**Local Law 3-2022-Amend and Update Local Law 2-2003 Zoning Law**

**Village of Allegany Zoning Law Amendment**

**Recommendations**

# ARTICLE VII DISTRICT USE REGULATION Section 7.1 Zoning Districts Table 7.1 Table of Permitted Uses

|  |  |
| --- | --- |
|  | **R-1 R-2 R-3 B-1 B-2 B-3 I-1**  |
| Short-term Rental4  | NP P P P P P NP  |
| Telecommunication facilities  | SP SP SP SP SP SP SP  |
| Tier 1&2 Solar Energy Systems  | P P P P P P P  |
| Tier 3 Solar Energy Systems  | NP NP NP NP NP NP NP  |

4 Application required. See Section 9.18

# ARTICLE IX SUPPLEMENTARY REGULATIONS Section 9.15 Telecommunications Facilities

## (A) Intent and Purpose

(4) Telecommunications facilities may be permitted with a grant of special use permit in all districts. The Village has established a hierarchy of preferred locations outside of the Industrial District for telecommunications towers. This hierarchy is intended to serve as a guideline for potential applicants. The locations/districts are listed in order from most preferred to least preferred:

1. Property with an existing structure suitable for co-location. Placement of the antenna(s) on a suitable, existing structure is encouraged whenever feasible.
2. Municipal or government-owned property.
3. Business Districts
4. Residential Districts

# Section 9.18 Short-Term Rentals

## (A) Purpose

The purpose of this section is to authorize and regulate the establishment and operation of short-term rental properties in the Village of Allegany and to ensure the preservation of the character, integrity, and property values of the surrounding areas within which such properties are located and maintained. The Village needs to take action to ensure that the operation of short-term rentals is done in a safe and controllable manner for the well-being of all in the community. The intent of these regulations is not to restrict or eliminate short-term rentals; rather the intent is to have safeguards in place to protect the consumer as well as the property owner, surrounding neighbors and emergency responders. The character of residential zoning districts must also be preserved.

## (B) Definitions

1. *Bedroom.* To count as a bedroom, a room must comply with applicable requirements for bedrooms and habitable spaces set forth in the current Residential Code of New York State (RCNYS).

1. *Local Agent.* An individual or legal entity designated to: (i) oversee the short-term rental of a rental unit in accordance with this chapter; (ii) respond to calls from renters, concerned citizens, and representatives of the Village; (iii) act as an agent of the owner with respect to a short-term rental unit, which shall include the authority to accept service of legal papers relating to the unit on the owner’s behalf. The local agent must live or maintain a physical place of business within 25 miles of the rental unit used for short-term rentals. A property owner who meets these criteria may be the local agent.

1. *Short-Term Rental Unit.* A dwelling or portion thereof rented for a term of less than one month.

1. *Short-Term Rental Permit*. A written document issued by the Village indicating that the dwelling unit identified thereon is authorized to operate as a short-term rental in accordance with this chapter. A short-term rental permit shall be valid for one year from the date of the inspection that found the rental unit in compliance, absent newly or later detected violations of the Village’s property maintenance code, fire code, this chapter or other applicable laws, rules or regulations, or a revocation of the permit pursuant to this chapter within that time, and the expiration date shall be shown on the permit. A permit shall be valid for one year from date of issuance unless terminated due to a violation and shall be renewed annually.

## (C) Permit Applications

1. *Permits required.* All dwelling units used for short-term rentals must be registered with and have a short-term rental permit issued by the Code Enforcement Office of the Village. The short-term rental of a dwelling without a permit is prohibited.
2. *Application*. To apply for a short-term rental permit, the applicant shall:
	1. Provide and/or certify as true the following on a form provided by the Village:
		1. Name, address, email address, and telephone numbers (local and cell phone) of the applicant and any agent for the applicant.
		2. The street address of the short-term rental unit, along with other identification if more than one short-term rental unit has the same street address.
		3. The number of short-term rental units in the building, if more than one.
		4. The number of off-street parking spaces provided on the lot that are reserved exclusively for occupants of the short-term rental unit would require 1 parking space per bedroom rented.
		5. A statement certifying that each bedroom has a working smoke alarm, that there is a working carbon monoxide detector on each floor, and that the owner or local agent will check on those devices at least every 90 days.
		6. A statement certifying that each kitchen has a working fire extinguisher and that a working fire extinguisher is located near each outdoor cooking device.
		7. A statement certifying that the owner consents to inspections by the Village and will make the dwelling unit available to inspections upon request.
		8. A Certificate of Liability Insurance issued by the insurance company listing the Village of Allegany as the Certificate Holder must be provided.
		9. A copy of the Certificate of Authority issued by the Cattaraugus

County Treasurer’s Office to collect an Occupancy Tax must be provided.

