

**MINUTES OF PUBLIC HEARING - PROPOSED SOLAR LAW  
TOWN OF RIPLEY  
JUNE 28, 2021**

Supervisor Bowen opened the Public Hearing of the Town of Ripley, Town Board in the Ripley Town Hall AT 7:00 P.M. the Town continues to offer all meeting on Zoom for those who would rather participate from home.

Supervisor: Douglas Bowen  
Council: Patricia Hathaway - Absent  
Michael Rowe  
John Trevelline  
Phil Chimera  
Clerk: Rebecca Rowe Carvallo

Guests: See sign in sheet for those present.

Zoon Guests: See Supervisor's sheet for those signed in through Zoom.

Mrs. Carvallo verified that the Legal Notice for the Public Hearing had been posted in the Town's Official Newspaper and in the Town sign board.

Mr. Bowen began by reading the attached written comments from:

- \*Chautauqua County Department of Planning and Development, Signed Matthew Bourke, Senior Planner
- \*Joni Riggle, comments sent by email residency unknown
- \*Robert Galbraith, East Lake Road, Ripley

Supervisor Bowen opened the floor to public comment. Mr. Bowen asked that comments be kept to 3 minutes. Mr. Bowen also reminded those present that all comments should be on to the Proposed Solar Law in general, please no comments on any particular solar project.

Jim Boria, Sinden Road Ripley, spoke on his concern for the proposed setbacks. Mr. Boria stated that he felt they were extreme.

Shelly Spacht, NE- Sherman Road, Ripley, spoke on the following issues:  
Pre construction, construction and operating noise, Mrs. Spacht stated that the noise could be extreme and dangerous to one's hearing, she felt this should be reviewed and covered in the proposed law.

Setback regulations should clearly state they remain the same no matter if the property is owned by the vender or company proposing a project.

The distance from projects water supply should be better addressed.  
Solar projects effect on property values should be addressed.



Setbacks should be clearly stated to reflect not just the road frontage but all property boundary lines.

Sara Parker, NE-Sherman Road, Ripley believes that property owners should have more freedoms with the lease of their properties.

Ms. Parker also thanked the Town and its Planning Board on the hard work and research when establishing the proposed Solar Law.

Mark Smith, East Main Road, Ripley, Thank the Planning Board on all the hard work put into the proposed Solar Law. He also wanted to remind the community that this law helps to protect the entire Town.

Jim Spacht, NE-Sherman Road, Ripley asked the Town Board if they had received any training on Solar Energy laws.

Mr. Spacht asked the Board to remember the affects that Solar Energy projects have on the Farmers and neighboring properties.

Terry Henry, Miller Road, Ripley, spoke on the importance that woods have on the protecting the community and its environment.

Bob Bentley, East Main Road, Ripley, feels the proposed Solar Law has been designed to keep projects out. He feels that the proposed law would impact small projects for small business owners wishing to install solar energy.

Ed Giardini, Union worker, stated that this proposed law would stop many solar projects from being developed in the town.

Dave Coccarelli, Miller Road, Ripley stated that the proposed law should protect the properties that may surround solar projects and property values.

Karen Engstrom, Mayville, New York, spoke on the concerns of disclosure agreements, good neighbor agreements, concerns on Water run offs from the solar panels and heat projecting from solar panels raising temperatures. She also felt the law should address how much energy would be produced.

Keith Hagenbach, parable farms NE-Sherman Road Ripley, believes the proposed setbacks are too restrictive.

Gary Flowers, Erie Pa., property owner on Route 76 Ripley, stated that he feels the town's setbacks should follow the State recommendations. He feels that they have already established through studies the appropriate setbacks needed for such projects.

Tom McHale, Labor Union 621, Syracuse, New York, feels the proposed Solar Law is too strict.



Isaac Philips, ConnetGen representative, feels that section 508 setbacks are too strict, and the lot size is not appropriate. He feels the proposed law is designed to restrict development.

Katherine Galbraith, East Lake Road, Ripley, stated the no one really knows the facts concerning new solar projects and the proposed law should support caution.

Carmen Garrett, Labor Union, Rochester, New York, feels the proposed set backs are not acceptable.

Mark Smith, thanked everyone for their comments and asked the Town Board to not consider comments from those that are from out of town and do not pay taxes.

Shelly Spacht, NE-Sherman Road Ripley, stated that the Planning Board researched setbacks from other communities in New York State. Mrs. Spacht stated that the Standards set by the State of New York are minimum setbacks, and the Planning Board made the proposed setbacks with the Town's Comprehensive Plan in mind.

Bob Bentley, East Main Road, Ripley asked the board to consider that the proposed law would affect more projects than just large-scale projects.

