

**Village of Bronxville
Board of Trustees**

LOCAL LAW NO. #2 - 2010

**A LOCAL LAW TO AMEND THE ZONING LAW
OF THE VILLAGE OF BRONXVILLE, NEW YORK, CHAPTER 310,
TO REGULATE THE INSTALLATION AND OPERATION OF SOLAR ENERGY AND
OTHER RENEWABLE ENERGY SYSTEMS**

Be it enacted by the Board of Trustees of the Village of Bronxville as follows:

Section One. Subsection 310-22(F) is hereby added to Chapter 310 of the Code of the Village of Bronxville and shall read as follows:

§ 310-22. Supplementary regulations.

F. Solar energy systems and equipment.

(1) Legislative intent, purpose and definitions.

- (a) Legislative intent and purpose. The purpose of these provisions is to allow and encourage solar energy systems and equipment within residential and business districts, according to certain safeguards and conditions. The intent is to balance the desirability and demand for alternative energy systems with maintaining the aesthetics of the Village and minimize the potential for any negative impact by these systems; and to protect the health, safety and welfare of the residents of the Village.
- (b) Definitions. As used in this subsection 310-22(F), the following terms shall have the meanings indicated.

GROUND-MOUNTED – Directly installed in or on the ground and not attached or affixed to an existing structure.

INTEGRATED PRIMARY EQUIPMENT - Any part of a solar energy system, including but not limited to solar panels, that is built into the structure in such a manner that it blends aesthetically and functionally into that structure, such as solar roof tiles.

NON-INTEGRATED PRIMARY EQUIPMENT - Any part of a solar energy system that is not integrated primary equipment.

PHOTOVOLTAIC SYSTEM – A solar energy system that through semiconductor devices, or photovoltaic cells, converts solar energy directly into electricity.

PRIMARY EQUIPMENT – Any cell, panel, or other device that converts, absorbs, or transforms solar energy, including equipment for photovoltaic and solar thermal systems.

SECONDARY EQUIPMENT – Any supply lines, return lines, control valves, wiring, meters, switches, modules, inverters or other device and their cabinets associated with the installation or function of a solar energy system.

SOLAR ENERGY EQUIPMENT – Any primary equipment or secondary equipment.

SOLAR ENERGY SYSTEM – A photovoltaic system, a solar thermal system or any other system wherein sunlight or solar energy is used to generate electricity.

SOLAR THERMAL SYSTEM – A solar energy system that harnesses solar energy for thermal energy (heat), which is then used to generate electricity.

- (2) General standards for solar energy systems and equipment.
 - (a) Solar energy equipment shall not be located in any principal front yard.
 - (b) Only integrated primary equipment may be located on any face of a building or structure facing a street, except that on corner lots, such equipment may be installed on any façade of a building or structure facing a non-principal front yard street when approved by the Planning Board pursuant to Article XI of this chapter.
 - (c) Solar energy equipment shall not be visible from any adjacent street, except:
 - i. in the case of a corner lot, roof-mounted primary equipment may be installed upon approval by the Planning Board as set forth in this chapter; or
 - ii. if such equipment is integrated primary equipment.
 - (d) All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and standards, and shall comply with this subsection 310-22(F).

- (e) Solar energy systems shall be permitted only to provide power for use by owners, lessee, residents or other occupants at the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through a “net billing” or similar program in accordance with New York Public Service Law § 66-j or similar state or federal statute.
 - (f) The applicant shall demonstrate that the solar energy system will be minimally visually intrusive from surrounding properties and minimally disruptive to existing vegetation. The equipment shall use, to the extent practicable, materials, colors and textures designed to blend with the structure to which they are affixed or, if not affixed, to harmonize with the natural surroundings.
 - (g) Equipment shall not be unnecessarily bright, shiny, or reflective.
 - (h) To the greatest extent practicable, all equipment is to appear like and is to match the color of the part of the building or structure to which it is are attached.
 - (i) In any new building or structure or alteration thereof, all primary equipment shall be integrated primary equipment.
- (2) Roof-mounted solar energy equipment. Any solar energy equipment mounted to any roof, including flush-mounted and rack-mounted, shall be permitted under the following conditions:
- (a) Integrated primary equipment: Where such equipment is integrated as the surface layer of an existing roof structure, such as solar roof tiles, there shall be no apparent change in relief or projection.
 - (b) Non-integrated primary equipment:
 - i. Shall be located on a rear- or side-facing roof. On a corner lot, such equipment may be located on a roof facing a non-principal front yard upon approval of the Planning Board pursuant to Article VI of this chapter. The removal of potential obstructions, such as vegetation, shall not be sufficient cause for permitting installation on a roof facing the front yard.
 - ii. Shall not exceed the lesser of nine hundred square feet in area or thirty three percent of the area of the plane of the roof on which the equipment is mounted.
 - iii. Shall extend no more than twelve inches above the roof surface to which it is affixed.