* + 1. Such other information as the Village requests.
	1. Sign the application form and provide the signature of the local agent.
	2. Pay an administrative fee for review of the application and inspection of the property.
	3. Submit the property to annual inspection for compliance with applicable codes and Laws. Should a premises fail inspection, the initial re-inspection shall be free of charge. Failure to satisfactorily complete an inspection shall be grounds for withholding a permit or deeming an existing permit to be immediately void.

1. *Changes in information.* The applicant shall notify the Village in writing within 30 days of any change in the information provided on the application form. An owner of a short-term rental unit shall notify the Village in writing within ten days of any change in the designated local agent.
2. *Procedure.* Submit the application to the Code Enforcement Officer, who shall refer any application for a Short-Term Rental Unit located in an R2 or R3 to the Planning Board to approve/disapprove by determining the suitability of the Short-Term Rental Unit at the proposed location. Applications for a Short-Term Rental Unit located in a B1, B2, or B3 shall be subject to approval by the Code Enforcement Officer. Short Term Rental Units are not permitted in R1 and I1 zoning districts.
3. **Short-Term Rental Regulations.**
	1. *Advertising regulations*. No short-term rental unit may be occupied or advertised for rent unless the Village has issued a valid short-term rental unit permit pursuant to this chapter. A short-term rental unit shall not be advertised for an occupancy that is greater than the allowed maximum occupancy calculated pursuant to this section.
	2. *Local agent required*. All short-term rental units must have a designated local agent. If the owner of a short-term rental unit does not qualify as a local agent, the owner shall designate a local agent and authorize the agent in writing to act as the owner’s agent for any acts required of the owner or the owner’s agent under this article.
	3. *Maximum occupancy*. Each short-term rental unit permit shall indicate the maximum occupancy for the unit, calculated by the Code Enforcement Officer in accordance with the current Property Maintenance Code of New York State (PMCNYS). The owner, local agent, and occupants shall be in violation if the number of occupants in the short-term rental unit exceeds the maximum occupancy stated on the permit. The maximum occupancy shall be stated in the lease or other rental agreement.
	4. *Permit transfers*. A short-term rental unit permit may not be transferred to a new owner of a short-term rental unit.
	5. *Applicable codes*. Compliance with applicable zoning, construction, fire, and property maintenance codes of New York State shall be a condition of all rental unit permits. Violations of any of those codes shall also be a violation of this local law.
	6. *Basement/Attic regulations*. No basement or attic space can be used for a bedroom unless it has an egress window approved by the Village Code Enforcement Office and found in compliance with local and state code requirements.
	7. *Curbside refuse pickup*. The owner must make provisions to have refuse picked up (curbside) at least once per week when the short-term rental unit is being rented.
	8. *Liability Insurance*. The owner of the short-term rental shall have adequate liability insurance coverage throughout the duration of operation as a short-term rental unit.
	9. *Excluded districts*. Short-term rental units are not permitted in the following districts: R2 and R3 without prior approval granted by the Planning Board and not at all in R1 and I1.
4. **Inspections.**
	1. *Scheduling.* Upon written notice from the Village, it shall be the owner’s responsibility to schedule and allow the Village’s inspection of the short-term rental unit. Inspections shall occur during the Village’s regular business hours, unless the Village agrees to other arrangements, and all fees shall be paid prior to the inspection.
	2. *Opportunity to correct deficiencies.* If an inspection reveals that the short-term rental unit is not in compliance with this chapter or applicable codes, the owner shall be provided a written list of deficiencies or violations that must be corrected. Failure to correct such deficiencies in a reasonable time shall be grounds for withholding a permit or voiding an existing permit.
	3. *Additional inspections.* The Village may conduct additional inspections as it deems necessary, upon reasonable notice to the owner or agent, such as when:
		1. A complaint is filed with the Village; or
		2. The Village otherwise has reasonable cause to believe a short-term rental unit is in violation of any Village Law.
	4. *Changes in conditions following inspection.* The owner shall notify the Village in writing within 30 days if any of the items inspected pursuant to this chapter are altered after inspection by the Village.