**Motion to continue Public Hearing:**

Supervisor Bowen moved to continue the Public Hearing of June 28, 2021 regarding the Town's proposed Solar Law to **7:00p.m. August 12, 2021** at which time the Town Board will receive additional comments regarding the proposed Local Law and or comments on the environmental issues relating thereto as part of the Town Board's SEQRA review of the proposed action. Additionally, the Town Board will **accept written comments relating to the Local Law or SEQRA matters as stated above which must be submitted to the Board and received not later than 4:00 p.m. August 10, 2021** at the Office of the Town Clerk, Town of Ripley 14 N. State St. Ripley N.Y. 14775

The motion was seconded by Council Person Trevelline and the vote was as follows: Mr. Chimera YES, Mr. Trevelline YES, Mr. Rowe YES, Mr. Bowen YES. Carried.

All those present desiring to be heard, having been heard, Mr. Bowen closed the public hearing at 7:55 p.m.

Respectively submitted,  
Rebecca Rowe Carvallo  
Town Clerk



Please Sign in  
Print your name

Jim BORRA

Ed Gardini

Tom Lippert

Judd Wright

~~James Cephus~~

James Cephus

Sarah Parker

Keith Hagenbuch

Dave Caccarelli

Lisa Henry

Donald Henry

Mark Smith

Karen Engstrom

~~Bob Bentley~~

Mark Smith

Jim + Shelly Spacht

Rachel + Terry Henry

Process 2/10/11

Smart way of doing

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Zoom

Rob & Katherine Galbraith

Tom McHale

Jim Muscato

Issac Phillips

Harmon Watkins

Gary Flowers

Carmen Bennett

Ben Wassineus Jr

Karen Engstrom

Austin Krantz

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*Chautauqua County*  
**DEPARTMENT OF PLANNING AND DEVELOPMENT**

214 Central Avenue • Dunkirk, New York 14048  
Phone (716) 363-3621 • [www.planningchautauqua.com](http://www.planningchautauqua.com)

Douglas Bowen, Supervisor  
Town of Ripley  
14 North State Street  
PO Box 2  
Ripley, NY 14775

June 25, 2021

RE: MUNICIPAL ZONING REFERRAL No. 2021-33  
LOCAL LAW OF 2021 – SOLAR ENERGY LAW

Dear Supervisor Bowen,

This letter is in response to your municipal zoning referral received in full by this office on June 17, 2021 regarding the adoption of a solar energy systems law for the Town of Ripley.

As one of the designated staff to the Chautauqua County Planning Board, I have reviewed the above-noted referral. With regard to General Municipal Law 239-m, this proposal is subject to a referral to the County since it is within 500 feet of multiple municipal boundaries.

I have reviewed the pertinent inter-community and county-wide considerations with respect to this proposal and its effect on the relevant concerns that are listed under General Municipal Law 239-l. Based on this review, I find that the proposed action would have no significant county-wide or inter-community impact and that the proposal would be a matter of **local concern**.

However, in order to help the Town with its decision, I offer the following informal comments:

1. **Agricultural Impacts** – Over the past 15 years, Chautauqua County has lost over 13% of its farmland to other uses. Due to the importance of agriculture to the local economy and culture, this department prioritizes the preservation of the County's viable farmland and rural landscape. For this reason I applaud the Town for including provisions in this solar law to cap at 10% the amount of prime farmland that may be converted for solar energy systems. The Town may wish to clarify if this 10% figures includes farmland that is Prime if Drained.
2. **Decommissioning** – Decommissioning plans and security are essential tools to ensure that land utilized for solar arrays is returned to a useable condition once the array is no longer in use. I commend the Town for including detailed requirements for decommissioning plans in this local law. At the request of the County's Agriculture and Farmland Protection Board, the County has been investigating how to accurately judge proposed decommissioning costs for large scale solar projects, with no definitive conclusions reached yet. To help ensure that proposed decommissioning costs are accurately prepared, the Town may wish to require that decommissioning costs submitted for Tier 3 or Tier 4 solar energy systems are approved and stamped by a licensed engineer.
3. **Visual Screening** – I applaud the Town for addressing visual screening in detail in this solar law, as large scale solar energy systems can result in adverse visual impacts to nearby

Mark Geise, Director of Planning & Development  
[GeiseM@co.chautauqua.ny.us](mailto:GeiseM@co.chautauqua.ny.us)

Paul M. Wendel, Jr., County Executive  
[WendelP@co.chautauqua.ny.us](mailto:WendelP@co.chautauqua.ny.us)



properties. I will not that the requirement to include one evergreen tree and two supplemental shrubs in landscaping screening is not completely clear; I assume that this refers to the depth of the screening, as in most cases many adjacent trees would be necessary to screen a large scale solar energy system. The Town may wish to clarify this requirement.

