1			
2	DRAFT – LAST UPDATED 2/24/25		
3	Town of Otsego		
4	Local Law of the Year 2025		
5	A Local Law Amending the Town of Otsego Land Use Law		
6	To Regulate Solar Energy Systems		
7	Working Draft Solar Energy Local Law – Endnotes to be deleted before final.		
8	Endnote		
9	Solar Energy Systems Local Law		
10	1. Authority		
11	This Solar Energy Local Law is adopted pursuant to sections 261-263 of the Town Law of the State of New York, which authorize the		
12	Town of Otsego, NY to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in		
13	accordance with the Town of Otsego, NY law of New York State, "to make provision for, so far as conditions may permit, the		
14	accommodation of Solar Energy Systems and equipment and access to sunlight necessary therefor."		
15	Endnote "		
16	2. Statement of Purpose		
17	This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of Town of Otsego, NY by		Commented [A1]: welfare, and especially the aesthetic
18	creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:		and historic rural character of the Town of Otsego, NY
19	1. To take advantage of a safe, abundant, renewable and non-polluting energy resource;		Commented [A2]: Advantage of an abundant and
20	2. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;		renewable energy source to the extent that it can be done in
21	3. To increase employment and business development in the Town of Otsego. NY, to the extent reasonably practical, by furthering		dependable installers and in ways that can contribute to and
22	the installation of Solar Energy Systems;	$\langle \cdot \rangle$	do not diminish the value and enjoyment of existing
23	A To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, aguifers forests		agricultural , residential or historic properties in existence before this solar law was adopted.
23	4. To intrigate the impacts of solar Energy systems on environmental resources such as important agricultural ands, aquiters, forests, wildlife and other protected resources; and		Commented [A2]: Where is the decisit ensure TO
25			residents get some \$\$ benefit
25	5. To create synergy between solar, agriculture, recreational, aestnetic, and residential use.		
26	2 Definitions		
20	S. Definitions		
27	which include production of cross livestock and livestock products – within the past five years	_	
20			of time shall be five years, rather than two as provided in
29	BALLERY ENERGY STORAGE SYSTEM: One or more devices, assembled together, capable of storing energy in order to supply		section 301 one of the Ag and Markets law.
30	electrical energy at a ruture time (not to include a stand-alone 12-voit tai battery of an electric motor venicle).		Commented [A5]: New definition Aquifer to be added
31	BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: A combination of Solar Panels and Solar Energy Equipment integrated into any		before Battery Energy A geologic formation that contains
32	building envelope system such as vertical facades, semitransparent skylight systems, rooting materials, or shading over windows on		water and can provide a usable amount of ground water to wells and public and private water systems. Aquifers for the
33	line 29 before Battery which produce electricity for onsite consumption.		purpose of this law shall be as shown on the Otsego County,
34	FACILITY AREA: The cumulative land area occupied during the commercial operation of the solar energy generating facility. This shall		New York GIS mapping system denoted as "principal
35	include all areas and equipment within the facility's perimeter boundary – including the solar energy system, onsite interconnection		aquifer."
36	equipment, onsite electrical energy storage equipment, and any other associated equipment – as well as any site improvements		
3/ 32	beyond the facility area shall not include site improvements established for impact mitigation purposes, including but not limited to uppote the		
39	buffers and landscaping features.		Commented [A6]: Why descrit the facility include site
40			improvements?
40 41	FAKIN UPEKATION: Land and on-farm buildings, equipment, facilities, and practices which contribute to the production, preparation,		
41	and marketing or crops, investock, and investock produces as a commercial enterprise (in accordance with Agriculture & Markets LdW 9		

Commented [A7]: After 301[11]: or such other section if Section 301 is re-numbered.

42

301[11]).

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

45 GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System which is secured to the ground via a pole, ballast system, or 46 other mounting system; is detached from any other structure; and which generates electricity for onsite or offsite consumption.

- 47 KILOWATT (kW): A unit of power equal to 1,000 watts. The nameplate capacity of residential and commercial solar energy systems
 48 may be described in terms of kW.
- 49 MEGAWATT (MW): A unit of power equal to 1,000 kW. The nameplate capacity of larger solar energy systems may be described in 50 terms of MW.

51 MINERAL SOIL GROUPS 1-4 (MSG 1-4): Soils recognized by the New York State (NYS) Department of Agriculture and Markets as 52 having the highest value based on soil productivity and capability, in accordance with the uniform statewide land classification 53 system developed for the NYS Agricultural Assessment Program.

NAMEPLATE CAPACITY: A solar energy system's maximum electric power output under optimal operating conditions. Nameplate
 Capacity may be expressed in terms of Alternating Current (AC) or Direct Current (DC).

- 56 NATIVE PERENNIAL VEGETATION: Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations
 57 for Pollinators and shall not include any prohibited or regulated invasive species as determined by the NYS Department of
- 58 Environmental Conservation.
- 59 ON-FARM SOLAR ENERGY SYSTEM: A Solar Energy System located on a farm which is a "farm operation" (as defined by Article 25-AA
- 60 of the Agriculture and Markets Law, which may include one or multiple contiguous or non-contiguous parcels) in an agricultural
- 61 district, which is designed, installed, and operated so that the anticipated annual total amounts of electrical energy generated do not 62 exceed more than 110 percent of the anticipated annual total electrical energy consumed by the farm operation.
- 63 POLLINATOR: Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed
 64 insects.
- 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.

67 Endnote III

- 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.
- 70 SOLAR ENERGY EQUIPMENT: Electrical material, hardware, inverters, conduit, energy storage devices, or other electrical and 71 photovoltaic equipment associated with the production and storage 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. A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy System as follows.
- 75 A. Tier 1 Solar Energy Systems include the following:
- 76 1. Roof-Mounted Solar Energy Systems.
- 77 2. Building-Integrated Solar Energy Systems.
- 78 3. Ground-Mounted Solar Energy Systems with a Nameplate Capacity of up to 25 kW AC
- 79 or
- 80 Ground-Mounted Solar Energy Systems with a total solar panel surface area of up to 4,000 square feet.
- 81 4. On-Farm Solar Energy Systems
- 82 B. Tier 2 Solar Energy Systems include the following:
- Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Nameplate Capacity of up to 1
 MW AC and which generate no more than 110% of the electricity consumed on the site over the previous 12 months

Commented [A8]: Need better definition for glare

85	or
86 87	Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Facility Area of up to 5 acres in size and which generate up to 110 % of the electricity consumed on the site over the previous 12 months.
88	C. Tier 3 Solar Energy Systems include the following:
89 90	Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Nameplate Capacity of up to 5 MW AC.
91	or
92 93	Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Facility Area of up to 40 acres in size.
94 95	D. Tier 4 Solar Energy Systems are Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems.
96	SOLAR PANEL: A photovoltaic (PV) device capable of collecting and converting solar energy into electricity.
97	
98	Endnote ^{IV}
99	
100	4. Applicability
101	A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town of Otsego,
102	NY after the effective date of this Local Law, excluding general maintenance and repair.

- B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the 103 requirements of this Local Law. 104
- C. Modifications to an existing Solar Energy System that increase the Facility Area by more than 5 % of the original Facility Area 105 106 (exclusive of moving any fencing) shall be subject to this Local Law.

