LOCAL LAW 2 - 2024

A LOCAL LAW TO ENACT CHAPTER 224A (SOLAR ENERGY) AND AMEND CHAPTER 267 (ZONING) OF THE CODE OF THE CITY OF MOUNT VERNON REGARDING SOLAR ENERGY SYSTEMS

Be it Enacted by the City Council of the City of Mount Vernon as follows:

SECTION 1.

The Code of the City of Mount Vernon is amended by adding the following (language **in Bold and Underlined** to be added, language in ~~**Strikethrough and Bold and Underlined**~~ to be deleted):

Chapter 224A. SOLAR ENERGY

§ 224A-1. Authority.

A. This article is adopted pursuant to Section 20 of the Municipal Home Rule Law, and Sections 19 and 20 of the City Law of the State of New York, which authorize the City to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and to make "provision for . . . the accommodation of solar energy systems and equipment and access to sunlight necessary therefor."

B. The authority to issue special use permits pursuant to this chapter is hereby delegated to the Planning Board.

§ 224A-2. Statement of Purpose.

A. Solar energy is a renewable energy resource that can be utilized throughout the City of Mount Vernon to promote sustainable building design and practices, to promote consumer choice and allow residents and businesses to use local, renewable energy while displacing fossil fuel generation, and to improve air quality.

B. The use of solar energy to provide electrical power for the needs of the City's residents and businesses is consistent with the City of Mount Vernon's commitment to green infrastructure and practices, and is consistent with its goal of promoting long-term sustainability.

C. This solar energy article is adopted to advance and protect the public health, safety, and welfare of the City by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:
(1) To take advantage of a safe, abundant, renewable, and nonpolluting energy resource.

(2) To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses.

(3) To increase employment and business development in the City, to the extent reasonably practicable, by furthering the installation of Solar Energy Systems.

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§ 224A-3. Definitions.

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

BUILDING-INTEGRATED SOLAR ENERGY 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, or shading over windows, which produce electricity for on-site consumption.

COMMUNITY SOLAR ENERGY SYSTEM
A Solar Energy System that generates electricity that is fed directly into the power grid, and is not directly consumed on-site. Off-site subscribers earn credits on their individual electric bills.

GLARE
The effect produced 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 or resting directly on the ground via a pole or other mounting or supporting system (including ballasts, racks or other nonpenetrative supports), detached from any other structure, that generates electricity for on-site or off-site consumption.

ROOF-MOUNTED SOLAR ENERGY SYSTEM
A Solar Energy System located on the roof of any lawfully existing building or structure that produces electricity for on-site or off-site consumption.

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

SOLAR CANOPY
A permanent structure or architectural projection of rigid construction over which a covering is attached that provides weather protection, identity or decoration. A canopy is permitted to be structurally independent or supported by attachment to a building on one or more sides.

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

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

A. Tier 1 Solar Energy Systems shall consist of the following:

(1) Roof-Mounted Solar Energy Systems.

(2) Building-Integrated Solar Energy Systems.

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(3) Solar Canopies.

B. Tier 2 solar energy systems include ground-mounted solar energy systems with system capacity up to 25 kW ~~AC~~ and that generate no more than 110% of the electricity consumed on the site over the previous 12 months.

C. Tier 3 Solar Energy Systems are all Solar Energy Systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems, or any Community Solar Facility where 75% or greater percent of the energy generated at the site is utilized off-site.

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

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

VISUAL IMPACT ASSESSMENT

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

§ 224A-4. Applicability.

A. The requirements of this chapter shall apply to all Solar Energy Systems permitted, installed, or modified in the City of Mount Vernon after the effective date of this chapter, excluding general maintenance and repair.

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

C. Modification to an existing Solar Energy System that increases the Solar Energy System area by more than 5% of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this chapter.

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, the NYS Energy Conservation Code, and the City of Mount Vernon Code.

§ 224A-5. General Requirements.

A. A building permit shall be required for the installation of all Solar Energy Systems.

B. The reviewing authority is encouraged to take into consideration the availability of unobstructed sunlight on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain functional over time.

C. Issuance of approval by the Planning Board shall be subject to the requirements of the State Environmental Quality Review Act ("SEQRA") and its implementing regulations at 6 NYCRR Part 617.

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§ 224A-6. Permitting Requirements for Tier 1 Solar Energy Systems.