4. Storage Batteries – Large battery systems are becoming an increasingly common part of solar energy projects. We applaud the Town for addressing batteries in this proposed local law; however, some additional detail could be valuable to fully address the potential impacts of batteries. Members of the Town Board may find NYSERDA's "Battery Energy Storage System Guidebook for Local Governments" to be a useful resource, available at the following address: <https://www.nyserda.ny.gov/-/media/Files/Programs/clean-energy-siting/battery-storage-guidebook.pdf>.
5. Tree-Cutting – I encourage the Town to consider stronger requirements regarding tree cutting for solar energy development. The clearing of large stands of forest for solar energy development can produce stark visual and environmental impacts, a dynamic we are seeing play out in other communities in the County. As drafted, the Town's solar law does not include strong enough requirements to prevent this type of clearing. While some tree clearing may be necessary or appropriate for a particular project, the Town may wish to consider capping the amount of forestland that can be cleared for a solar energy project.

If you have any questions regarding this matter, please contact our office at (716) 363-3621.

Respectfully,



Matthew Bourke, Senior Planner



**ripleytc@fairpoint.net**

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**From:** rigglejoni@gmail.com  
**Sent:** Monday, June 28, 2021 2:09 PM  
**To:** ripleytc@fairpoint.net  
**Subject:** Comments for Public Hearing Re: Solar law

Dear Ripley Town Board,

I am unable to attend tonight's Public Hearing but would like to submit my comments and If possible have them read aloud.

Please note the email from NYSERDA [at end of comments] that states there is NO VIABLE solar panel recycling. [Perhaps there never will be]. Recent recycling cost guesstimates assume a minimum of \$30 per panel. The following disturbing excerpt is from PV magazine-the leading solar trade magazine :

"The presence of hazardous materials in the end-of-life panels can result in significant pollution and health issues, if released into the environment. To close the loop in the energy cycle, the next mission of the solar panel industry is the safe disposal or recycling of end-of-life products."

<https://www.pv-magazine.com/2020/05/27/solar-panel-recycling-turning-ticking-time-bombs-into-opportunities/>

I urge this board to require a valid contract for recycling solar panels in the Decommissioning Plan, as the Niagara County Legislature has recently required. Chautauqua County does not want or need to become a waste repository for end-of-life solar panels.

From: Mace, Frank W (NYSERDA) Sent: Tuesday, March 27, 2018 9:05 AM To: rigglejoni@gmail.com  
Cc: Neligan, Alison L (NYSERDA)

There are a couple of items in your question that we need to address. The first is the question of recycling solar modules(panels). Because of the long useful life, there is not currently a large enough waste stream to consider recycling a viable option today. The waste stream is not expected to occur for another 20 to 25 years. NYS DEC is already considering what that will look like and what measures will need to be in place to take care of that. However, without a waste stream, recycling will remain in the planning stage. That does not mean that we should not plan for the eventual decommissioning of these systems. NYSERDA as part of the NY-Sun program provides technical assistance and guidance to local governments, the "Guidebook" has a specific chapter relating to decommissioning. NYS DEC is the state agency that will be fully involved in any disposal or recycling processes.

Thank you for your time and consideration.

Sincerely,  
Joni Riggle





June 28, 2021

To: Town of Ripley Planning Board and Town Board

From: Robert and Katherine Galbraith

Subject: Comments on Town of Ripley Draft Solar Law

Please find comments below on the proposed draft solar law. To summarize, this law seems fair, sensible and by and large represents the best interests of the town and its citizens and reflects the Towns Mission Statement. We suggest the below comments/language to improve this important document.

#### **General Comment**

1. The Town of Ripley should add to their solar law that all panels on Tier 3 and 4 installations be required to be Made in the USA. Our tax dollars, which highly subsidize these projects should be kept in this country.

#### **Specific Comments**

##### **Section 1508**

- Noise: While the noise conditions are set during operation, nothing is specified during construction. As an example, the developer, ConnectGen plans to pound metal pilings into the ground which hold these panels. This is going to make significant amount of noise and will disrupt both residents and wildlife for a year or more. There should be a noise limit required during construction.
- Certificate of Insurance: What type of insurance? Liability, health, Workman's Comp, etc? All insurance should be **for the company (Developer) and all subcontractors for construction, operations and maintenance.**
- Decommissioning: Suggest that both the Owner (lessor) and Operator (lessee) be required to sign decommissioning plan
  - The developers estimated cost to remove and remediate the system should be validated by a third party engineering firm funded by the developer but retained by the township.
  - Suggest that the words "remediate" be included in the language to emphasize the need for the land to be returned to it's original state
  - ConnectGen plans to use between 200,000 to 300,000 panels depending on whether they are 250 or 350 watt panels. Given the magnitude of this number of panels and the likelihood of more panels being installed on projects in our town, we urge the Planning Board and Town Board to include a requirement for the developer to **provide a detailed recycling plan** in their decommissioning plan, which will be part of the Site Plan Application. Please note that Niagara County passed A Local Law Establishing Solar Panel Recycling Regulations. This law is attached to this document.
- Farmland of Statewide necessity should be included in the 10% restriction
- Need to include an additional section that all Tier 3 and Tier 4 project solar panel procurement be **Made in the USA.**



- Suggest that “estimated cost of the project” be further defined to include all capital costs including: design, material procurement, all labor, construction, test and commissioning and associated administrative costs.