Endnote V 107

5. General Requirements 108

- 109 A. A Building permit shall be required for installation of all Solar Energy Systems.
- 110 B. Prior to the issuance of the building permit or final approval by the Town of Otsego Planning Board, construction and/or site plan 111 documents must be signed and stamped by a NYS Licensed Professional Engineer or NYS Registered Architect.
- 112 C. Local land use boards are encouraged to condition their approval of proposed developments on sites adjacent to Solar Energy 113 Systems so as to protect their access to sufficient sunlight to remain economically feasible over time.
- D. Issuance of permits and approvals by the Town of Otsego Planning Board shall include review pursuant to the State Environmental 114 Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")]. 115

Endnote VI 116

- E. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry 117 118 standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Uniform Code"), the NYS Energy Conservation Code ("Energy Code"), and the Town of Otsego, NY Code. 119
- 120 F. For Solar Energy Systems subject to site plan review, the Town of Otsego, NY shall impose, and may update as appropriate, a
- schedule of fees to recover expenses associated with engineering, environmental, or legal services determined to be reasonably 121
- 122 necessary in the processing of an application under this law.

Commented [A9]: Replace with: a permit shall be required for installation of all solar energy systems. The type of permit required shall depend on the tier of the system. A zoning permit shall be required for a tier 1 system. A zoning permit and the approval of the planning board shall be required for Tiers 2 or 3.

123 124	o. rermitting kequirements for filer 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	Commented (A10), This and a million of the
125	zoning code or other land use regulations, subject to the following conditions for each type of Solar Energy Systems:	in some guard rails for Tier 1
126	A. Roof-Mounted Solar Energy Systems.	
127 128	 Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements (exceptions may be approved by the Town of Otsego Zoning Enforcement Officer: 	
129 130	a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface and the highest edge of the system.	Commented [A11]: We need to address the firefighters
131	b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.	actual needs. Are these measurements adequate as written . Check with John P and Ed H. IN Tier 1 an dTier 2.
132 133	c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.	
134 135	d. 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.	
136	2. Glare. All Solar Panels shall have anti-reflective coating(s).	
137	3. Height. All Roof-Mounted Solar Energy Systems shall comply with the height limitations in Appendix 3.	
138	and	
139 140	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.	
141	B. Building-Integrated Solar Energy Systems	
142 143	1. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.	Commented [A12]: What is a building integrated solar energy system? Do we need to include this statement.
144	C. Ground-Mounted Solar Energy Systems	
145	1. Glare. All Solar Panels shall have anti-reflective coating(s).	
146 147 148	Setbacks. Tier 1 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.	
149 150	Height. Tier 1 Solar Energy Systems shall be subject to the height limitations specified for accessory structures within the underlying zoning district.	
151	and	
152	Tier 1 Solar Energy Systems shall comply with the height limitations in Appendix 3.	
153 154	4. Lot Size. Tier 1 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.	
155	5. Lot coverage. Tier 1 Solar Energy Systems are not exempt from the lot coverage requirements in the underlying zoning district.	
156	6. Screening and Visibility.	
157 158	a. All Tier 1 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.	
159 160	b. 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.	
161	7. Permitting Requirements for Tier 2 Solar Energy Systems	
162 163 164	to site plan approval. Tier 2 Solar Energy Systems shall adhere to the standards and requirements established for Tier 1 Ground- Mounted Systems in Section [6(C)], in addition to (or in some cases amended by) the following requirements:	Commented [A13]: Are we permitting Tier 1 ground mounted solar energy systems in all zoning districts, including the Hamlet?

165 166	A. Application & Site Plan Review Requirements. Applications for Tier 2 Solar Energy Systems, including materials for site plan review, shall include the following:	
167 168	 Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit. 	Commented [A14]: Add details of company profile in a separate appendix - accountability and responsibility.
169 170	Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.	
171	3. Nameplate Capacity of the Solar Energy System (as expressed in kW or MW).	
172	4. Zoning district designation for the parcel(s) of land comprising the Facility Area.	
173	5. Property lines and physical features, including roads, for the project site.	
174	6. Adjacent land uses on contiguous parcels within a certain radius of the site boundary.	
175 176	7. Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.	
177 178 179 180 181	8. A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all Battery Energy Storage System components if applicable and should include applicable setback and other bulk and area standards.	
182 183 184	9. A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.	
185	B. Standards. Tier 2 Systems shall adhere to the following standards.	
186	1. Lot coverage. Tier 2 Solar Energy Systems are exempt from the lot coverage requirements in the underlying zoning district.	Commented [A15]: NO - why would we exempt them ?!
187 188 189	Screening/Visibility. Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.	Needs rewriting
190	3. Environmental Resources	
191	a. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.	
192 193	b. To the extent practicable, Tier 2 Solar Energy System Owners shall utilize and maintain native perennial vegetation to provide foraging habitat for pollinators in all appropriate areas within the Facility Area.	
194 195	c. Use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.	
196	Endnote ^{VII}	
197	8. Permitting Requirements for Tier 3 Solar Energy Systems	
198 100	All Tier 3 Solar Energy Systems are permitted through the issuance of a special use permit within the Residential Agricultural 1 and	Commented [A16]: Add details of company profile in a
200	A Applications for the installation of Tier 3 Solar Energy System shall be	Appendix 1
200 201 202	 Reviewed by the Planning Board for completeness. Applicants shall be advised within 45 days of the completeness of their application or any deficiencies that must be addressed prior to substantive review. 	

Endnote VIII

203

2. Subject to a public hearing to hear all comments for and against the application. This hearing shall be in compliance with all existing public hearing requirements established under law by the Town of Otsego, NY. 205

206 207	In addition to existing public notice requirements under local law, Applicants shall deliver notice by first class mail to adjoining landowners or landowners within 200 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be	Commented [A17]: 500 feet of the property
208	provided to the Town of Otsego Planning Board at the public hearing.	
209	Endnote ^{IX}	
210	3. Referred to the County Planning Department pursuant to General Municipal Law § 239-m if required.	
211 212 213	4. Upon closing of the public hearing, the Town of Otsego Planning Board shall take action on the application within 60-days of the public hearing, which can include approval, approval with conditions, or denial. The 60-day period may be extended upon consent by both the Town of Otsego Planning Board and applicant.	
214 215	B. Application & Site Plan Review Requirements. Applications for Tier 3 Solar Energy Systems, including materials for site plan review, shall include the following:	
216 217	 Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit. 	Commented [A18]: Add details of company profile in a separate appendix - accountability and responsibility.
218 219	Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.	Appendix 1
220	3. Nameplate Capacity of the Solar Energy System (as expressed in MW).	
221	4. Zoning district designation for the parcel(s) of land comprising the Facility Area.	
222	5. Property lines and physical features, including roads, for the project site.	
223	6. Map(s) of MSG 1-4 soils and Active Agriculture Lands on the parcel(s) comprising the Facility Area and adjacent parcels.	Commented [A19]: Otsego GIS map showing location of
224	7. Adjacent land uses on contiguous parcels within a certain radius of the site boundary.	nearest aquifers
225 226	Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.	Commented [A20]: What does certain radius mean ?
227 228	Erosion and sediment control and storm water management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.	
229 230 231 232 233	10. A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all Battery Energy Storage System components if applicable and should include applicable setback and other bulk and area standards.	
234 235 236	11. A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.	
237 238	12. A Property Operation and Maintenance Plan that describes continuing site maintenance, anticipated dual-use, and property upkeep, such as mowing and trimming.	
239	Endnote X	
240 241	13. A Decommissioning Plan [Appendix 4] signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant. The decommissioning plan shall address the following:	Commented [A21]: Appendix 4 will now be Appendix 5 because of addition of the new Appendix 1
242	a. The time required to decommission and remove the Solar Energy System and any ancillary structures.	
243 244	b. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.	
245 246	c. The cost of decommissioning and removing the Solar Energy System, as well as all necessary site remediation or restoration.	
247	d. The provision of a decommissioning security which shall adhere to the following requirements: 5	