A. A Tier 1 Solar Energy System shall be permitted in all zoning districts in the City of Mount Vernon, subject to the conditions listed below for each type of Tier 1 Solar Energy System. The Building Department shall use the New York State Unified Solar Permit application and procedures in its review and issuance of a building permit for the installation of Tier 1 Solar Energy Systems with a capacity of 25 kW or less. The Building Department shall use its standard Building Permit application and procedures in its review and issuance of a building permit for the installation of Tier 1 Solar Energy Systems with a capacity greater than 25 kW. All Tier 1 Solar Energy Systems shall be exempt from site plan review and approval by the Planning Board. Tier 1 Solar Energy Systems shall also be exempt from certificate of appropriateness review and approval by the Architectural Review Board. Energy generated from a Tier 1 Solar Energy System shall be consumed on-site, and shall not be generated for the purpose of supplying energy to the electrical grid, except in instances where surplus energy only, beyond the normal demands of the site, is produced.

(1) Roof-Mounted Solar Energy Systems.

(a) A Roof-Mounted Solar Energy System shall be permitted pursuant to the issuance of a Building Permit from the City of Mount Vernon Building Department.

(b) All Roof-Mounted Solar Energy Systems shall comply with the following:

[1] Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface and 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 peak 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.

(c) All Roof-Mounted Solar Energy Systems shall incorporate, to the extent feasible, the following design requirements:

[1] If solar exposure options exist, Solar Panels should not be placed on the front street facing portion of the roof.

[2] Solar Panel groups should be arranged or oriented in the same direction (either all "landscape" or all "portrait").

[3] Solar Panels should be arranged or grouped in complete rectangles. Staggered or stepped Solar Panel arrangements should be avoided.

[4] The colors of Solar Panels and frames should not contrast and should reasonably match the color of the roof.

(d) Glare: All Solar Panels shall have anti-reflective coating(s).

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(e) Height: 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.

(f) Equipment: With the exception of Solar Panels, all equipment associated with Roof-Mounted Solar Energy Systems, including, but not limited to, controls, energy storage devices, heat pumps, exchangers, or other hardware or equipment necessary for the process by which solar radiation is converted into electricity, shall be screened from view and shall not be located in any required front, side or rear yard setback.

(2) Building-Integrated Solar Energy Systems.

(a) A Building-Integrated Solar Energy System shall be permitted pursuant to the issuance of a Building Permit from the City of Mount Vernon Building Department.

(b) A Building-Integrated Solar Energy System, as part of the principal or accessory building, shall comply with all applicable setback regulations of the zoning district within which it is situated.

(c) All equipment associated with Building-Integrated Solar Energy Systems, including, but not limited to, controls, energy storage devices, heat pumps, exchangers, or other hardware or equipment, shall be located within the principal or accessory structure it serves.

(3) Solar Canopies.

(a) A Solar Canopy shall be permitted in all non-residential districts pursuant to the issuance of a Building Permit from the City of Mount Vernon Building Department.

(b) Glare: All Solar Panels shall have anti-reflective coating(s).

(c) Setbacks: A Solar Canopy, as part of a principal building, accessory building, or freestanding, shall comply with all applicable setback regulations of the zoning district within which it is situated.

(d) Height: No Solar Canopy can exceed 25 feet.

(e) Applicants for a permit to construct a Solar Canopy shall submit all studies as required by the Building Department.

§ 224A-7. Permitting Requirements for Tier 2 Solar Energy Systems.

A. A Tier 2 Solar Energy System shall be permitted as an accessory use in all zoning districts in the City of Mount Vernon, subject to the conditions listed below. Tier 2 Solar Energy Systems consist of small-scale ground-mounted systems that produce energy for on-site consumption and shall not be generated for the purpose of supplying energy to the electrical grid, except in instances where surplus energy, beyond the normal demands of the site, is produced. Tier 2 Solar Energy Systems shall be exempt from site plan review and approval by the Planning Board. Tier 2 Solar Energy Systems shall also be exempt from certificate of appropriateness review and approval by the Architectural Review Board.

(1) ~~A Tier 2 Solar Energy System shall be permitted pursuant to the issuance of a Building Permit from the City of Mount Vernon Building Department.~~The Building Department shall use the New York State Unified Solar Permit application and procedures in its review and issuance of a building permit for the installation of Tier 2 Solar Energy Systems.