Section 4, Appendix F

- Height should be in keeping with Article 10 or 94-c, which is **12 feet**.
- Rural/Rural Agriculture Tier 3 Solar Energy Systems minimum setback for side and rear should be 100 feet.
- Please provide more detail to \*language at the bottom of Appendix F. This should read 450' from the exterior of a residence of a non-participating property to the **project fence line**.
- To ensure adjacent property value negative impact is minimized, please add language that solar panel installations can only be installed on one side of adjacent non-participating property owners
- There should be no storage of solar panels on the property
- No temporary housing should be allowed on the facility

Thank you for your consideration.

Rob and Katherine Galbraith



## NIAGARA COUNTY LEGISLATURE

FROM: Legislators Rebecca J. Wydysh, Richard L. \_\_\_\_\_ DATE: 06/15/21 RESOLUTION # IL-023-21

Andres, Randy R. Brant, Jesse P. Gooch, William J. Collins, et al.

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	_____	Approved: Ayes _____ Abs. _____ Noes 0
_____	_____	_____	Rejected: Ayes _____ Abs. _____ Noes _____
_____	_____	_____	Referred: _____

### A LOCAL LAW ESTABLISHING SOLAR PANEL RECYCLING REGULATIONS

WHEREAS, the Niagara County Legislature recommends the adoption of the following Local Law:

A Local Law entitled "A Local Law Establishing Solar Panel Recycling Regulations."

WHEREAS, a public hearing was held on the 20<sup>th</sup> day of April, 2021 at 5:15 p.m. and June 15, 2021 at 5:45 p.m., in the Legislative Chambers, Courthouse, Lockport, New York, on said Local Law, and

WHEREAS, five people appeared to speak on said Local Law, and

WHEREAS, two amendment(s) was (were) made to said Local Law, now therefore, be it

RESOLVED, that a Local Law of the County of Niagara, New York entitled "A Local law Establishing Solar Panel Recycling Regulations" be it enacted by the County Legislature of the County of Niagara as follows:

A new Niagara County Local Law is hereby enacted to read as follows:

#### SOLAR PANEL RECYCLING REGULATIONS

##### Section 1. Regulations Established.

There has been a rise in the use of solar panels which in turn leads to an accumulation of photovoltaic waste when they reach the end of their life. Photovoltaic modules contain various valuable materials and rare metals, and providing for their proper recycling will not only ensure that these materials and metals are able to be reused, but also that the panels do not prematurely enter the waste stream where they can have potential negative environmental effects.

The legislature finds that a convenient, safe and environmentally sound system for the recycling of photovoltaic modules, minimization of hazardous waste, and recovery of commercially valuable materials must be established. The legislature further finds that the responsibility for this system must be shared among all stakeholders, with manufacturers financing the takeback and recycling system.

Beginning August 1, 2022, no manufacturer, distributor, retailer or installer may sell or offer for sale a photovoltaic module in or into the County unless the manufacturer of the photovoltaic module is in full compliance with this Local law.

##### Section 2. Definitions

1. Brand: a name, symbols, words or marks that identify a photovoltaic module and attribute the photovoltaic module to the manufacturer of the photovoltaic module.

