Town of Otsego
Local Law __ of the Year 202 __
A Local Law of the Town of Otsego Regulating Solar Energy Systems

SECTION ONE: AUTHORITY

This Solar Energy Law is adopted pursuant to sections 10 and 22 of the Municipal Home Rule Law of the State of New York and sections 261-263 of the Town Law of the State of New York which authorize the Town of Otsego, NY to adopt zoning and planning provisions that advance and protect the health, safety and welfare of the community.

SECTION TWO: PURPOSES

A. The town finds that solar energy systems can be beneficial, provided that they are well-planned and suitably located in ways that support such important objectives of the town's Comprehensive Plan as preserving the town's attractive small town cultural landscape, sustaining its valuable existing residential, economic and natural resources, agricultural land, open spaces, ecological habitats, aquifers, watersheds, historically significant structures and properties.

B. This law is intended to provide for the siting, development and decommissioning of solar energy systems, subject to reasonable conditions to reduce potential impacts on adjoining properties while promoting the effective and efficient use of solar energy resources.

C. This law seeks to ensure that any solar energy systems are installed in a manner consistent with all New York State and local building, electrical, plumbing, construction codes and fire protection and apparatus access regulations that are applicable as well as recognizing the need to respond to changes in the science regarding solar installations, including battery storage facilities, in ways that protect our local firefighters and emergency responders.

D. This law seeks to balance any potential gain from solar energy installations against their potential negative impacts on the town's economic viability – a viability that relies, in part, on tourists drawn to its unique topographical combination of steep slopes, sweeping natural views, agricultural viewsheds and beautiful lakes.

E. This law seeks to ensure that any solar energy systems are installed in a manner that does not add further to the demand on the number of roadway miles requiring repair and maintenance nor add to the challenges on our lakes already under threat from drainage problems, silt infiltration and invasive species.

SECTION THREE: DEFINITIONS

Abandonment: A solar energy system shall be considered abandoned after 12 months without electrical energy generation.
AC: AC as used in this document refers to and is defined as alternating current, that is, an electric current that periodically reverses direction and changes its magnitude continuously with time.
ANSI: American National Standards Institute.
Applicant: The person, owner, or entity filing an application for a solar permit under this law. For the purposes of this solar law, property owners as well as any person or entity filing an application seeking a solar permit on land belonging to a property owner will be considered jointly and separately liable for any failure to comply with any provisions of this law or a permit issued in accordance with this law, and enforcement may be directed jointly and severally at the property owner(s) as well as any person or entity filing an application and obtaining a permit for a system to be installed on a property.
Aquifer: A geologic formation that contains water and may provide a usable amount of ground water for individual wells or central water systems.
Battery energy storage system: One or more devices, assembled together, capable of storing energy in order to supply electricity for the normal service of a dwelling, commercial building, or other structure that may or may not be connected to grid.
Battery management system: An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are identified.
Buffer: When referred to in this law, a buffer means a designated area of land separating different land uses, to mitigate the potential negative impacts of solar energy systems where they did not exist before to nearby properties. Buffers are intended to act as a transitional spaces, minimizing conflicts between potentially incompatible land uses, with the goal of enhancing the overall quality of the surrounding environment and maintaining the general character of the neighborhood.
Building Integrated Photovoltaics (BIPV): The term BIPV can be used to describe any integrated building materials or feature (e.g., roof tiles, siding or windows) that also generate photovoltaic solar electricity.
Clear-cutting: As used in this law shall mean the cutting or removal of trees more than 3 inches in diameter at breast height in an area containing either: (1) more than 500 trees per acre; or (2) more than 60 square feet per acre of tree trunks; or 3) in a single contiguous area exceeding 20,000 square feet.
Consumer price index change: The Consumer Price Index for Urban Consumers, as published by the U.S. Department of Labor, Bureau of Labor Statistics. Change shall be calculated in January each year as the percentage difference between the annual average of the most recent calendar year and that of the previous year.
Decommissioning: The process for removing a Solar Energy System and remediating the land.
Facility area: The cumulative land area occupied for the commercial operation of the solar energy generating facility. The facility area shall include all areas and equipment within the facility's perimeter boundary – including the solar energy system, onsite interconnection equipment, onsite electrical energy storage equipment, and any other associated equipment – as well as any site improvements beyond the facility's perimeter boundary such as access roads, permanent parking areas, or other permanent improvements. The facility area shall not include perimeter site improvements established for impact mitigation purposes, including but not limited to vegetative buffers and landscaping features.
Farm operation: Land and on-farm buildings, equipment, facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise (in accordance with NYS Agriculture & Markets Law § 301[11] or such similar section if § 301 is re-numbered).
Glare: The effect by reflections of light with intensity sufficient as determined in a scientifically reasonable manner to cause annoyance, discomfort or loss in visual performance and visibility in any material respects.
GIS: The abbreviation for a Geographic Information System, which is an organized collection of computer hardware, software, data, and personnel for capturing, storing, manipulating, analyzing, and displaying geographically referenced information. It combines mapping and databases to help users visualize, understand, and analyze patterns, relationships, and trends by linking data to locations.