(2) A Tier 2 Solar Energy System shall not exceed 950 square feet.

(3) A Tier 2 Solar Energy System shall comply with the setback regulations for the underlying zoning district.

(4) A Tier 2 Solar Energy System shall only be installed in the side or rear yard, and shall in no instance be located in the front yard.

(5) A Tier 2 Solar Energy System shall not exceed 15 feet in height.

(6) All Tier 2 Solar Energy Systems shall be screened from adjacent properties, to the maximum extent reasonably practicable.

(7) Solar Energy Equipment shall be located in a manner to avoid and/or minimize the blockage of views from surrounding properties and shading of property to the north, while still providing Solar Access.

(8) Glare: All Solar Panels shall have anti-reflective coating(s).

§ 224A-8. Permitting requirements for Tier 3 Solar Energy Systems.

A. All Tier 3 Solar Energy Systems shall be permitted pursuant to the issuance of a Special Permit and Site Plan Approval by the Planning Board in accordance with the standards and procedures set forth in City Code Chapter 267, Articles VI and VII, respectively. Tier 3 Solar Energy Systems shall be exempt from certificate of appropriateness review and approval by the Architectural Review Board. Tier 3 Solar Energy Systems shall be subject to the following additional Special Permit conditions:

(1) Lot size: The property on which the Tier 3 Solar Energy System is placed shall be at least 8 acres.

(2) Setbacks: A Tier 3 Solar Energy System shall comply with the setback requirements of the underlying zoning district, and shall not be located in a front, side or rear yard setback.

(3) Height: No structure can exceed 25 feet or two stories.

(4) 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.

(5) Vehicular paths: Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

(6) Signage:

(a) No signage or graphic content shall be displayed on the Solar Energy Systems except for the manufacturer's name, equipment specific information, safety

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information, and twenty-four-hour emergency contact information. Said information shall be depicted within an area of no more than eight square feet.

(b) As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

(7) Glare: All Solar Panels shall have anti-reflective coating(s).

(8) Lighting: 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.

(9) Tree-cutting: Removal of existing trees is subject to the requirements of Chapter 252 of the City Code. No more than 30% of the existing trees on site can be removed for the installation of a Tier 3 Solar Energy System. Trees deemed to be invasive species and proposed for removal, shall be required to be mitigated at a ratio of one tree planted for every three trees removed.

(10) Lot coverage: A Tier 3 Solar Energy System shall not exceed 50% of the lot on which it is installed.

(11) Fencing requirements: All mechanical equipment, including any structure for Storage Batteries, shall be enclosed by an eight-foot-high fence with a self-closing and self-locking gate to prevent unauthorized access.

(12) Screening and visibility: Applicants for Tier 3 Solar Energy Systems shall be required to:

(a) Conduct a Visual Impact 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 analyses, including for example a digital view-shed report, may be required to be submitted by the applicant.

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

(13) Decommissioning:

(a) Solar Energy Systems that have been abandoned and/or not producing electricity for a period of one year shall be removed at the owner and/or operator's expense, which at the owner's option may come from any security made with the City as set forth herein.

(b) A decommissioning plan signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant to the Building Department and Planning Board prior to the issuance of a Building Permit, addressing the following items, as well as any other materials required by the Planning Board:

[1] The estimated cost of removing the Solar Energy System.

[2] The time required to decommission and remove the Solar Energy System and ancillary structures.

[3] The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.

[4] Restoration landscaping plan to the condition that existed prior to the installation of the Solar Energy System.

[5] Identify the party responsible for decommissioning.

[6] Documentation of termination of lease (if applicable).

[7] Document the removal of all operator-owned equipment, concrete, conduits, structures, fencing, driveways, and foundations.

(c) Security:

[1] The deposit, execution, or filing with the City Clerk of a cash, bond, or other form of security reasonably acceptable to the City's Department of Law, 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 Tier 3 Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System. The decommissioning amount shall be reduced by the amount of the estimated salvage value of the Solar Energy System.

[2] 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 City, 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.

[3] In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth herein.

(14) Ownership changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the Special Permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the Special Permit, Site Plan Approval, and Decommissioning Plan. A new owner or operator of the Solar Energy System shall notify the Building Department of such change in ownership or operator within 30 days of the ownership change. Satisfactory proof that the decommissioning security is active and in place shall be submitted to the satisfaction of the City's Department of Law.