2. Consumer Electronic Device: any device containing an electronic circuit board that is intended for everyday use by individuals, such as a watch or calculator.
3. County: Niagara County, New York
4. Distributor: a person who markets and sells photovoltaic modules to retailers in the County.
5. Environmentally Sound Management: includes the following management practices, implemented in a manner that is designed to protect public health, safety, and the environment.
  - a. Adequate record keeping.
  - b. Detailed documentation of methods used to
    - i. Manage end-of-life photovoltaic modules collected as part of a photovoltaic module stewardship program, and
    - ii. Track and document the fate of end-of-life photovoltaic modules from collection through final disposition within this state and outside the state.
  - c. Performance audits and inspections of recyclers, haulers, and other parties as determined by a stewardship organization.
  - d. Compliance with worker health and safety requirements, and
  - e. Maintenance of adequate liability insurance for a stewardship organization and contractors working for the stewardship organization.
6. Installation Components: any materials used to install and hold photovoltaic modules in place or collect energy from these modules, such as bracketing, wiring, inverters or batteries.
7. Installer: a person who assembles, installs, and maintains photovoltaic module systems.
8. Manufacturer: any person in business or no longer in business but having a successor in interest who, irrespective of the selling technique used, including by means of distance or remote sale:
  - a. Manufacturers or has manufactured a photovoltaic module under its own brand names for use or sale in or into this County.
  - b. Assembles or has assembled a photovoltaic module that uses parts manufactured by others for use or sale in or into this County under the assembler's brand names.
  - c. Resells or has resold in or into this County under its own brand names a photovoltaic module produced by other suppliers, including retail establishments that sell photovoltaic modules under their own brand names.
  - d. Manufactures or has manufactured a cobranded photovoltaic module product for use or sale in or into this County that carries the name of both the manufacturer and a retailer.
  - e. Imports or has imported a photovoltaic module into the United State that is used or sold in or into this County. However, if the imported photovoltaic module is manufactured by any person with a presence in the United States meeting the criteria of manufacturer under (a) through (d) of this subsection, that person is the manufacturer.
  - f. Sells at retail a photovoltaic module acquired from an importer that is the manufacturer and elects to register as the manufacturer for those products, or
  - g. Elects to assume the responsibility and register in lieu of a manufacturer as defined under (a) through (d) of this subsection.
9. Market share: a manufacturer's percentage of all photovoltaic modules sold in the County.
10. Photovoltaic module: the smallest non-divisible, environmentally protected assembly of photovoltaic cells or other photovoltaic collector technology and ancillary parts intended to generate electrical power under sunlight, except that "photovoltaic module" does not include a photovoltaic cell that is part of a consumer electronic device for which is provides electricity needed to make the consumer electronic device function. "Photovoltaic module" includes but is not limited to interconnections, terminals, and protective devices such as diodes that:
  - a. Are installed on, connected to, or integral with buildings.
  - b. Are used as components of freestanding, off-grid, power generation systems, such as for powering water pumping stations, electric vehicle charging stations, fencing, street and signage

lights, and other commercial or agricultural purposes; or

c. Are part of a system connected to the grid or utility service.

11. Predecessor: an entity from which a manufacturer purchased a photovoltaic module brand, its warranty obligations, and its liabilities. Predecessor does not include entities from which a manufacturer purchased only manufacturing equipment.
12. Rare-earth element: lanthanum, cerium, praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbium, thulium, ytterbium, lutetium, yttrium or scandium.
13. Recovery: the collection of photovoltaic modules and installation components.
14. Recycling: the series of activities by which a covered material is collected, sorted, and processed; converted into a raw material with minimal loss of material quality; and used in the production of a new product, including the original product. Recycling does not include energy recovery, energy generation by means of combustion, use as a fuel, landfill disposal or use as alternative operating cover or within the footprint of a landfill.
15. Retailer: a person that offers photovoltaic modules for sale at retail through any means, including but not limited to remote offerings such as sales outlets, catalogs or the internet.
16. Reuse: any operation by which a photovoltaic module or component of a photovoltaic module changes ownership and is used for the same purpose for which it was originally purchased.
17. Stewardship organization: a corporation, nonprofit organization or other legal entity designated by a manufacturer or a group of manufacturers to implement a photovoltaic module stewardship program.
18. Stewardship plan: the plan developed by a manufacturer or its designated stewardship organization for a self-directed stewardship program.
19. Stewardship program: the activities conducted by a manufacturer or stewardship organization to fulfill the requirements of this Local Law and implement the activities described in its stewardship plan.

### Section 3. Stewardship Organization

A stewardship organization may be designated to act as an agent on behalf of a manufacturer or manufacturers in operating and implementing the stewardship program required under this Local law. Any stewardship organization that has obtained designation must provide to the County a list of the manufacturers and brand names that the stewardship organization represents within 60 days of its designation by a manufacturer as its agent, or within sixty days of removal of such designation.

### Section 4. Stewardship Plan

The Stewardship Plan must provide for takeback of photovoltaic modules and installation components at convenient locations within the County to minimize the release of hazardous substances into the environment and maximize the recovery of other components, including rare earth elements and commercially valuable materials.

In developing a stewardship plan to ensure the convenient, safe, and environmentally sound takeback and recycling of photovoltaic modules and installation components and materials, a manufacturer or stewardship organization must consult with the County and other interested stakeholders. This should include, at a minimum, one meeting with the County prior to submitting the stewardship plan for initial review.

Each manufacturer or Stewardship organization must prepare and submit a stewardship plan to the County by the later of August 1, 2022, or within thirty days of its first sale of a photovoltaic module in or into the County. A stewardship organization may prepare, submit, and implement a stewardship plan on behalf of one or more manufacturers. A stewardship plan must, at a minimum:

1. Describe how manufacturers will finance the takeback and recycling system, and include an adequate funding mechanism to finance the costs of collection, management, and recycling of photovoltaic modules and residuals sold in or into the County by the manufacturer with a

mechanism that ensures that photovoltaic modules can be delivered to takeback locations without cost to the last owner or holder.