248 249 250 251	 The deposit, executions, or filing with the Town of Otsego, NY Clerk of cash, bond, or other form of security reasonably acceptable to the Town of Otsego, NY attorney and/or supervisor, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal.
252 253 254 255	The amount of the bond or security shall be 115% of the cost of removal and site restoration for the Tier 3 Solar Energy System, and shall be revisited every 3 years and updated as needed to reflect any changes (due to inflation or other cost changes). The decommissioning amount shall be reduced by the amount of the estimated salvage value of the Solar Energy System.
256 257 258 259	2. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town of Otsego, NY, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
260	Endnote ^{XI}
261	Endnote XII
262 263	C. Special Use Permit Standards. Town of Otsego Planning Board may issue a special use permit for a Tier 3 Solar Energy System only after it has found that all the following standards and conditions have been satisfied:
264	Endnote XIII
265 266 267	 Underground Requirements. All utility lines located outside of the Facility Area shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right- of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
268 269	Vehicular Paths. Vehicular paths within the Facility Area shall be designed in compliance with Uniform Code requirements to ensure emergency access, while minimizing the extent of impervious materials and soil compaction.
270	3. Signage.
271 272 273	a. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet and incompliance with town sign law.
274 275 276	b. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
277	4. Glare. All Solar Panels shall have anti-reflective coating(s).
278 279	Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
280 281 282 283	6. Multiple lots. At the discretion of the Town of Otsego Planning Board, where a Tier 3 Solar Energy System's Facility Area comprises multiple lots (regardless of ownership by an individual or multiple participating landowners), the combined lots may be treated a single lot for the purposes of applying specific standards and requirements, including but not limited to lot size and setback requirements.
284	Endnote XIV
285 286	7. Lot size. The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements of the underlying zoning district.
287	and
288	The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements in Appendix 1.

The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements in Appendix 1.

289 290	 Setbacks. The Tier 3 Solar Energy Systems shall comply with the setback requirements of the underlying zoning district for principal structures. Fencing, collection lines, access roads and landscaping may occur within the setback.
291	and
292 293	The Tier 3 Solar Energy Systems shall meet the parcel line setback requirements in Appendix 2, Table 2.1. Fencing, collection lines, access roads and landscaping may occur within the setback.
294 295 296	9. Height. The Tier 3 Solar Energy Systems shall comply with the building height limitations for principal structures of the underlying zoning district. and
297 298	The Tier 3 Solar Energy Systems shall comply with the height limitations in Appendix 3 depending on the underlying zoning district.
299 300	a. This height requirement can be waived by the Town of Otsego Planning Board if the panels are being raised to accommodate continued or new agricultural purposes.
301	Endnote XV
302 303 304 305 306 307	 10. Lot coverage. Lot coverage of the Solar Energy System, as defined below, shall not exceed the maximum lot coverage requirement of the underlying zoning district. The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements: a. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars. b. All mechanical equipment of the Solar Energy System, including any pad mounted structure for Battery Energy
308	Storage System components, switchboards, or transformers.
310 311	Alternatively, the requirement below measures a system's lot coverage by Solar Panel square footage and requires that the system not exceed a maximum lot coverage requirement established specifically for Ground-Mounted Solar Energy Systems.
312 313	The Tier 3 Solar Energy System shall not exceed 60% of the lot where it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.
314 315	11. Fencing Requirements. All mechanical equipment, including any structure for Battery Energy Storage System components, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.
316	12. Screening and Visibility.
317 318 319	a. Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
320	b. Solar Energy Systems larger than 10 acres shall be required to:
321 322 323 324	 Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, shall be required to submitted by the applicant.
325 326 327	2. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.
328 329 330 331 332 333 334	i. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscaped screening shall be comprised of a minimum of 1 evergreen tree, at least 6 feet high at time of planning, plus 2 supplemental shrubs at the reasonable discretion of the Town of Otsego Planning Board, all planted within each 10 linear feet of the Solar Energy System. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. A list of suitable evergreen tree and shrub species should be provided by the Town of Otsego NV
554	anould be provided by the form of ordego, with

335	[OR] as we have no specific laws, the above probably makes sense
336 337 338	The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Town of Otsego, NY.
339 340 341	ii. The Town of Otsego Planning Board may elect to waive certain screening and landscaping requirements in select locations based on an applicant's demonstration of non-impact or impact mitigation on adjacent parcels.
342	Endnote ^{XVI}
343	13. Environmental Resources
344	a. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
345 346 347 348 349 350 351 352	b. Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing Native Perennial Vegetation and foraging habitat beneficial to game birds, songbirds, and Pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes and seed all appropriate areas within the Facility Area. Any project which is designed to incorporate agricultural or farm-related activities or uses within the Facility Area may be excluded from this requirement based on the amount of space actually occupied by the agricultural use(s). This exclusion will only be allowed based on the Town of Otsego Planning Board determination that these lands are being used for actual agricultural uses.
353 354	c. Use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.
355	Endnote XVII
356 357	14. Agricultural Resources. Tier 3 Solar Energy Systems for which the Facility Area includes lands consisting of MSG 1-4 shall adhere to the following requirements:
358 359	a. Tier 3 Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 50% of the area of MSG 1-4 within the Facility Area.
360 361 362	 A Tier 3 Solar Energy System may exceed the 50% MSG 1-4 coverage threshold if it incorporates an onsite activity or program which provides for the use of the land as a Farm Operation. Exceedance beyond the 50% threshold will only be allowed based on the Town of Otsego Planning Board's determination that the land is being used for a Farm Operation.
363 364 365	2. Subject to discretion of the Town of Otsego Planning Board, if the landowner demonstrates that – notwithstanding the classification as MSG 1-4 – the land cannot be profitably employed due to excessive wetness, rocky conditions or slopes, the land may be excluded from the calculation required by this section.
366 367 368	b. To the maximum extent practicable, Tier 3 Solar Energy Systems located on MSG 1-4 shall be constructed, monitored, and decommissioned in accordance with the NYS Department of Agriculture and Markets' "Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands."
369	Endnote XVIII
370 371 372 373	D. Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the decommissioning plan. A new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator within 30 days of the ownership change.

9. Permitting Requirements for Tier 4 Solar Energy Systems

All Tier 4 Solar Energy Systems are permitted through the issuance of a [special use permit] within the [again, like tier 3, maybe res ag

376 1 and 2] zoning districts, and are subject to the site plan and special use permit application requirements established for Tier 3 Solar

- 377 Energy Systems in Section 8, in addition to (or in some cases amended by) the following requirements:
- 378 A. Applications for Tier 4 Solar Energy Systems shall:

Be reviewed by the Town of Otsego Planning Board for completeness. Applicants shall be advised within 75 days of the
 completeness of their application or any deficiencies that must be addressed prior to substantive review.

381 B. Pre-Application Meeting.

At least 60 days prior to the submission of an application, the Applicant shall conduct a pre-application meeting with the Planning Board and Town Supervisor to ensure all parties have clear expectations regarding any Town requirements applicable to the proposed Solar Energy System. A written request for this purpose shall be sent to the Town Supervisor. Submission and review of the application shall not be delayed based on the failure of the Town Supervisor to respond in a timely manner to a properly filed meeting request.

At the pre-application meeting, the Applicant must provide (1) a brief description of the proposed facility and its environmental setting, (2) a map of the proposed facility showing project components, (3) the proposed facility's anticipated impacts, (4) a designated contact person with telephone number, email address, and mailing address from whom information will be available going-forward basis, and (5) an anticipated application submission date.

391 C. Endnote XIX

392 Community Engagement Plan.

Applications for a Tier 4 Solar Energy System shall include a Community Engagement Plan detailing the applicant's proposed plans and strategies for ensuring adequate public awareness and encouraging community participation. Applicants are highly encouraged to discuss the contents and details proposed in this plan with the Town of Otsego Town Board and Town Supervisor prior to the submission of a formal application.