Grid-tied solar system: A grid-tied solar system is connected to the local utility grid. This system comprises solar panels, an energy meter, and one or multiple inverters. The solar panels convert the sun's rays into direct current (DC) electricity, which is then inverted into alternating current (AC) for home use.

Ground-mounted solar energy system: A solar energy system that is affixed to the ground either directly or by support structures or other mounting devices. Pole mounted solar energy systems shall be considered ground-mounted solar energy systems for the purposes of this local law.

Immaterial modifications: Changes in the location, type of material or method of construction of a solar energy system that will not: (1) result in any new or additional adverse environmental impact not already reviewed and accepted for the project by the Town Planning Board; (2) cause the project to violate any applicable setbacks or other requirements of this Law; or (3) cause the project not to conform to the State Environmental Quality Review determination or findings issued by the Planning Board.

Kilowatt (kW): A unit of power equal to 1,000 watts. The **AC** nameplate capacity of residential and utility scale commercial solar energy systems may be described in terms of **kW**. For the purposes of this law a Kilowatt shall be considered a dimensional requirement.

Lot coverage: The percentage of a lot or area of a land parcel the "facility area" of a solar energy system occupies.

Megawatt (MW): A unit of power equal to 1,000 **kW**. The **AC** nameplate capacity of larger solar energy systems may be described in terms of **MW**. For the purposes of this law a Megawatt shall be considered a dimensional requirement.

Nameplate capacity: A solar energy system's maximum electric power output under optimal operating conditions. Nameplate Capacity in this law will be expressed in terms of Alternating Current (**AC**) or Direct Current (**DC**).

Native perennial vegetation: Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for Pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

NEC: National Electric Code

NFPA: National Fire Protection Association

Nationally recognized testing laboratory: A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry Occupational Safety and Health Administration electrical standards.

Net metering: Is a billing arrangement that allows owners of solar energy systems or other forms of on-site renewable energy generation to receive credit on their electricity bills for the excess electricity they generate and send back to the grid. Essentially, the utility meter runs backward when the solar energy system owner produces more electricity than it consumes, effectively offsetting electricity costs.

Non-participating property: A property not owned or leased by the solar energy system operator, nor having any land use agreement or easement related to the system.

Occupied habitat: An area in which a species listed in 6 NYCRR Part 182, defined herein as "species in need of protection," has been determined to exhibit one or more essential behaviors, including behaviors associated with breeding, hibernation, reproduction, feeding, sheltering, migration, or overwintering.

On-farm solar energy system: A Solar Energy System located on a farm which is an active "farm operation" (as defined by Article 25-AA of the Agriculture and Markets Law), which may include one or multiple contiguous or non-contiguous parcels) in an agricultural district, which is designed, installed, and operated so that the anticipated annual total amounts of electrical energy generated do not exceed more than 110 percent of the anticipated annual total electrical energy consumed by the farm operation held under single ownership. Except as applied to an on-farm solar energy system as defined herein, participating properties must be contiguous.

Participating property: A property owned or leased by the solar energy system operator, or a property having any land use agreement or easement related to the system. Where multiple adjacent properties are participating in a solar energy system, the combined lots shall be considered as one for the purposes of applying lot size and setback requirements.

Permanent: A solar energy system of whatever scale shall be considered permanent when it is designed or constructed for more than short term use, and is either actually attached to real property (for example, by structural elements inserted into the ground) or attached to some structure that is appurtenant or accessory a feature or structure that is permanently attached to a real property. Solar energy systems are considered permanent when they are of the type (similar to sheds, fences or in-ground swimming pools) that are generally transferred with the real property upon sale.

Pollinators: Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

Prime farmland: Land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oil seed crops and that is available for these uses. Prime farmland has a combination of soil properties, growing season, and moisture supply needed to produce sustained high yields of crops in an economic manner if it is treated and managed according to acceptable farming methods. In general, prime farmland has an adequate and dependable water supply from precipitation or irrigation, favorable temperature and growing season, and acceptable level of acidity or alkalinity, and acceptable content of salt or sodium, and few or no rocks. Its soils are permeable to water and air. Prime farmland is not excessively eroded or saturated with water for long periods of time, and it either does not flood frequently during the growing season or is protected from flooding. Users of either state or federal lists of prime farmland map units should recognize that soil properties are only one of several criteria that may qualify farmland as prime. Other considerations include land use, frequency of flooding, irrigation, water table, and wind erosion.