- a. No retailer may charge a point-of-sale or other fee to consumers to facilitate a producer to recoup the costs associated with meeting the obligations under this title.
  - b. Funds directly collected by the stewardship organization shall not be used to carry out lobbying activities on behalf of the stewardship organization.
2. Describe how manufacturers will accept all of their photovoltaic modules sold in or into the County.
  - a. Should a manufacturer or stewardship organization establish any photovoltaic module recycling facilities or infrastructure within the County, the establishment of said facility or infrastructures shall be subject to rules and regulations promulgated by the County pursuant to Section 9 of this Local law.
3. Describe how the program will minimize the release of hazardous substances into the environment and maximize the recovery of other components, including rare earth elements and commercially valuable materials.
4. Provide for takeback of photovoltaic modules at convenient locations within the County. At a minimum, takeback must include ongoing drop-off locations as well as quarterly on-site pickup and/or drop off events that are accessible to all residents of the County.
5. Provide information to relevant stakeholders to enable stakeholders to properly dismantle, transport and treat end-of-life photovoltaic modules in a manner consistent with environmentally sound management practices
  - a. Manufacturers or a stewardship organization representing them must establish and maintain a public website that provides information about collection sites under the program and lists manufacturers participating in the stewardship organization under the program plan and the brands of photovoltaic modules that are sold or offered for sale in this state by participating manufacturers. They must also conduct outreach efforts to inform all covered entities about the photovoltaic module stewardship and takeback program and the opportunity to return and recycle photovoltaic modules at no cost.
6. Establish performance goals, including:
  - a. A goal for recovery and responsible management of photovoltaic modules and installation components as a percentage of the total weight sold, which must be no less than one hundred percent by August 1, 2026, and
  - b. A goal for the rate of combined reuse and recycling of collected photovoltaic modules and installation components as a percentage of the total weight collected, which must be no less than sixty-five percent by August 1, 2026 and no less than eighty-five percent by August 1, 2031.
7. Include a plan for maintaining a financial reserve sufficient to operate the program in a fiscally prudent and responsible manner in the event of stewardship organization closure.

A manufacturer must implement the stewardship plan pursuant to Section 4 of this Law. A manufacturer may periodically amend its stewardship plan in the form and manner prescribed by the County. The County shall approve or reject a program plan and program plan amendment pursuant to Section 7 of this Law.

In lieu of preparing a stewardship plan and as provided in this section, a manufacturer may participate in a state program for the convenient, safe and environmentally sound takeback and recycling of photovoltaic modules and installation components and materials, if substantially equivalent to the intent of the County program. The County may determine substantial equivalence if it determines that the state program adequately addressed and fulfills each of the elements of a stewardship plan outlined in the Section and includes an enforcement mechanism reasonably calculated to ensure a manufacturer's compliance with the state program. Upon issuing a determination of substantial equivalence, the County must notify affected stakeholders including the manufacturer. If the state program is discontinued or the County determines the state program is no longer substantially equivalent to the



County program, the County must notify the manufacturer and the manufacturer must provide a stewardship plan to the County for approval within thirty days of notification.

#### Section 5. Administrative Fees

The County shall establish and collect the following fees from a manufacturer or stewardship organization:

- (a) A fixed, one-time fee reasonably calculated to cover the costs of reviewing the photovoltaic module stewardship program plan.
- (b) An annual fee charged to each stewardship organization or manufacturer reasonably calculated to cover the costs of administering, implementing, and enforcing this law.

The fee calculated for each stewardship organization or manufacturer under subsection (b) of this section must be proportionate to the market share of all photovoltaic modules sold in the County by the manufacturers registered with the stewardship program. The County may make a reasonable estimate of the market share of a manufacturer for any year for which market share information for that manufacturer has not been provided to the County.

#### Section 6. Enforcement and Penalties

Should the manufacturer or Stewardship Organization not be in compliance with this Law, the County must send a written warning to a manufacturer that is not participating in a plan. The written warning must inform the manufacturer or stewardship organization that it must submit a plan or participate in a plan within thirty (30) days of the notice. The County may assess a penalty of up to \$100.00 per module per day of violation sold by a manufacturer that occurs in or into the County of photovoltaic module for which a stewardship plan has not been submitted by the manufacturer or stewardship organization or has not been approved by the County after the initial written warning. A manufacturer or stewardship organization may appeal a penalty issued under this section to a court of proper jurisdiction in Niagara County, New York within one hundred eighty days of receipt of the notice.

The County must send a written warning to a distributor, retailer or installer that sells or installs a photovoltaic module made by a manufacturer that is not participating in a plan. The written warning must inform the distributor, retailer, or installer that they may no longer sell or install a photovoltaic module if a stewardship plan for that brand has not been submitted by the manufacturer and approved by the County within the thirty days of the notice.