(15) An approved fire apparatus access road is required to be constructed for all Tier 3 systems.

(16) Applications for all Tier 3 systems shall incorporate, at a minimum, controls for water quality in accordance with City Code Chapter 226, Stormwater Management. Panels shall be considered impervious if they are not spaced a distance apart equal to the width of the panel or designed in general conformance with the NYSDEC Solar Panel Construction Stormwater Permitting/SWPPP Guidance. Runoff shall be reduced to reflect pre-existing hydrological and hydraulic conditions to mimic forest conditions.

(17) An annual inspection and monitoring report shall be submitted to the Building Department for Tier 3 systems by March 31 of a given calendar year. The report shall provide data from the previous calendar year (January to December)

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outlining power generated, number of users benefitting from the system, energy credits received, and estimated savings. In addition, the report shall provide photographic documentation of the installed system and any mitigation measures required as part of the approval.

§ 224A-9. Safety.

A. Solar Energy Systems and Solar Energy Equipment shall be certified under the New York State Uniform Fire Prevention and Building Code and applicable electrical codes as required.

B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department.

C. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of 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 City and any applicable federal, state, or county laws or regulations.

§ 224A-10. Abandonment and Decommissioning.

A. All Tier 3 Solar Energy Systems shall submit a Decommissioning Plan as set forth in this article.

B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the owner and/or operator of the Solar Energy System shall implement the decommissioning plan. The decommissioning plan must be completed within 120 days of cessation.

C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the City may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

§ 224A-11. Fees.
The fees for Solar Energy Systems shall be established from time to time by resolution of the City Council.

§ 224A-12. Taxation.
Pursuant to § 487 of the Real Property Tax Law, the City shall require all applicants to enter into a contract for payments in lieu of taxes (PILOT) for all Community Solar Energy Systems.

§ 224A-13. Enforcement.
Any violation of this solar energy law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the City Code.

§ 224A-14. Severability.
The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

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SECTION 2.

Chapter 267 of the Code of the City of Mount Vernon is amended by adding the following (language in **Bold and Underlined** to be added, language in ~~**Strikethrough and Bold and Underlined**~~ to be deleted):

§ 267-29. Approving agency.

The approving agency for the following listed special permit uses shall be the Planning Board:

X. Tier 3 Solar Energy Systems as regulated by Chapter 267, Article XIV.

SECTION 3.

Section 267-14(K) of the Code of the City of Mount Vernon shall be repealed (language in **Bold and Underlined** to be added, language in ~~**Strikethrough and Bold and Underlined**~~ to be deleted).

~~**K. Solar energy collectors.**~~

~~**(1) Installation of solar energy collectors, other than for one- and two-family dwellings, shall be subject to approval by the Planning Board, which shall take into account the needs of energy conservation.**~~

~~**(2) Access to sunlight for present and potential solar energy systems, both on- and off-site, as well as building siting, orientation and landscaping, shall be considered by all approving agencies as part of their review of any application.**~~

~~**(3) New construction on any lot which would block access to sunlight between the hours of 9:00 a.m. and 3:00 p.m., Eastern standard time, for existing approved solar energy collectors or for solar energy collectors for which a permit has been issued is prohibited except by permission from the Board of Appeals on a showing that other arrangements are infeasible or impractical or that the degree of blocking is negligible.**~~

SECTION 4.

If any section, subsection, clause, phrase or other portion of this local law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, the portion of the law declared to be invalid will be deemed a separate, distinct and independent portion and the declaration will not affect the validity of the remaining portions hereof, which will continue in full force and effect.

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SECTION 5.

This local law is adopted pursuant to the authority granted by Municipal Home Rule Law § 10(1)(e)(3). It supersedes the provisions of the City Law to the extent that they are inconsistent with this local law.

SECTION 6.

This local law will take effect immediately upon its filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.

Councilperson

APPROVED AS TO FORM

~~Assistant~~ Deputy Corporation Counsel

THIS ORDINANCE ADOPTED BY CITY COUNCIL

President

ATTEST:

City Clerk

APPROVED

MAR 26 2024

Date

APPROVED

Dept. _____

By _____

Mayor

Vote Taken As Follows: 3/13/2024
Boxhill: Yea Browne: Yea
Poteat: Yea Thompson:Yea
Gleason: Yea Ordinance Adopted

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