Roof-mounted solar energy system: A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity primarily for onsite consumption.

SEQRA: The State Environmental Quality Review Act, Article 8 and its implementing regulations at 6 NYCRR Part 617 and following ("SEQRA").

Site plan. As used in this local law the term "site plan" is synonymous with the term as it is used in the town's land use law, that is, meaning a rendering, drawing, or sketch prepared to specifications and containing necessary elements described in this local law showing the arrangement, layout and design of the proposed solar energy system on it will be positioned on the parcel of land as shown on said plan and in relation to adjacent parcels.

Small portable solar energy system: A small, portable solar energy system is not covered by the provisions of this law so long as: it is portable and the total solar panel area is less than 100 square feet, and it is not connected to a battery storage system that is not part of the solar unit or an electrical grid. Examples include, but are not limited to: solar lights in gardens, along fences, drive and walkways, on mailboxes and panels for camping.

Special use permit. A special use permit as used in this law is synonymous with the term "Special use permit" as used in the town's land use law, that is, a use although permitted in the town, is one having characteristics that may make it more difficult to co-exist in a particular area or neighborhood. When a solar energy system is identified in a zone as one requiring a special use permit, the application will also require a site plan and SEQRA review by the town's planning board. The solar energy system will only be allowed if the planning board determines that it fits in with the surrounding land uses. Conditions may be applied.

Solar collector: A solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure affixed to the ground, a building, or other structure that harnesses solar radiation to directly or indirectly generate thermal, chemical, electrical, or other usable energy, or that reflects or concentrates solar radiation to a solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure that directly or indirectly generates thermal, chemical, electrical, or other usable energy.

Solar energy equipment: Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

Solar energy system: A complete system intended for the collection, inversion, storage, and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical, or other usable energy. A solar energy system consists of, but is not limited to, solar collectors, panels, mounting devices or structures, generators/turbines, water and energy storage and distribution systems, storage, maintenance and/or other accessory buildings, inverters, combiner boxes, meters, transformers, and all other mechanical structures. Solar energy systems are considered permanent, unless they are Small Scale Portable Systems, as those terms are defined in this law. Solar energy system types permitted in the town of Otsego shall include: small-scale, intermediate scale and utility-scale as defined herein.

A. **Small-Scale Solar Energy Systems** include the following:
    1. Residential Roof-Mounted Solar Energy Systems with a Nameplate Capacity not more than 12 **kW AC**.
    2. Building Integrated Solar Systems
    3. Ground-Mounted Solar Systems with a nameplate capacity up to 25 **kW AC** or a panel or collector surface area up to 2,000 square feet that are permanent as that term is defined herein and not small-scale portable as that term is defined herein.

4. On-Farm Solar Energy Systems that generate not more than 110 % of the electricity consumed solely for farm-related uses over the 12 months previous to installation.

B. Intermediate-Scale Solar Energy Systems include the following:

1. Roof-mounted Solar-energy systems not included under Small-Scale Solar Energy Systems that are intended to provide energy solely for residential, educational, recreational, museum or business uses permitted in the town on a single lot or abutting lots under a single ownership with a Nameplate Capacity of 12 **kW AC** or more, but less than 2 **MW AC.**
2. Ground-Mounted Solar Energy Systems with Nameplate Capacity that does not exceed 2 **MW AC** and does not generate more than 110% of the electricity necessary solely for the operation of the residential, educational, recreational, museum or business uses on the site or consumed solely on the site over the 12 months previous to installation.
3. Ground-Mounted Solar Energy Systems with a panel surface or facility area between 2000 square feet and three (3) acres of lot coverage in size.

C. Utility-Scale Solar Energy Systems include the following:

1. A solar energy generation facility designed and intended to supply energy into a utility grid for off-site consumption. s

2. A Solar Energy System on a single lot or abutting lots under a single ownership with a Nameplate Capacity of 2MW **AC** or more, but not exceeding 5 **MW AC**.

3. NOTE: Utility-scale systems shall not be permitted on lots that are smaller than 16 sixteen acres. The facility area of utility-scale solar energy system, when added to any other structures on the lot, shall not exceed **sixty percent (60%)** and may not be sited on non-contiguous parcels. The Facility Area of a utility-scale system is limited to ten (10) acres of lot coverage.