#### Section 7. Implementation Timeline

1. The County shall approve a plan if the stewardship organization or manufacturer submits a completed plan, the proposed plan meets the requirements under Section 4 of this Law and the stewardship organization pays the fee established by the County in Section 5.
2. No later than sixty (60) days after receiving the plan under this Law, the County shall approve or reject the plan. If the County rejects the plan, the County shall inform the stewardship organization of the reason(s) for rejection.
  - a. Should the County reject the plan, no later than sixty (60) days after the rejection, a stewardship organization must submit to the County a revised plan. No later than ninety (90) days after receiving a revised plan under this Section, the County shall approve or reject the revised plan.
3. A stewardship organization must implement a stewardship plan approved under this section within 90 days of the date on which the County approve the plan.

## Section 8. Annual Report

Beginning April 1, 2023 and by April 1<sup>st</sup> in each subsequent year, a manufacturer, or its designated stewardship organization, must provide to the County a report for the previous calendar year that documents implementation of the stewardship plan and assesses achievement of the performance goals established in this section

The report may include any recommendations to the County and County legislature on modifications to the program that would enhance the effectiveness of the program, including management of program costs and mitigation of environmental impacts of photovoltaic modules.

The Annual Report submitted must include, at a minimum:

1. The name and address of each manufacturer represented by the stewardship organization.
2. The makeup of the stewardship organizations Board of Directors.
3. The total cost of implementing the program, including a breakdown of administrative, collection, transportation, and disposition costs, as determined by an independent financial audit funded by the stewardship organization.
4. A description of program operations and activities including collection services. If collection site requirements were not fully met, explain how requirements will be met the following year.
5. Documentation of program outreach to stakeholders conducted that year.
6. The number of photovoltaic modules already in use within the County.
7. The number of photovoltaic modules placed onto the market and/or installed within the County that year.

The County shall not require public reporting of any confidential information that the County finds to be protected proprietary information. Protected proprietary information shall mean information that, if made public, would divulge competitive business information, methods or processes entitled to protection as trade secrets of manufacturers or information that would reasonably hinder the manufacturer's competitive advantage in the marketplace.

## Section 9. Authority

The County may adopt rules as necessary for the purpose of implementing, administering and enforcing this Local law.

## Section 10. Storage

As described in NYS 6 CRRNY, collected photovoltaic modules and installation components may not be stored within the County for a period exceeding one fiscal quarter (three months).

## Section 11. Severability.


If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 12. Effective Date

This Local Law shall be effective upon its filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

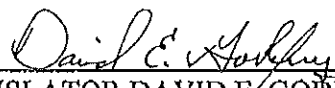
  
LEGISLATOR REBECCA J. WYDYSH

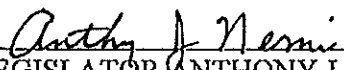
  
LEGISLATOR RICHARD L. ANDRES

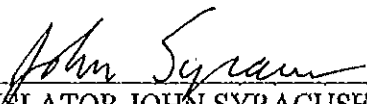
  
LEGISLATOR RANDY R. BRADT

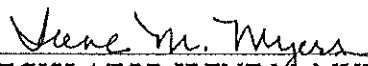
  
LEGISLATOR JESSE P. GOOCH

  
LEGISLATOR WILLIAM J. COLLINS

  
LEGISLATOR DAVID E. GODFREY

  
LEGISLATOR ANTHONY J. NEMI

  
LEGISLATOR JOHN SYRACUSE

  
LEGISLATOR IRENE M. MYERS

  
LEGISLATOR MICHAEL A. HILL



## **Niagara County hopes new recycling law will discourage solar developers**

[https://buffalonews.com/news/local/niagara-county-hopes-new-recycling-law-will-discourage-solar-developers/article\\_of6fdoa6-d047-11eb-818d-5f01f54bc7c3.html](https://buffalonews.com/news/local/niagara-county-hopes-new-recycling-law-will-discourage-solar-developers/article_of6fdoa6-d047-11eb-818d-5f01f54bc7c3.html)

June 20, 2021 Manufacturers of solar panels that are installed in Niagara County must submit a detailed plan for recycling those panels once they break or wear out.

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That new law, believed to be the first of its kind in New York State, was unanimously adopted by the county Legislature last week.

Although the stated reason for the law was to prevent environmental damage from hazardous materials within solar panels, some hope it will discourage developers from pursuing large-scale solar projects in the county.

"I hope it would be so. Niagara County appears to want to be against industrial solar," said Barbara McCollum, who has been active in trying to fight a proposed 46-acre solar project on Slayton Settlement Road in the Town of Lockport.

"If this local law causes a developer to back off, so be it. The intent is to protect our farmland and our environment," said Legislator David E. Godfrey, R-Wilson.

Three solar projects of 900 acres or more are on the drawing board in the county.