397 Endnote XX

398 D. Special Use Permit Standards

- 3991. Setbacks: Tier 4 Solar Energy Systems shall meet all applicable parcel line and other setback requirements as outlined in400Appendix 2, Table 2.1. Fencing, collection lines, access roads and landscaping may occur within the setback.
- 401 2. Agricultural Resources: Tier 4 Solar Energy Systems for which the Facility Area includes Active Agricultural Lands shall adhere to
 402 the following requirements:
- 403 a. Tier 4 Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 50% of
 404 the Active Agricultural Lands within the Facility Area.
- A Tier 4 Solar Energy System may exceed the 50% Active Agricultural Land threshold if it incorporates an onsite
 activity or program which provides for the use of the land as a Farm Operation. Exceedance beyond the 50% threshold
 will only be allowed based on the Town of Otsego Planning Board's determination that the land is being used for a Farm
 Operation.
- b. To the maximum extent practicable, Tier 4 Solar Energy Systems located on Active Agricultural Lands shall be
 constructed, monitored, and decommissioned in accordance with the NYS Department of Agriculture and Markets'
 "Guidelines for Solar Energy Projects Construction Mitigation for Agricultural Lands."

412 10. Safety

- A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as
 required.
- B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be
 maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is
 located in an ambulance district, the local ambulance corps.
- 418 C. If a Battery Energy Storage System is 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 Town of Otsego, NY and any applicable federal, state, or county laws or regulations.

D. Where deemed necessary by the Town of Otsego Planning Board, the Applicant shall ensure emergency access to the Facility Area
 for local first responders by installing an emergency lock box or similar device, in a location subject to approval by the Fire Chief of
 the respective fire district.

424 11. Permit Timeframe and Abandonment

425 A. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 36 months, provided that [a

426 building permit is issued for construction OR construction is commenced]. In the event construction is not completed in

427 accordance with the final site plan – as may have been amended and approved – as required by the Town of Otsego Planning
 428 Board, within 36 months, the applicant may request to extend the time to complete construction for 12 months. Approval of a

Board, within 36 months, the applicant may request to extend the time to complete construction for 12 months. Approval of a request to extend the time to complete construction shall not be unreasonably withheld by the Town of Otsego, NY. If the owner

430 and/or operator fails to perform substantial construction within 48 months, the approvals shall expire.

- B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town of Otsego, NY
 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 12 months of notification.
- C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of Otsego, NY 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.

437 Endnote XXI

438 12. 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 Town of Otsego, NY and New York State.

441 Endnote XXII

442 13. 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.

447 **2.1 Appendix 1**: Lot Size, Setback and Height Requirements

448

					TIER 1			
Zoning Di	istricts	Lot	Lot	Setback	Setback min	Setback min	Max roof	Max
		size min	Coverage	min.	side yard	read yard	mounted	ground
			Max	From			height	mounted
				road				height
				center				
2.03 Residentia	al-	3 acres		60 ft.	30 ft	35 ft	40 ft	15 ft
Agricultural 1 ((RA1)		-		Each side			
2.03 Residentia	al-	3 acres		60 ft	30 ft	35 ft	40 ft	15 ft
Agricultural 2 ((RA2)		-		Each side			
2.04 Hamlet R	esidential	1 acre		60 ft	20 ft	30 ft	30 ft	10 ft
(H-R)			-		Each side			
2.05 Hamlet B	usiness	1 acre	-	60 ft	15 ft	30 feet	35 ft	10 ft
(H-B)					Each side			
2.06 General P	Business 1	10,000 sq		20 ft	25 ft from res	25 ft from res	35 ft.	15 ft
(GB-1)		ft (cen	70%	from	or agric	or agric		
		sewr/H20)		State	properties	properties		
		20,000 sq		R.O.W.	10 ft. from	10 ft. from		
		ft			Comm. prop.	Comm. prop.		

Commented [A22]: New Appendix 1 will be the company profile, so following appendices will have to be renumbered.:

• Company Overview p. 211

o Provide a document with the following company

information.

n Year founded and number of continuous years in business n Ownership status (public or private company, LLC, LLP, S-Corp, Sole Proprietor)

n Federal Tax Identification Number

n Corporate & Local Office location

n Number of employees in corporate & local office at time of submittal **212**

n Your firm's Experience Modification Rate (EMR) for each of the past three years and your firm's OSHA ratings (Recordable Incidence Rates and Lost Workday Incident Rates) for the past three years

n A description of any ongoing or previous litigation your firm has been involved in and a statement that the Respondent is not debarred, suspended or otherwise probibited from practice by any federal state, or local

prohibited from practice by any federal, state, or local agency

Project Team

o Provide information about the key personnel to be assigned to this project.

n Project Team organizational chart including all key personnel and their proposed roles

n Provide resumes, in an appendix, for all key personnel that will be assigned to this project

n Provide evidence of all relevant licenses held by your firm to do work in New York State, attach list and copies of documents as an appendix

References

o Provide references for at least <u>three</u> completed and currently operating non-residential grid-connected PV systems, with preference towards <u>New York municipalities</u> <u>and landfill or brownfield projects</u>. Include the following information:

n Location and Utility Company name

n System size (kW DC)

n Metering Type (Remote Net Metering, Community

Distributed Solar, Onsite) n Date completed

n Host Customer and/or Owner contract information (name, email, address, phone)

Project Development Experience

o Provide the total number of megawatts of solar PV your firm has constructed over the last five (5) years.

o Provide the total number of megawatts of solar PV your

firm has constructed over the last five (5) years in New York. o Provide total number of megawatts and projects of solar

PV your firm has constructed on landfills and brownfields.

o Detail the types of customers your firm has worked with in the past (for example, residential, commercial nonprofit, or

government). o Describe your firm's implementation of PV construction

standards and other safety measures.

o Provide the number of operational PV systems under your firm's management.

• Project Financing Capability

o Provide number of PV systems that have been financed by you and/or your financing partner.

o Provide most recent audited financial statements, annual reports, consolidated financials, and Form 10-K (if any) [1]

2.07 General Business 2 (GB-2)	(No cen sewr/H20) 1 Acre w/out cent h20 or sewer; 20,000 sq ft with cent h20 or sewer (unless specified otherwise)	70%	20 ft. from center of the road	As long as no violations of NYSUFP&BC 25 ft from res or agric properties 10 ft. from Comm. prop. As long as no violations of NYSUFP&BC	As long as no violations of NYSUFP&BC 25 ft from res or agric properties 10 ft. from Comm. prop. As long as no violations of NYSUFP&BC	40 ft.	15 ft
2.08 R/E	10 acres		20 ft	15	25 ft	50 ft.	15 ft
Recreational/Educational				Each side			
4.04 Section 4.04 Otsego	Special rule	s apply in th	is overlay zo	ne. Covers an are	ea up to 500 ft fro	m the Otsego	lake shore
and Canadarago Lake	and Canadarago Lake and 100 ft from any tributaries.						
Protection Area							