- iv. Shall be installed in a manner that minimizes its visibility while maintaining viability and functional integrity.
 - v. Vertical projection: When installed on a building or structure with a sloped roof surface, non-integrated primary equipment shall not project above the peak of the roof to which it is attached. When installed on a flat roof, such equipment shall not project above any cornice or parapet wall.
- (c) Secondary equipment. No secondary equipment shall be exposed on the outside of any building or structure unless required by applicable codes and standards.
- (3) Free-standing and ground-mounted solar energy equipment. Free-standing and ground-mounted solar energy equipment shall be permitted under the following conditions:
- (a) It shall be located in a side or rear yard only, and shall comply with all setback requirements for a principal building.
 - (b) It shall not exceed six and one half feet in height above the ground, as measured to the highest point on the equipment. If the ground level is raised or built up for the installation, this height will be measured from the pre-existing ground level.
 - (c) It shall be fully screened from adjacent properties by fencing, a combination or evergreen and deciduous plantings which shall not be less than six and one half feet in height when installed, or, when possible and practicable, through the use of architectural features, earth berms, or other screening that will harmonize with the character of the property and surrounding area.
 - (d) It shall not exceed the lesser of one thousand square feet in area or five percent of the area of the lot on which it is located.
- (4) Procedure.
- (a) Site plan approval. Notwithstanding the provisions of § 310-26(A), site plan approval is not required for solar energy systems in residential districts except where Planning Board approval is specifically required by this subsection 310-22(F).
 - (b) A plan shall be submitted to the Superintendent of Buildings as a requirement for the issuance of a building permit for any solar energy system. Such plan shall indicate all existing and proposed

grading, excavating, filling, paving, fencing, and screening as it may relate to the proposed solar energy system. The plan shall also indicate the location of all property lines and adjacent buildings, including buildings across an adjacent street, and shall comply with the requirements and standards of this subsection 310-22(F). The Superintendent of Buildings may refer any such application to the Planning Board and/or Design Review Committee for review and comment, but nothing contained in any such review or comment shall limit or otherwise affect the authority of the Superintendent of Buildings to issue or deny the permit.

Section Two. Subsection 310-22(G) is hereby added to Chapter 310 of the Code of the Village of Bronxville and shall read as follows:

§ 310-22. Supplemental regulations.

G. Renewable energy systems.

(1) Legislative intent, purpose and definitions.

- (a) Legislative intent and purpose. The purpose of these provisions is to allow and encourage non-solar energy alternative or renewable energy systems, including those that harness wind or geothermal energy, within residential and business districts, according to certain safeguards and conditions. The intent is to balance the desirability and demand for alternative energy systems with maintaining the aesthetics of the Village and minimize the potential for any negative impact by these systems; and to protect the health, safety and welfare of the residents of the Village.
- (b) Definitions. As used in this subsection 310-22(G), the following terms shall have the meanings indicated.

GEOHERMAL ENERGY SYSTEM – Energy system that uses heat or power from the earth’s core for heating, cooling, or generating other types of energy.

RENEWABLE ENERGY SOURCES – Sources of energy that are naturally replenished, including wind and geothermal heat, but not including natural gas, petroleum and other petro-chemicals, and coal.

RENEWABLE ENERGY SYSTEM – Energy system that uses or harnesses renewable energy sources to generate electricity, heat, or cooling, except solar energy systems that are regulated under subsection 310-22(F).