5. **Safety Equipment.**
	1. *Smoke detectors.* The owner of each short-term rental unit shall be responsible for the installation of smoke detectors/alarms in each rental unit. All smoke detectors/alarms shall be UL (Underwriters Laboratories, Inc.) approved, and shall be installed in accordance with the provisions of the NYS Residential Building Code. Smoke detectors/alarms shall be installed in the following locations:
		1. In each sleeping room;
		2. Outside of each separate sleeping area in the immediate vicinity of the bedrooms; and
		3. On each additional story of the rental unit, including basements and cellars, but not including crawl spaces and uninhabitable attics. In rental units with split levels and without an intervening door between the adjacent levels, a smoke detector/alarm installed on the upper level shall suffice for the adjacent lower level, provided that the lower level is less than one full story below the upper level.
	2. *Carbon monoxide detectors.* The owner of each short-term rental unit shall be responsible for the installation of a carbon monoxide detectors in each rental unit. All carbon monoxide detectors shall be according to the NYS Fire Code.
	3. *Fire extinguisher.* The owner of each short-term rental unit shall be responsible for the installation of a fire extinguisher in the kitchen of each unit and near each outdoor cooking device.
	4. *Tampering prohibited.* No person shall tamper or interfere with the effectiveness of a smoke detector, carbon monoxide detector or fire extinguisher required by this section. **(G) Penalties for Offenses.**
	5. The Code Enforcement Officer shall pursue abatement of the failure to comply with any provision of this section as a violation in accordance with Article X of this local law.
	6. *Permit Revocation.*
		1. The Village may revoke the short-term rental permit for any short-term rental which is the site of at least three (3) separate incidents (occurring on three separate days) within a calendar year resulting in a plea of responsibility (with or without an explanation), a plea of guilty, a plea of no contest, or a court’s determination of responsibility or guilt by the owner or any renter for a violation of one or more of the following:
			1. any provision of this Law; ii. the Village noise and nuisance Law; and iii. any violation of the zoning Law or any permit or approval issued pursuant to the zoning Law.
		2. Upon a determination by the Village that the short-term rental permit is subject to revocation, the Village shall issue a notice to the property owner and the local agent stating that the Village intends to revoke the short-term rental permit. The notice shall inform the owner and local agent of a right to a hearing to show cause as to why the short-term rental permit should not be revoked, if a hearing is requested within fourteen (14) days of the service of the notice. If a hearing is timely requested, the Village shall schedule the hearing before the Planning Board. The Village shall notify the owner and the local agent in writing of a time and place for that hearing. At the hearing, the owner and local agent may present evidence that the requirements for revocation provided are not satisfied, or that the property owner and local agent should not be held responsible for one or more of the three (3) requisite violations due to extenuating circumstances. Extenuating circumstances may include circumstances such as:
			1. the violation was committed by a non-renter and the renter(s) attempted

to prevent or halt the violation; ii. the violation resulted from an act of God; or

iii. other circumstances that the owner or the owner’s agent could not

reasonably anticipate and prevent, and could not reasonably control.

* + 1. Upon revocation of a permit, a new permit for the address will not be issued for a period of eighteen (18) months, and the dwelling cannot be used for short-term rentals until a new permit is obtained.

# Section 9.19 Solar Energy

## (A) Authority

This Solar Energy Local Law is adopted pursuant to sections 7-700 through 7-704 of the Village Law of the State of New York, which authorize the Village of Allegany to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Village Law of New York State, “to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.”

## (B) Purpose

(1) This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of the Village of Allegany 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 non-polluting 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 Village of Allegany, to the extent reasonably practical, by furthering the installation of Solar Energy Systems;
4. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources, and;
5. To create synergy between solar and the stated goals of the community pursuant to its Comprehensive Plan.