4	5	1
	-	-

				TIER 2			
Zoning Districts	Lot size	Lot	Setback	Setback min	Setback min	Max roof	Max
_	min	Coverage	min.	side yard	read yard	mounted	ground
		Max	From	-		height	mounted
			road			_	height
			center				
2.03 Residential-	3 acres		60 ft.	30 ft	35 ft	40 ft	15 ft
Agricultural 1 (RA1)		-		Each side			
2.03 Residential-	3 acres		60 ft	30 ft	35 ft	40 ft	15 ft
Agricultural 2 (RA2)		-		Each side			
2.04 Hamlet Residential	1 acre		60 ft	20 ft	30 ft	30 ft	10 ft
(H-R)		-		Each side			
2.05 Hamlet Business	1 acre	-	60 ft	15 ft	30 feet	35 ft	10 ft
(H-B)				Each side			
2.06 General Business 1	10,000 sq		20 ft	25 ft from res	25 ft from res	35 ft.	15 ft
(GB-1)	ft (cen	70%	from	or agric	or agric		
	sewr/H20)		State	properties	properties		
	20,000 sq		R.O.W.	10 ft. from	10 ft. from		
	ft			Comm. prop.	Comm. prop.		
	(No cen			As long as no	As long as no		
	sewr/H20)			violations of	violations of		
				NYSUFP&BC	NYSUFP&BC		
2.07 General Business 2	1 Acre		20 ft.	25 ft from res	25 ft from res	40 ft.	15 ft
(GB-2)	w/out cent	70%	from	or agric	or agric		
	h20 or		center of	properties	properties		
	sewer;		the road	10 ft. from	10 ft. from		
	ft with cent			Comm. prop.	Comm. prop.		
	h20 or			As long as no	As long as no		
	sewer			violations of	violations of		
	(unless			NYSUFP&BC	NYSUFP&BC		
	specified						
	otherwise)						
2.08 R/E	10 acres		20 ft	15	25 ft	50 ft.	15 ft
Recreational/Educational				Each side			
4.04 Section 4.04 Otsego	Special rule	es apply in th	iis overlay zo	one. Covers an ar	ea up to 500 ft fro	om the Otse	30 lake shore
and Canadarago Lake	1		and	1 100 ft from any	tributaries.		
Protection Area							

				TIER 3			
Zoning Districts	Lot size min	Lot Coverage Max	Setback min. From road center	Setback min side yard	Setback min read yard	Max roof mounted height	Max ground mounted height
2.03 Residential-	3 acres		250 ft.	100 ft	100 ft	40 ft	20 ft
Agricultural 1 (RA1)		-		Each side			
2.03 Residential-	3 acres		250 ft	100 ft	100 ft	40 ft	20 ft
Agricultural 2 (RA2)		-		Each side			
2.04 Hamlet Residential	1 acre		250 ft	100 ft	100 ft	30 ft	15 ft
(H-R)		-		Each side			
2.05 Hamlet Business	1 acre	-	250 ft	100 ft	100 feet	35 ft	15 ft
(H-B)				Each side			
2.06 General Business 1	10,000 sq		250 ft	100 ft from	100 ft from	35 ft.	20 ft
(GB-1)	ft (cen	70%	State	res or agric	res or agric		
	sewr/H20)		R.O.W.	properties	properties		
	20,000 sq			100 ft. from	100 ft. from		
	ft			Comm. prop.	Comm. prop.		

2.07 General Business 2 (GB-2)	(No cen sewr/H20) 1 Acre w/out cent h20 or sewer; 20,000 sq ft with cent h20 or sewer (unless specified otherwise)	70%	250 ft. from center of the road	As long as no violations of NYSUFP&BC 100 ft from res or agric properties 100 ft. from Comm. prop. As long as no violations of NYSUFP&BC	As long as no violations of NYSUFP&BC 100 ft from res or agric properties 100 ft. from Comm. prop. As long as no violations of NYSUFP&BC	40 ft.	20 ft
2.08 R/E	10 acres		250 ft	100	100 ft	50 ft.	20 ft
Recreational/Educational				Lach side			
4.04 Section 4.04 Otsego	Special rule	es apply in th	iis overlay zo	one. Covers an ar	ea up to 500 ft fro	om the Otseg	30 lake shore
and Canadarago Lake			and	1 100 ft from any	ributaries.		
Protection Area							

45r	
730	

					TIER 4			
Zoning	Districts	Lot size	Lot	Setback	Setback min	Setback min	Max roof	Max
		min	Coverage	min.	side yard	read yard	mounted	ground
			Max	From			height	mounted
				road				height
				center				
2.03 Residen	ntial-	3 acres		250 ft.	100 ft	100 ft	40 ft	20 ft
Agricultural	1 (RA1)		-		Each side			
2.03 Residen	ntial-	3 acres		250 ft	100 ft	100 ft	40 ft	20 ft
Agricultural	2 (RA2)		-		Each side			
2.04 Hamlet	Residential	1 acre		250 ft	100 ft	100 ft	30 ft	15 ft
(H-R)			-		Each side			
2.05 Hamlet	Business	1 acre	-	250 ft	100 ft	100 feet	35 ft	15 ft
(H-B)					Each side			
2.06 General	l Business 1	10,000 sq		250 ft	100 ft from	100 ft from	35 ft.	20 ft
(GB-1)		ft (cen	70%	from	res or agric	res or agric		
		sewr/H20)		State	properties	properties		
		20,000 sq		R.O.W.	100 ft. from	100 ft. from		
		ft			Comm. prop.	Comm. prop.		
		(No cen			As long as no	As long as no		
		sewr/H20)			violations of	violations of		
					NYSUFP&BC	NYSUFP&BC		
2.07 General	l Business 2	1 Acre		250 ft.	100 ft from	100 ft from	40 ft.	20 ft
(GB-2)		w/out cent	70%	from	res or agric	res or agric		
		h20 or		center of	properties	properties		
		sewer;		the road	100 ft. from	100 ft. from		
		ft with cent			Comm. prop.	Comm. prop.		
		h20 or			As long as no	As long as no		
		sewer			violations of	violations of		
		(unless			NYSUFP&BC	NYSUFP&BC		
		specified						
		otherwise)						
2.08 R/E		10 acres		250 ft	100	100 ft	50 ft.	20 ft
Recreational	/Educational				Each side			
4.04 Section	4.04 Otsego	Special rule	es apply in th	is overlay z	one. Covers an ar	ea up to 500 ft fro	om the Otseş	go lake shore
and Canadara	go Lake			ano	1 100 ft from any	tributaries.		
Protection Are	ea	1						

458 **2.4 Appendix 4: Example Decommissioning Plan**

459 Date: [Date]

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

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

- 462 As required by Town of Otsego, NY, [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the 463 "Facility").
- 464 System decommissioning shall be required as a result of any of the following conditions:
- 465 1. The land lease if any ends, unless the project owner has acquired the land.
- 466 2. The Solar Energy System ceases to generate electricity on a continuous basis for 12 months.
- 467 3. The Solar Energy System is damaged and will not be repaired or replaced by [Solar Developer Owner].
- 468 If any of the above conditions are met, and upon notification or instruction by the Town of Otsego, NY, [Solar Developer Name] shall
- 469 implement this decommissioning plan. System decommissioning and removal, as well as all necessary site restoration or remediation
 470 activities, shall be completed within 12 months.

471 472 473	The owner of the Facility, as provided for in its lease with the landowner, and in accordance with the requirements of the Town of Otsego, NY zoning law, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which shall include the following:
474 475 476 477 478 479 480 481 482 483	 Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations located less than 36-inches below the soil surface, and/or less than 48-inches below the soil surface in areas consisting of [Mineral Soil Groups (MSG) 1-4 and/or Active Agricultural Lands]. For projects located on areas consisting of [MSG 1-4 and/or Active Agricultural Lands], removal of all operator owned equipment, concrete, conduits, structures, fencing, and foundations in accordance with the decommissioning requirements contained in the NYS Department of Agriculture and Markets' "Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands." Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain
484 485	An appendix is included in this plan to provide a project schedule detailing a breakdown of tasks required for the decommissioning removal of the system, including:
486 487 488 489 490	 Time required to decommission and remove the system and any ancillary structures. Time required to repair any damage caused to the property by the installation and removal of the system. The cost of system decommissioning and removal, as well as all necessary site remediation and restoration activities, is estimated to be \$[XXX] as of the date and time this application is filed. A decommissioning security has been OR will be executed in the amount of 115% of the cost of system decommissioning, removal, and site restoration.
491 492	This cost estimate and decommissioning surety will be revisited every 3 years and updated as needed to account for inflation or other cost changes.
493	The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

Facility Owner Signature:

_ Date:_

496 END NOTES

The full 245 page NYSERDA solar guidebook is available at: https://www.nyserda.ny.gov/-/media/Project/Nyserda/Files/Programs/NY-Sun/2023-Solar-Guidebook.pdf The model solar law begins on page 179 of the pdf.