RENEWABLE ENERGY EQUIPMENT – Any device, equipment, supply lines, return lines, control valves, wiring, meters, switches, modules, or inverters associated with the installation or function of a renewable energy system.

- (2) General standards for renewable energy systems and equipment.
 - (a) Any above-ground renewable energy equipment shall not be located in any principal front yard, except that on corner lots, such equipment may be installed in a non-principal front yard when approved by the Planning Board.
- (3) Procedure.
 - (a) Site plan approval. Notwithstanding the provisions of § 310-26(A), site plan approval is not required for any geothermal energy system except where Planning Board approval is specifically required by this subsection 310-22(G).
 - (b) A plan shall be submitted to the Superintendent of Buildings as a requirement for the issuance of a building permit for any alternative energy system. Such plan shall indicate all existing and proposed grading, excavating, filling, paving, fencing, and screening as it may relate to the proposed alternative energy system. The plan shall also indicate the location of all property lines and adjacent buildings, including buildings across an adjacent street, and shall comply with the requirements and standards of this subsection 310-22(G). The Superintendent of Buildings may refer any such application to the Planning Board and/or Design Review Committee for review and comment, but nothing contained in any such review or comment shall limit or otherwise affect the authority of the Superintendent of Buildings to issue or deny the permit.

Section Three. Section 310-8 of Chapter 310 of the Code of the Village of Bronxville is hereby modified to include additional accessory uses and special permit uses as follows:

§ 310-8. One-Family Residence AAA District.

A. Use.

- (4) Accessory uses, limited to the following:
 - (f) Solar energy systems, as defined and subject to the supplementary standards in subsection 310-22(F) of this chapter.

- (g) Geothermal energy systems, as defined in subsection 310-22(G) of this chapter.
- (5) Special permit uses. The Planning Board may allow the following uses by special permit, as regulated in Article VII of this chapter.
 - (a) Satellite earth stations and communication facilities.
 - (b) Renewable energy systems, as defined in subsection 310-22(G) of this chapter, except no special permit is required for geothermal energy systems.

Section Four. Section 310-14 of Chapter 310 of the Code of the Village of Bronxville is hereby modified to include additional accessory uses and special permit uses as follows:

§ 310-14. Central Business A District.

B. Accessory uses:

- (2) Geothermal energy systems, as defined in subsection 310-22(G) of this chapter.

C. Special permit uses.

- (15) Solar energy systems, as defined in subsection 310-22(F) of this chapter.
- (16) Renewable energy systems, as defined in subsection 310-22(G) of this chapter, except no special permit is required for geothermal energy systems.

Section Five. Section 310-15 of Chapter 310 of the Code of the Village of Bronxville is hereby modified to include additional special permit uses as follows:

§ 310-15. Service Business B District.

B. Special permit uses.

- (7) Solar energy systems, as defined in subsection 310-22(F) of this chapter.
- (8) Renewable energy systems, as defined in subsection 310-22(G) of this chapter, except no special permit is required for geothermal energy systems.

Section Six. Subsection 310-42(N) of Chapter 310 of the Code of the Village of Bronxville is hereby added to provide individual standards and requirements for special permits for solar energy systems and renewable energy systems as follows:

§ 310-42. Individual standards and requirements for certain special permit uses.

N. Solar energy systems and renewable energy systems.

- (1) Definitions. As used in this subsection, terms shall have the same meanings as set forth in subsections 310-22(F) and 310-22(G) of this chapter, and as follows:

ALTERNATIVE ENERGY SYSTEM – Solar energy systems and renewable energy systems.

- (2) Legislative intent and purpose. The purpose of these provisions is to allow and encourage alternative energy systems and related equipment within residential and business districts, according to certain safeguards and conditions. The intent is to balance the demand for alternative energy systems with maintaining the aesthetics of the Village and minimize the potential for any negative impact by these systems; and to protect the health, safety and welfare of the residents of the Village.
- (3) Application of this subsection. A special permit shall be required for any solar energy system to be installed, constructed or erected in the Central Business A or Service Business B zoning district, any modification thereof, or any renewable energy system, except a geothermal energy system, in any district.
- (4) Application for special permit.
- (a) An application for a special permit for an alternative energy system shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein attesting to the truth and completeness of the information. If the applicant is not the owner of the property in which such system is proposed, the applicant shall submit a copy of the signed lease or other agreement pursuant to which the applicant is entitled to utilize such property for such system, which may have proprietary business terms redacted.
- (b) Applications not meeting the requirements stated herein, or which are otherwise incomplete, may be rejected by the Village.
- (c) The applicant shall submit the required number of copies of the application, drawings, photographs and documents to the Planning Board in folded and collated sets no larger than eleven inches by seventeen inches. All applications shall include the following information:
- i. The name, address and telephone number of the applicant.
 - ii. The name, address, telephone number and written consent of the property and/or building owner.

