

LOCAL LAW NO. 02 OF 2026

**A LOCAL LAW TO AMEND THE ZONING LAW TO
FURTHER REGULATE TIER 3 AND TIER 4 SOLAR
ENERGY SYSTEMS AND TIER 2 BATTERY/ENERGY
STORAGE SYSTEMS**

***BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF MOHAWK AS
FOLLOWS:***

SECTION 1. Subject and Authority

The Town of Mohawk hereby amends its Zoning Law to add provisions relating to the use variance standards for new public utilities located in the Town of Mohawk. The provisions of the existing Zoning Law that are not amended by the changes identified in this local law remain in full force and effect.

SECTION 2. Purpose

The Town seeks to further regulate the siting of Tier 3 and Tier 4 Solar Energy Systems and Tier 2 Battery/Energy Storage Systems within the Town.

SECTION 3. Amendments

Article III Section 4 of the Town of Mohawk Zoning Law is amended to revise and add the following definitions:

PUBLIC UTILITY: A business or entity, either public or privately owned, that provides essential services, such as electricity, gas, steam, heat, communication, water, or sewage, to the general public. The product of the utility must be piped, wired, or otherwise served to each user.

PUBLIC UTILITY STATION OR STRUCTURE: A facility other than a Personal Wireless Service Facility for the provision of public utility services, including facilities constructed, altered or maintained by utility corporations, either public or privately owned, or government agencies, necessary for the provision of electricity, gas, steam, heat, communication, water, sewage, collection of other such services to the general public. Such facilities shall include poles, wires, mains, drains, sewers, pipes, conduits, cables, alarms and call boxes and other similar equipment, but shall not include offices, administration buildings. This term does not include facilities that generate or store electricity such as a Tier 2 Battery/Energy Storage System, Tier 3 Solar Energy Systems, or Tier 4 Solar Energy Systems.

TIER 2 BATTERY/ENERGY STORAGE SYSTEM: A Tier 2 battery/energy storage system as defined in the Battery Storage Local Law #1 of 2021.

TIER 3 OR TIER 4 SOLAR ENERGY SYSTEM: A Tier 3 or Tier 4 solar energy system as defined in the Solar Energy Local Law #1 of 2023.

Article V Section 7 of the Town of Mohawk Zoning Law is amended to add the new uses to the list of uses permitted in the A-Agricultural District as follows:

9. Tier 2 Battery/Energy Storage System
10. Tier 3 or 4 Solar Energy System

Schedule A as referenced in Article VI Section 19 of the Town of Mohawk Zoning Law is amended as follows:

Permitted Principal Uses for the A-Agricultural District is amended to add*:

Tier 2 Battery/Energy Storage System: min lot size = 5 acres; max % of lot coverage = 20%; structure height = 35 feet; structure setback = 500 feet (on all sides)

Tier 3 Solar Energy System: 5 acres; max % of lot coverage = 60%; structure height = 35 feet; structure setback = 250 feet (on all sides)

Tier 4 Solar Energy System: 5 acres; max % of lot coverage = 50%; structure height = 35 feet; structure setback = 500 feet (on all sides)

*Consult the Town of Mohawk Solar Law for details on dimensional requirements; if there is a conflict between Schedule A of the Zoning Law and the Solar Law, the more stringent provisions apply.

Article XIV Section 52, Subsection C, of the Town of Mohawk Zoning Law is amended as follows:

1. Use Variances: The Zoning Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement this local law, shall have the power to grant use variances as defined herein. A use variance is defined as: The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

(a) No such variance shall be granted by a board from the decision or determination without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located (1) the applicant cannot realize a reasonable return provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not be self-created.

(b) In the event that the applicant is a public utility provider seeking a use variance for the siting or modification of a proposed public utility station or structure, no such variance shall be granted by a board from the decision or determination without a showing by the applicant that the denial of the variance would cause unnecessary hardship. In order to prove unnecessary hardship the public utility applicant shall demonstrate to the board of appeals that (1) siting a new facility or the modification or expansion of an existing facility is a public necessity that is required to render safe and adequate service; (2) there are compelling reasons, economic or otherwise, which make it more feasible to construct or modify the facility than to use alternatives such as may be provided by other facilities; and (3) the intrusion or burden on the community caused by the granting of the use variance is minimal.

(c) Further, in the event that a use variance is sought for the siting or modification of a public utility that is a wind, hydroelectric, Tier 2 battery/energy storage, or a Tier 3 or Tier 4 solar energy system project, in addition to the showing required in paragraph (b) above, the project must (1) maintain a minimum 500 foot setback from all property lines; (2) not be visible from any public roadway; (3) not be visible from any adjacent nonparticipating residences; and (4) follow all other applicable zoning laws; Battery Storage Local Law #1 of 2021 and Battery Storage Local Law #4 of 2023; and Solar Energy Local Law #1 of 2023. Said restrictions are to ensure the maintenance of the quality of life of the residents and rural character of the community as set forth in the Town of Mohawk Comprehensive Plan and in this Zoning Code.

The Zoning Board of Appeals, in granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

SECTION 4. Effective Period

This Local Law shall take effect immediately upon filing in the Office of the New York Secretary of State as provided in Municipal Home Rule Law § 27 or as otherwise provided by law.