Endnote 1: The Model Solar Energy Local Law can be found on the following page and at www.nyserda.ny.gov/SolarGuidebook, under the Model Solar Energy Local Law tab. A workable version of this document can also be found online at the above website. a. This Model Solar Energy Local Law (Model Law) is not intended for adoption exactly as it is written. It is intended to be advisory only, and users should not rely upon it as legal advice. A municipality is not required to adopt this Model Law. Municipal officials are urged to seek legal advice from their attorneys before enacting a solar energy law. Municipalities must carefully consider how the Model Law language may be modified to suit local conditions, their comprehensive plan, and existing zoning and land use regulations and zoning provisions.

b. The sole siting authority for solar projects under 20 megawatts (MW) resides at the local level rather than the state level; siting authority for solar projects between 20-25 MW may be subject to decision by the applicant. One purpose of this Model Law is to inform and facilitate local efforts to expand solar energy generation in a sustainable way. This Model Law regulates the installation, operation, maintenance, and decommissioning of solar energy systems. The Model Law is intended to be an "all-inclusive" ordinance that facilitates a thorough review of all aspects of solar energy systems under typical zoning and land use regulations, including the State Environmental Quality Review Act. As they review this Model Law, municipalities are encouraged to examine their local laws and regulations and the types, size and number of solar energy projects proposed. Local governments should adopt a local law that regulates solar energy development in a way that makes the most sense for each municipality, removing, modifying, or adding provisions as appropriate.

c. In some cases, there may be multiple approaches to regulating solar energy systems based on certain criteria or local preferences. Throughout the Model Law text, "[OR]" has been selectively placed to indicate considerations for which a municipality should evaluate multiple approaches, before selecting a preferred strategy. Municipalities should choose the options which work best for their communities, in consultation with appropriate municipal officials and staff. The content provided in brackets and highlighted may be customizable or optional; depending on local circumstances, a municipality may want to include this content or choose to adopt a different standard.

d. Other zoning code definitions, uses, and regulations should be reviewed to identify any conflict with the provisions of this Model Law. For example, municipalities should amend any zoning provision that prevents an accessory use from existing on an accessory structure, which the Model Law allows. If a municipality's zoning code defines or limits the use of the term "subordinate," in a way that conflicts with the Model Law's definitions, the municipality should amend the Model Law to state that it preempts the more restrictive definition. Some local zoning laws prohibit accessory structures on other accessory uses, which this Model Law allows. One solution to this and the other conflicts noted here is to amend the zoning definition for solar accessory uses to clarify that they are allowed despite restrictive definitions of "subordinate" or the prohibition of accessory uses to accessory buildings.

^{II}Endnote 2: Municipalities are specifically authorized to adopt legislation to accommodate Solar Energy Systems and equipment. The Model Law Authority Section references this delegated authority. The municipal attorney should be consulted regarding this Section as well as the Model Solar Energy Law in its totality.

^{III} **Endnote 3:** This Model Law does not include a specific definition for Solar Energy Systems raised on canopy mounting, such as a solar parking canopy. Canopy-mounted configurations are included within the definition of Roof-Mounted Solar Energy Systems or Ground-Mounted Solar Energy Systems, depending on canopy location. Canopy-mounted systems installed on the roof of a structure are treated as Roof-Mounted Solar Energy Systems. Elevated systems not mounted on a roof are treated as Ground-Mounted Solar Energy Systems. If a municipality anticipates requiring special consideration for solar canopy systems, it could add to the Model Law specific provisions addressing these concerns or use a waiver for certain standards that may conflict with canopy-mounted systems, like height limitations.

^{IV} Endnote 4: It is imperative that municipalities consider the practical land use impacts of different solar project types when establishing definitions and thresholds for Solar Energy System tiers. Where indicated in the Solar Energy Systems definition, municipalities shall elect to establish thresholds based on a systems' Nameplate Capacity (using kW and MW) OR its physical footprint (using square feet or acres), and should be consistent in this choice throughout. These definitions will be critical to the workability of the remaining sections of any solar regulation.

As defined above, NYSERDA's Model Solar Energy Local Law utilizes four tiers:

Tier 1 Solar Energy Systems include all Roof-Mounted and Building-Integrated Solar Energy Systems; GroundMounted Solar Energy Systems with a Namplate Capacity up to 25 kW AC, or with a total Solar Panel surface area of up to 4,000 square feet; and On-Farm Solar Energy Systems designed to support an existing agricultural operation in the community. Permitted in all zoning districts, Tier 1 Solar Energy Systems comprise those which are likely to cause the least concern from a zoning and land use perspective. These systems will primarily support residences and small commercial operations, or may directly support agricultural operations.

Roof-Mounted and Building-Integrated Solar Energy Systems do not pose any land use or stormwater runoff impacts; as such, their inclusion under Tier 1 offers a streamlined permitting process while still ensuring adequate review and code compliance through a building permit requirement.

For Ground-Mounted Systems, the 25 kW AC Nameplate Capacity limit aligns with the Unified Solar Permit criteria; derived from the 25 kW cutoff for residential solar net metering as established by the NYS Public Service Commission (PSC). The 4,000 square foot size limit corresponds to the SEQRA Type 2 action threshold for certain accessory structures which do not require zoning changes or use variances.

Finally, On-Farm Solar Energy Systems are included under Tier 1 because, in accordance with NYS Agriculture and Markets Law Chapter 69, Article 25-AA Section 305-a and related guidance, these systems cannot be subject to unreasonably restrictive requirements such as site plan review, special use permits, or non-conforming use requirements.

See Guidelines for Review of Local Laws Affecting Small Wind Energy Production Facilities and Solar Devices, available at https://agriculture.ny.gov/system/files/documents/2019/11/guidelines_for_solar_and_small_wind_energy_facilities.pdf.

Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems larger than 25 kW that primarily use the electricity generated from the system on-site. Tier 2 Ground-Mounted Solar Energy Systems have a Nameplate Capacity of up to 1 MW AC or a Facility Area of up to 5 acres, and generate no more than 110% of the electricity consumed on-site over the previous 12 months.

A municipality may elect to define Tier 2 Solar Energy Systems according to their physical size using measurements akin to those found in the zoning ordinance's bulk and area requirements (measured in acres, square feet etc.), or based on system Nameplate Capacity. Because Tier 2 Solar Energy Systems are tied to existing development as accessory structures subordinate to the principal use on-site, these systems have smaller impacts and require less oversight.

Tier 3 Solar Energy Systems are larger principal uses with greater impacts that require more oversight. Tier 3 systems are those not included in Tier 1 or Tier 2 Solar Energy Systems that have a Nameplate Capacity of up to 5 MW AC or a Facility Area of up to 40 acres in size, depending on the threshold type selected by the municipality.

The 5 MW cutoff derives from the NYS Standardized Interconnection Requirements (SIR) as established by the NYS PSC. Because solar energy systems typically occupy 5-8 acres per megawatt, a 40-acre cutoff utilizes a conservative estimate of the land needed for a 5 MW project, while allowing for some flexibility in terms of planning and project design.

Tier 4 Solar Energy Systems are large-scale systems that are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems.

Tier 4 Solar Energy Systems include all projects subject to the state-level siting process administered by the Office of Renewable Energy Siting (ORES); this extends to all new solar projects with a Nameplate Capacity of 25 MW or greater, as well as new solar projects between 20-25 MW which elect to seek a permit through ORES.

^v Endnote 5 : The Applicability Section establishes the effective date for implementation of the law. In addition, it carves out an exemption for maintenance, repair of systems, and modifications to existing Solar Energy Systems with an increase in Facility Area less than 5% of the original Facility Area (exclusive of moving any fencing).