## (C) Definitions 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 onsite consumption.

## FARMLAND OF STATEWIDE IMPORTANCE: Land, designated as “Farmland of

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

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

## GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is

anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.

**NATIVE PERENNIAL VEGETATION:** native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

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

**PRIME FARMLAND:** Land, designated as “Prime Farmland” in the U.S. Department of

Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic

(SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

**ROOF-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System located on the roof

of any legally permitted building or structure that produces electricity for onsite or offsite 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 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 Energy System as follows.

Tier 1 Solar Energy Systems include the following:

1. Roof-Mounted Solar Energy Systems
2. Building-Integrated Solar Energy Systems

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.

OR

Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with a total surface area of all solar panels on the lot of up to [4,000] square feet and that generate up to [110] % of the electricity consumed on the site over the previous [12] months.

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

**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.

## (D) Applicability

1. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Village of Allegany after the effective date of this Local Law, excluding general maintenance and repair.
2. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
3. Modifications to an existing Solar Energy System that increase 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 Local Law.
4. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”), and the Village of Allegany Code.

## (E) General Requirements

1. A Building permit shall be required for installation of all Solar Energy Systems.
2. Local land use boards are encouraged to condition their approval of proposed developments on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain economically feasible over time.
3. Issuance of permits and approvals by the Village Planning Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”)].

## (F) Permitting Requirements for Tier 1 Solar Energy Systems

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

(1) Roof-Mounted Solar Energy Systems

1. Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:
	1. Solar Panels on pitched roofs shall be mounted with a maximum distance of [8] inches between the roof surface the highest edge of the system.
	2. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
	3. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
	4. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than [24] inches above the flat surface of the roof, whichever is higher.
2. Glare: Solar panels that are on the ground shall have anti-reflective coatings.
3. Height: All Roof-Mounted Solar Energy Systems shall comply with the height limitations in Appendix 3.

OR

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.

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

## (G) Permitting Requirements for Tier 2 Solar Energy Systems

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

1. Glare: All Solar Panels shall have anti-reflective coating(s).
2. Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground- Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts.
3. Height: Tier 2 Solar Energy Systems shall be subject to the height limitations specified for accessory structures within the underlying zoning district.

OR

Tier 2 Solar Energy Systems shall comply with the height limitations in Appendix 1.

1. Screening and Visibility.
	1. All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.
	2. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.
2. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

**(H) Permitting requirements for Tier 3 Solar Energy Systems**

All Tier 3 Solar Energy Systems are not permitted in any zoning district.

##  (I) Safety

1. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
2. 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.
3. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Village and any applicable federal, state, or county laws or regulations.

## (J) Permit Time Frame and Abandonment

1. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of [18] months, provided that a building permit is issued for construction [or] construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the [Reviewing Board], within [18] months after approval, the applicant or the Village may extend the time to complete construction for [180] days. If the owner and/or operator fails to perform substantial construction after [24] months, the approvals shall expire.
2. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for [12] months, the Village may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within [360] days of notification.
3. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Village 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.

## (K) 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 zoning or land use regulations of Village.

## (L) 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.

## Appendix 1: Height Requirements

The following table displays height requirements for each type of Solar Energy Systems. The height of systems will be measured from the highest natural grade below each solar panel.

*Table 1: Height Requirements*

## Zoning District Tier 1 Roof-Mounted Tier 2

R-1 2’ above roof 10’

R-2 2’ above roof 10’

R-3 2’ above roof 10’

B-1 4’ above roof 15’

B-2 4’ above roof 15’

B-3 4’ above roof

…………………………… 15’

I-1 2’ above roof 15’

## Appendix 2: Sample Decommissioning Plan

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at: [Solar Project Address]

Prepared and submitted by [Solar Developer Name], the owner of [Solar Farm Name]

As required by the Village of Allegany, [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the “Facility”).

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends
2. The system does not produce power for [12] months
3. The system is damaged and will not be repaired or replaced

The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 36 inches below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

All said removal and decommissioning shall occur within [12] months of the Facility ceasing to produce power for sale.

The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

Facility Owner Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_