Projects by Bear Ridge Solar in Cambria and Pendleton and Ridge View Solar in Newfane and Hartland would cover farmland and have drawn significant public opposition. The Somerset Solar project, announced in April, would be installed around a defunct coal-fired power plant.

Development managers for all three projects did not respond to requests for comment on the recycling law on Friday. The law was approved on Tuesday.

County Legislature Chairwoman Rebecca J. Wydysh said Niagara County isn't anti-solar and is willing to talk to developers about tax incentives if the host community wants the project. But the recycling law applies whether or not a solar project is popular.

"The fact that it could create another hurdle for a project in a community that doesn't want it and isn't getting any financial assistance, if maybe that makes the developer look elsewhere, well, we'd be OK with that, too," said Wydysh, R-Lewiston.

"This solar panel law comes down to the fact that the state has put nothing in place to account for the future recycling of these panels," Wydysh said. "We're not going to wait for them to do it. We're going to do it first, because it's important."

As **Grist Magazine reported** last year, solar panels are "complex pieces of technology that become big, bulky sheets of electronic waste at the end of their lives – and right now, most of the world doesn't have a plan for dealing with that."

A solar panel consists primarily of silicon, glass and plastic, but also includes tin, lead and silver. Manufacturers generally say they last about 25 years.

Niagara County's law was written in consultation with the Product Stewardship Institute, a Boston firm that helped create a first-in-the-nation solar panel recycling law in Washington State, said Dawn M. Timm, county environmental coordinator.

"It makes good environmental and economic sense to me to have manufacturers involved in a product's end of life, because if the manufacturer's not involved, it all falls on government," Timm said.

The law requires manufacturers to present a recycling plan to the county by Aug. 1, 2022, for making 100% of their defunct "photovoltaic modules" available for recycling. By 2026, 60% of a discarded panel's weight actually must be recycled, a goal that increases to 85% of the weight in 2031.

The law says discarded panels may not be stored in the county for more than 90 days.

"The intention of the county here is not to become the dumping ground of the next 'best idea,' whether it was the chemical industry, Love Canal, the radioactive waste we have left over from the Manhattan Project," Timm said.

The law includes a penalty of \$100 per panel for every day a recycling plan is not submitted after an initial warning.

In October 2019, the county required solar developers that receive tax breaks to post a bond to pay the cost of removing expired solar installations and restoring the land beneath them.

Godfrey said the county is working on another law that will require manufacturers of the batteries that store solar power to take steps to control the risk of an electrical fire that might release toxic fumes.

## **Niagara County hopes new recycling law will discourage solar developers**

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## Concerns for Utility Scale Solar projects 5 MW and larger

- Cancer causing PFAS's in solar components threaten town water supply and lake.
- Loss of farmland and woodland
- Loss of Property values of neighbors
- Destruction of environment and local economy
- Microclimate heat zone caused by panels
- "Green" blackouts - Grid instability as in California and Texas
- Increase in utility rates, and taxes (subsidies)
- Loss of tourism and recreation and a loss of community
- "green" is not green if it paves over forests and fields

Industrial solar "Relies on the most toxic industrial processes ever created. You use more energy to create a solar facility than you get back," according to Ozzie Zehner (UCLA energy policy engineer).

**-----European Energy Commission:** "Any attempt to adopt an Energy Transition strategy by substitution of intermittent (solar) for base load power generation above the 35th parallel or further north will result in unavoidable net energy loss.

**----- Ferroni and Hopkirk solar study:** Above the 35th parallel industrial solar will produce 78% of the power it took to build the project over the life of the solar project – a net loss of 12%.

**-----Forbes (May 23,2018) If Solar Panels Are so Clean, Why Do They Produce So Much Toxic Waste?** "Contrary to previous assumptions, pollutants such as lead or carcinogenic cadmium can be almost completely washed out of solar modules over a period of several months by rainwater."  
Carcinogenic PFAS polyfluoroalkyl are also released into the ground water.

The NY Department of Environmental Conservation reports the greatest loss of farmland in western New York is caused by "renewables". NYS Dept of Agriculture and Markets considers solar projects a permanent conversion from agricultural to industrial land use.

A no PILOT resolution would help protect the "HOME RULE" rights of towns in Chautauqua County allowing towns some defense from the accelerated 94 c energy policy (snuck through in the governor's budget) imposed by Governor Cuomo.

**Buffalo News: Niagara County hopes new recycling law will discourage solar developers 6 20 21**

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Issues inherent in large solar operations include: wetland, wildlife impacts; battery explosions; toxic fires; glare/glint; noise from inverters and transformers; EMF, sterilization/ destruction of vital soil microbes; soil compaction; leaching of chemicals and heavy metals; herbicide use; heat island effect; property devaluation and lack of viable recycling/toxic waste -- are valid concerns with utility- scale solar.