^{VI} Endnote 6: The Solar Guidebook provides an overview of the SEQRA process and instructions for solar energy projects. Access the Solar Guidebook at <u>www.nyserda.ny.gov/SolarGuidebook</u>.

V^{II} Endnote 7: The previous Sections regulate Tier 1 and Tier 2 Ground-Mounted Solar Energy Systems. Tier 1 Ground Mounted Solar Energy Systems are relatively smaller in physical size compared to Tier 2 Ground-Mounted Solar Energy Systems. Tier 2 Ground-Mounted Solar Energy Systems. Tier 2 Ground-Mounted Solar Energy Systems are permitted as accessory structures in all zoning districts deemed appropriate by the local jurisdiction and do not require site plan review. Tier 1 and Tier 2 Ground-Mounted Solar Energy Systems are standalone structures and generate different concerns than roof-mounted installations. Because these system sizes are not limited to a structure's available roof space, it is important to think about the size of the lot in relation to the allowable system size, after accounting for setbacks. The Model Law requires all Tier 1 and Tier 2

Ground-Mounted Solar Energy Systems to be subject to the setback requirements of the underlying zoning district.

The Model Law provides two options to regulate the height of Tier 1 and Tier 2 Ground-Mounted Solar Energy Systems. One way is to limit the height of Ground-Mounted Solar Energy Systems to the requirements in the underlying zoning district. Each municipality must adopt appropriate height restrictions based on local need. Alternatively, municipalities can specify a set of new height standards, as shown in Appendix 3. All height measurements should be calculated when the Solar Energy System is oriented at maximum tilt.

This Model Law includes specific screening and visibility standards for Tier 1 and Tier 2 Ground-Mounted Solar Energy Systems while limiting the enforcement to "the extent reasonably practicable" to avoid overly burdensome standards.

^{©VIII} Endnote 8: Municipalities are encouraged to consider and establish a reasonable period for determining the completeness of a Solar Energy System permit application, which may be shaped by factors including:

• Availability and capacity of the Reviewing Board and/or municipal officials tasked with reviewing applications.

• Cadence of Reviewing Board meetings; if meetings are held monthly, a 30-day review period may be necessary to allow the Board to issue a completeness determination.

• Supplemental review and support services provided by a consultant or third-party.

^{IX} Endnote 9: State law requires a public hearing and decision on special use permits but does not require notice to neighbors unless mandated under local law. If not already required by local law, localities may elect to require the following notice for proposed Tier 3 Solar Energy Systems to ensure adequate notice to adjoining landowners by adding the above provision.

^x Endnote 10: In addition to long-term maintenance, the Operation and Maintenance Plan should present plans for dual-use on the site, including the crops that will be produced and a project-specific strategic grazing management plan of 3-to-7-year duration for the class(es) of livestock intended for the solar project. The grazing management plan should address herd size, forage availability, time of year, acreage to be grazed, weather conditions, and producer requirements. The Operation and Maintenance Plan should also place restrictions on the use of fertilizer or herbicide for long-term operation and site maintenance and should provide for scheduled upkeep of screening vegetation planted as part of the screening and visual impact mitigation plan.

X¹ Endnote 11: Decommissioning is the process of removing an abandoned Solar Energy System and remediating the land. When describing requirements for decommissioning Solar Energy Systems, it is possible to specifically require the removal of infrastructure, disposal of any components, and the stabilization and re-vegetation of the site. A decommissioning plan is required for Tier 3 Solar Energy Systems. It is important to note that despite many municipalities' choice to require a financial mechanism for decommissioning, there is no specific authority to do so as part of a land use approval for solar PV projects. Therefore, a municipality should consult the municipal attorney when evaluating financial mechanisms.

For additional resources, please refer to NYSERDA's Fact Sheet on Decommissioning Solar Panel Systems, available at <u>nyserda.ny.gov/SolarGuidebook</u>.

X^{II} Endnote 12 : It is important for municipalities to consider consolidating application reviews and approvals for Solar Energy Systems in one board. In some communities, the local zoning law may allocate responsibilities for special use permits and site plan approvals to different boards. Moving the application back and forth between two boards can add months and unnecessary costs to the Solar Energy System.

To avoid this, the community should determine which board should be primarily responsible for Solar Energy System approvals and consolidate special use permit and site plan approval thereby adding the following language to the Model Law: "All site plan and special use permit approvals for Solar Energy Systems shall be the responsibility of the Reviewing Board in order to avoid delays in the review of Solar Energy System applications."

Including specific requirements for site plan approval ensures that potential problems are addressed in the initial stages of the project. Municipalities can modify the list of required information to meet local needs as appropriate.

X^{III} Endnote 13: Municipalities may elect to include waiver provisions that provide flexibility for the Reviewing Board, in its discretion, to waive certain requirements for Solar Energy Systems which: (1) are harmonious with existing land uses where proposed, and/or (2) based on system size or other considerations, need not adhere to the law's special use permit and site plan regulations. In some cases, the waiver may be partial, allowing the Reviewing Board to require a proposed Solar Energy System to comply with individual requirements in the law or to remove certain special use permit standards, such as required fencing, for smaller projects or other situations where the community deems these standards unnecessary.

^{XIV} Endnote 14 : Tier 3 and Tier 4 Solar Energy Systems may include multiple lots within the Facility Area. To avoid project fragmentation, and to encourage responsible project density, the Reviewing Board may elect to treat adjacent participating lots as a single lot when applying select bulk and area standards, such as setbacks or lot size requirements.

This approach may help minimize visual and cumulative land-use impacts by consolidating a project's footprint, minimizing project fragmentation throughout the community, and preventing accidental marginalization of lands in the Facility Area.

^{XV} Endnote 15: Since Ground-Mounted Solar Energy Systems generally do not include much impervious surface and since lot coverage requirements are designed, in large part, to reduce impervious surfaces and associated stormwater runoff, this Model Law exempts Ground-Mounted Solar Energy Systems from lot coverage requirements. Ground-Mounted Solar Energy Systems are distinct from other uses, such as buildings or sheds, because stormwater generally will continue to infiltrate the uncompacted and vegetated ground beneath them. The setback, environmental, and agricultural requirements contained in the Model Law address issues related to stormwater runoff from Ground-Mounted Solar Energy Systems, and both the construction and operation of large Ground-Mounted Solar Energy Systems will be subject to applicable State requirements around erosion, sediment control and stormwater management requirements.

Municipalities which prefer not to waive lot coverage requirements for Ground-Mounted Solar Energy Systems can adopt more flexible lot coverage requirements that allow the Reviewing Board to limit issues related to fragmentation and the need to utilize large parcels of land for projects. The model language below requires that the Solar Energy System not exceed the maximum lot coverage requirement of the underlying zoning district but calculates lot coverage for a GroundMounted Solar Energy System by its actual impervious footprint, which results in a smaller measurement than the square footage of the Solar Panels.

^{XVI} Endnote 16: In general, municipalities should think through how helpful SEQRA can be in mitigating adverse impacts of any proposed system approved through a special use permit under this Section. When determining the appropriate SEQRA

classification for a solar energy facility, municipalities shall consider a variety of tangible impacts which may be associated with the project, including the cumulative acreage of land disturbed by grading, road construction, racking system installation, and other activities.

For Tier 3 Solar Energy Systems which occupy fewer than 10 acres (considered Unlisted Actions in SEQR, except for systems in agricultural districts with a solar-panel surface area larger than 2.5 acres), this Model Law limits the enforcement of screening and visibility standards to "the extent reasonably practicable" to avoid overly burdensome standards.