- iii. A description of the proposed installation(s).
 - iv. A plot plan and/or survey indicating the dimensioned location of the subject building or structure and all proposed equipment.
 - v. Sealed and dimensioned drawings and/or photographs of the subject building or property and all adjacent buildings or properties within seventy-five feet on all sides.
 - vi. Scaled and dimensioned drawings, photographs, documents and materials, including but not limited to, layout plans, elevations, sections, details, manufacturers' specifications and catalogue cuts, material types, colors, finishes and structural support methods. Such drawings and documents shall also include proposed screening, if any.
 - vii. Where a free-standing or ground-mounted solar energy system or any renewable energy system is proposed, a landscape and screening plan shall be submitted. The plan shall indicate all existing and proposed grading, excavating, filling, paving, fencing, and screening as it may relate to the alternative energy system, and shall indicate the location of all property lines and neighboring buildings and structures.
- (d) Material samples shall be presented at the Planning Board and Design Review Committee meetings.
- (5) Specific standards.
- (a) All alternative energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and standards, and shall comply with subsections 310-22(F) and 310-22(G) of this chapter.
 - (b) Alternative energy systems shall be permitted only to provide power for use by owners, lessee, residents or other occupants at the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through a "net billing" or similar program in accordance with New York Public Service Law § 66-j or similar state or federal statute.
 - (c) The applicant shall demonstrate that the alternative energy system will be minimally visually intrusive from surrounding properties and minimally disruptive to existing vegetation. The equipment shall use, to the extent practicable, materials, colors and textures designed to blend with the structure to which they are affixed or, if not affixed, to harmonize with the natural surroundings.

- (d) Equipment shall not be unnecessarily bright, shiny, or reflective.
 - (e) To the greatest extent practicable, all equipment is to appear like and is to match the color of the part of the building or structure to which it is attached.
- (6) Pre-application meeting. There shall be a pre-application meeting in accordance with subsection 310-26(B) of this chapter, regardless of the cost of development.
- (7) Recertification; termination.
- (a) During the six months prior to expiration of a special permit, the holder of the special permit shall submit a written application for recertification of the special permit.
 - (b) Subject to the provisions of (d) below, the Planning Board shall issue a recertification of the special permit if it finds that the holder of the special permit is in compliance with the terms of the special permit, the requirements of this subsection 310-42(N), and the requirements of applicable federal, state, and local law. If the recertification process has begun but is not complete by such anniversary date, the special permit may be extended for no more than three months. In the event of disapproval of the recertification application, the alternative energy system shall not be used after the date that the applicant receives written notice of disapproval and, unless an appeal is timely filed, shall be immediately removed upon the expiration of such appeal limitations period.
 - (c) Unless recertified, a special permit and any authorizations granted thereunder shall terminate as of the last day of the then current term as specified in the special permit.
 - (d) Notwithstanding the foregoing, in connection with each recertification, the Planning Board shall consider changes to alternative energy technology since the date of issuance or last recertification, as applicable, of the special permit and determine whether the special permit should be modified or terminated as a result of such change.
- (8) Default and/or revocation. If an alternative energy system is not in compliance with this chapter or with its special permit, the Planning Board may revoke the special permit in accordance with subsection 310-40(B) of this chapter.
- (9) Application fee. A nonrefundable fee shall be payable with each application for a special permit for a alternative energy system and with each application for a modification in such amount as shall be set by the Board of Trustees from time to time.

Section Seven. 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, such portion shall be deemed a separate distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section Eight. This local law shall take effect immediately upon filing with the Secretary of State.