permits under this section shall be established by resolution of the Town Board of the Town of Preble. It shall be the applicant's responsibility to reimburse the Town for any and all reasonable and necessary legal, engineering and other professional fees incurred by the Town in reviewing and administering an application for a specific permit under this section.
2. Districts where prohibited. Ground-Mounted Solar Energy Systems shall not be permitted in the R1L Residential Lakeside District within the Town.

F. General Requirements Applicable to Building-Integrated, Rooftop-Mounted and Ground-Mounted Solar Energy Systems.

1. All Solar Energy System installations must be performed by a Qualified Solar Installer.
2. Solar Energy Systems 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 the sale of excess power through a net-metering arrangement in accordance with New York Public Service Law §66-j or similar state or federal statute. The applicant for a Solar Energy System shall demonstrate the average energy usage on site to ensure compliance with this section. However, Solar Energy System applications in a residential setting and serving a residential use on a single parcel or lot shall be limited to 15 kW or less. Solar Energy System applications serving a commercial/non-residential use shall be limited to 25 kW or less.
3. Prior to operation, electrical connections must be inspected by a Town Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town.
4. Any connection to the public utility grid must be inspected by the appropriate public utility and proof of inspection shall be provided to the Town.
5. Solar Energy Systems shall be maintained in good working order.
6. Solar Energy Systems shall be permitted only if they are determined by the Town to be consistent in size and use with the character of surrounding neighborhood.
7. Solar Energy Systems shall be permitted only if they are determined by the Town not to present any unreasonable safety risks, including but not limited to:

- (a) Weight load;
 - (b) Wind resistance; and
 - (c) Ingress or egress in the event of fire or other emergency.
8. All Solar Energy Systems described in this Section shall meet and comply with all relevant and applicable provisions of the New York State Uniform Fire Prevention and Building Code Standards, as amended and any applicable electrical codes, as amended. To the extent the provisions of the New York State Uniform Fire Prevention and Building Code or applicable electrical code are more restrictive than the provisions set forth in this Section, the provisions of the New York State Uniform Fire Prevention and Building Code or electrical code shall control and the provisions herein shall be deemed to be installation guidelines only.
9. If solar storage batteries are included as part of the Solar Energy System, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform 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 other applicable laws and regulations.
10. All utility services and electrical wiring/lines shall be placed underground and otherwise be placed within the walls or unobtrusive conduit. No conduits or feeds may be laid on the roof unless they are sufficiently camouflaged so as to not be aesthetically objectionable from surrounding properties. Feeds to the inverter shall run within the building and penetrate the roof at the solar panel location.
11. If a Solar Energy System ceases to perform its originally intended function for more than 12 consecutive months, the Solar Energy System shall be deemed abandoned and the property owner shall notify the Town of Preble Code Enforcement Officer of the System's abandonment. Upon abandonment the property owner shall completely remove the System, mount and all other associated equipment and components by no later than 90 days after the end of the 12-month period or within 15 days of written notice from the Town.
12. To the extent practicable, Solar Energy Systems shall have neutral paint colors, materials and textures to achieve visual harmony with the surrounding area.
13. All Solar Energy Systems shall be comprised entirely of panels with similar composition and color.
14. The design, construction, operation and maintenance of the Solar Energy System shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties, public roads, public parks and public buildings.
15. Marking of equipment.
- (a) Solar Energy Systems and components 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.

- (b) In the event any of the standards in this Subsection for markings are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code they shall be deemed to be guidelines only and the standards of the State Code shall apply.
- (c) Prior to the issuance of a building permit, the applicant/owner shall demonstrate to the Code Enforcement Officer a reliable and safe method for de-energizing the Solar Energy System in the event of an emergency. The method and location to de-energize the Solar Energy System, once approved by the Code Enforcement Officer, shall be provided by the applicant/owner to all applicable emergency services and first responders.

G. Solar Farms; Explicitly Prohibited Use in the Town of Preble.

1. Solar Farms as defined herein are hereby expressly and explicitly prohibited in each and every zoning district within the Town of Preble.
 - (a) The Town of Preble is a rural and agricultural community and the vast majority of the land contained within the Town consists of prime farmland and farmland of statewide importance.
 - (b) As stated in Section 102 (“Purpose”) of the Zoning Ordinance of the Town of Preble, the objectives of the zoning ordinance include protection of the open and natural character of land, preservation of the Town’s natural resources and habitats and protection of the Cortland Valley Sole Source Aquifer.
 - (c) The Town of Preble Comprehensive Plan further emphasizes the retention of the overall rural character of the Town and continued protection of the Town’s lakes and preservation of prime agricultural land. As explained in the Town Comprehensive Plan:

“The practice of agriculture is vital to the quality of life enjoyed and desired by residents of the Town of Preble. As shown on the Town’s land use map, agricultural lands comprise the majority of parcels in the Town. Agricultural land uses, especially within the areas designated as prime farm land, are therefore encouraged within the Town to protect and maintain the rural atmosphere of our community and the economy generated by farming.”
 - (d) The Comprehensive Plan outlines as a policy goal the preservation of “agricultural land in the largest tracts possible.”

- (e) The development and erection of Solar Farms on a commercial and utility scale conflicts with the Town's stated purposes, goals and policy of objectives of maintaining the Town's rural character and agricultural nature. Solar Farms are an intensive land use requiring large quantities of contiguous land to achieve economies of scale and an economically viable project. As such, if permitted, the development of Solar Farms in the Town of Preble will necessarily result in the siting of Solar Farms on rural, open space and agricultural land within the Town.
- (f) The Town Board hereby finds that the prohibition of Solar Farms in each and every zoning district within the Town of Preble will effectuate the purposes, goals and policy objectives of maintain the rural character, open space and agricultural nature of the Town as set forth in the Town's Zoning Ordinance and Comprehensive Plan.
- (g) However, notwithstanding the Town's prohibition on Solar Farms within the Town, the zoning regulations contained herein relative to permitting certain specified Solar Energy Systems within the Town, accomplish the Town's goals of encouraging alternative energy systems and solar access for residential properties.
- (h) The zoning regulations contained in this Section strike an appropriate balance between the Town's desired protection of the Town's rural and agricultural character while allowing property owners and residents to realize the benefits of an alternative energy resource.

SECTION 12. SEVERABILITY.

If any word, phrase, sentence, part, section, subsection, or other portion of this Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Town Board hereby declares that it would have enacted this Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

SECTION 13. EFFECTIVE DATE.

This Local Law shall be effective upon filing with the office of the Secretary of State.