For Tier 3 Solar Energy Systems which occupy greater than 10 acres (considered Type I Actions in SEQR), a visual impact assessment may be required by the Reviewing Board. If so, the visual impact assessment prepared for compliance with SEQRA could also be used to analyze visual impacts on public roadways and adjacent properties in compliance with requirements under the Model Law.

For additional resources, please refer to NY-Sun's "State Environmental Quality Review (SEQR) for Solar," available at <u>nyserda.ny.gov/SolarGuidebook</u>.

^{XVII} **Endnote 17**: Pollinators (birds, bats, bees, butterflies, moths, beetles, and multiple other species of insects) are critical to agricultural yield in the U.S. Some solar facilities are starting to use seed mixes of native grasses and Pollinator friendly flowering plants as ground cover in solar farms. By establishing native Pollinator habitats on solar farms, it is possible to reconcile the conflict between solar farms and agricultural land use. Below are multiple recommended approaches that can be used for creating Pollinator habitat on solar farms:

• Plant short-growing, low-maintenance, native seed mix underneath and around the panels;

• Plant a diverse Pollinator seed mix in between the rows of panels;

• Plant buffers with vegetation that benefit Pollinators and early successional species; Plant native shrubs along the property boundary;

• Specify a minimum number of species of native flowers (encouraged to include species for each bloom period) and native grass species.

^{XVIII} **Endnote 18:** For more information about solar and agriculture, including dual-use approaches and relevant NYS programs, please refer to the 'Solar Installations on Agricultural Lands' section of the Solar Guidebook, available at: www.nyserda.ny.gov/SolarGuidebook.

MSG 1-4 include the highest quality soils in New York based on soil productivity and capability, as identified by the NYS Department of Agriculture and Markets. The agricultural protection standards and requirements included in this Model Law are designed to align with this soil categorization methodology, which is already utilized by NYS agencies including the NYS Department of Agriculture and Markets, NYSERDA, ORES, and the NYS Department of Taxation and Finance.

Other optional approaches for addressing agriculture include:

- Adding a provision that requires any Tier 3 Solar Energy System located on Active Agricultural Land to not exceed 75% of the area of Active Agricultural Land within the Facility Area.
- Utilizing "Prime Farmland" and "Farmland of Statewide Importance" as the basis for agricultural protection standards included under local regulations, rather than MSG 1-4.
- Rather than cross referencing to the construction requirements of the NYS Department of Agriculture and Markets, consider directly adding select priority construction requirements to the law. For more details, please refer to NYS Department of Agriculture and Market's Guidelines for Agricultural Mitigation for Solar Energy Projects, available at https://agriculture.ny.gov/system/files/documents/2019/10/solar_energy_guidelines.pdf.
- Adding a provision that permits the Reviewing Board to waive or modify certain bulk and area standards that result in unintended consequences. Waiving those standards better protects agriculture and promotes continued agricultural use and alternative designs that protect more land.

In drafting and evaluating solar regulations, coordinate with local/county/regional agricultural preservation board(s) as appropriate to provide an opportunity for ideation and feedback regarding agricultural land impacts. As with other external referral processes, consider establishing clear expectations and timelines to avoid delays.

^{XIX} Endnote 19: The pre-application meeting requirement is intended to align with procedural requirements applicable to major renewable energy facilities, as permitted by ORES; this requirement is outlined in 19 NYCRR § 900-1.3 and available at https://ores.ny.gov/system/files/documents/2021/03/chapter-xviii-title-19-of-nycrr-part-900-subparts-900-1through-900-15.pdf.

^{XX} Endnote 20: Community Engagement Plans are also required for facilities that produce TIER 1 Eligible Renewable Energy Certificates in the New York Generation Attribute Tracking System (NYGATS). These facilities must meet the Community Engagement Plan criteria outlined in the Step Two Bid Proposal requirements for NYSERDA's Request for Proposals for TIER 1 Eligible Renewable Energy Certificates, available at <u>https://www.nyserda.ny.gov/All-Programs/cleanenergy-</u> standard/renewable-generators-and-developers/res-tier-one-eligibility/solicitations-for-long-term-contracts.

Consistent with those criteria, municipalities can require the Plans be publicly posted and incorporate the following criteria into Community Engagement Plan requirements for Tier 4 Solar Energy Systems:

• Details of outreach strategies and activities that will be used to engage stakeholders and interested parties.

• Planned frequency of public events and strategies to ensure that events are widely attended by a representative cross section of community residents.

• Details of the direct benefits to the community.

• Details on past/planned engagement regarding payments in lieu of taxes agreements or host community agreements.

• Describe local interests and concerns, including identifying plans to thoughtfully build support for and respectfully responding to any opposition.

• Identify strategies the Applicant will use to mitigate concerns raised by the public.

• Method for soliciting feedback and input from the public and the process for sharing feedback and responses publicly.

^{XXI} Endnote 21: Abandonment, as it applies to Solar Energy Systems, requires that the Solar Energy System be removed after a specified amount of time of inactivity. A municipality can establish a timeframe for the removal of a Solar Energy System based on aesthetics, system size, location, and system complexity. Municipalities, in their codes, can designate the amount of time after which a Solar Energy System is considered abandoned.

If provisions of financial surety to cover the cost of removal are not required, municipalities could use other remedies, such as placing a tax lien on the property if the owner and/or operator fail(s) to comply with decommissioning requirements.

^{XXII} **Endnote 22**: This Section provides that any violation of the Solar Energy Law will result in the same assessment of civil and criminal penalties already laid out in the existing enforcement provision(s) of the municipality's zoning code.

If a municipality is particularly concerned about enforcement and adherence to permit requirements, the municipality should provide solar specific training for enforcement officers.

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Author

New Appendix 1 will be the company profile, so following appendices will have to be renumbered.:

• Company Overview p. 211

o Provide a document with the following company information.

- n Year founded and number of continuous years in business
- n Ownership status (public or private company, LLC, LLP, S-Corp, Sole Proprietor)
- n Federal Tax Identification Number
- n Corporate & Local Office location

n Number of employees in corporate & local office at time of submittal212

n Your firm's Experience Modification Rate (EMR) for each of the past three years and your firm's OSHA ratings (Recordable Incidence Rates and Lost Workday Incident Rates) for the past three years

n A description of any ongoing or previous litigation your firm has been involved in and a statement that the Respondent is not debarred, suspended or otherwise prohibited from practice by any federal, state, or local agency

• Project Team

o Provide information about the key personnel to be assigned to this project.

n Project Team organizational chart including all key personnel and their proposed roles

n Provide resumes, in an appendix, for all key personnel that will be assigned to this project

n Provide evidence of all relevant licenses held by your firm to do work in New York State, attach list and copies of documents as an appendix

References

o Provide references for at least <u>three</u> completed and currently operating non-residential grid-connected PV systems, with preference towards <u>New York municipalities and landfill or brownfield projects</u>. Include the following information:

n Location and Utility Company name

n System size (kW DC)

n Metering Type (Remote Net Metering, Community Distributed Solar, Onsite)

n Date completed

n Host Customer and/or Owner contract information (name, email, address, phone)

• Project Development Experience

o Provide the total number of megawatts of solar PV your firm has constructed over the last five (5) years.

o Provide the total number of megawatts of solar PV your firm has constructed over the last five (5) years in New York.

o Provide total number of megawatts and projects of solar PV your firm has constructed on landfills and brownfields.

o Detail the types of customers your firm has worked with in the past (for example, residential, commercial nonprofit, or government).

o Describe your firm's implementation of PV construction standards and other safety measures.

o Provide the number of operational PV systems under your firm's management.

• Project Financing Capability

o Provide number of PV systems that have been financed by you and/or your financing partner.

o Provide most recent audited financial statements, annual reports, consolidated financials, and Form 10-K (if any). If available, provide similar materials for parent entities, significant affiliates and collaborators.