Solar panel: A photovoltaic device capable of collecting and converting solar energy into electricity.
Species in Need of Protection: Species listed in Title 6, Part 182, or Title 6, Part 193.3 of the New York Codes, Rules and Regulations as Endangered, Threatened, Rare, Exploitably Vulnerable or of Special Concern.
UL: Underwriters Laboratory, an accredited standards developer in the United States.
Uniform Code: The New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time**.**
ZVI. Abbreviation for the Zone of Visual Impact which is defined as the area from which the proposed solar energy system may be visible within a one-half mile (0.5) from the outermost edge of the buffer around any utility scale solar facility area.

SECTION FOUR: ADMINISTRATION AND ENFORCEMENT

A. The Town's Zoning Enforcement Officer is hereby authorized to act as the administrative and enforcement officer of the Town for this law, with the following duties and authority as set forth in this section:

1. In consultation with the Town Planning Board and Zoning Board of Appeals (ZBA), to recommend and develop such additional rules and regulations as are deemed necessary for proper administration and enforcement of this Local Law. Said forms, rules and regulations shall be reviewed and approved by the Town Board and its attorney and shall be available for public view at the Town Clerk's Office, and on the Town of Otsego's website.

2. To work with the Otsego County authority that issues Building, Fire Safety, Electrical and/or Plumbing permits for Solar Energy Systems covered by this law and will conduct inspections to establish appropriate execution of those permits.

3. To accept applications required by this Law and will report the status of such permits to the Town Board on a monthly basis.

4. To timely file with the Town Clerk copies of all applications received and permits issued.

5. To enter upon, examine or inspect, for the purpose of administering or enforcing this Law all premises, public or private, with reasonable arrangements with the owner or in any manner consistent with constitutional safeguards, or, where needed, the conditions of any requisite warrant any land, building or structure which is the subject of an application under this Local Law.

6. To make follow-up visits after solar energy plan permit approval to ensure adherence to any approval granted. A written report of each examination or inspection shall be kept on file in the Office of the Town Clerk and be reported on a monthly basis to the Town Board.

7. To perform any other administrative or enforcement duties specified in this Local Law including but not limited to the issuance of permits, licenses or certificates, accepting or reviewing applications, plans, or plats, and carrying out any lawful order of the Town Planning Board, the Town Board, the Zoning Board of Appeals, or a Court having jurisdiction over this law.

8. To receive, promptly investigate, maintain records and document complaints against the owner, applicant, solar energy system organization or occupant of the premises where there is claimed or appears to exist a violation of any provision of this Local Law.

9. To act upon any and all complaints and observation of violations and to seek criminal and/or civil penalties for the violations of this law as shall be deemed necessary to achieve the purposes of this law, as well as the abatement of any violation.

10. To serve a written notice of violation or accusatory instrument and/or Stop Work Order upon the owner or occupant of the premises where there appears to exist a violation of any provision of this Local Law, specifying what provision is being violated and in what manner.

B. Processing of Applications

1. Upon receipt of the complete and appropriate application materials and receipt of the fees established for the scale of the solar energy system (small, intermediate, or utility) requested, the town zoning enforcement officer will, within fifteen (15) business days, either issue a permit (subject to such conditions as may be necessary) or refuse to issue a permit (where appropriate), or notify to the applicant the applicant that the application is not complete and what must be done to complete the application.

2. No application shall be deemed complete until any required approvals from other agencies , organizations or boards have been received.

3. Where rejection is based purely on a failure to provide all application materials required under this local law, the town zoning enforcement officer may return the application as incomplete. An incomplete application starts the process over for time purposes.

4. Where rejection is based on non-conformity with sections of this local law that regulate dimensions and/or set-backs or uses with a zone, the town zoning enforcement officer may not issue a permit, but will refer the matter to the ZBA as an appeal if the applicant desires.

5. Where the reason for rejection is uncertain, the town zoning enforcement officer will refer the application for the Planning Board for review as an appeal and disposition under the Planning Board's site plan review authority.

6. All applications described in this local law requiring the review of either the Zoning Board of Appeals or the Planning Board as clearly in violation of any provision of this Local Law shall be either referred or rejected as appropriate.

7. Where either Board review is required, the town zoning enforcement officer shall notify the applicant of such fact and of any necessary applications, statements, plans or other documentation required for such review within fifteen (15) business days of receipt of the original complete application.

8. The town zoning enforcement officer shall timely notify the applicant of meetings at which the application will be acted upon by any reviewing board.

C. Failure of the town zoning enforcement officer to act within fifteen (15) business days shall be deemed a denial, not a default approval.

SECTION FIVE: REQUIREMENTS APPLICABLE TO ALL SOLAR ENERGY SYSTEMS

A. The requirements herein shall apply to all Solar Energy Systems and solar related equipment installations modified or installed after the effective date of this law, excluding general repair and maintenance of such systems.
B. Exception. Any Solar Energy Systems that were constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this law, provided that they were permitted in the zone in which they were erected because they were considered by the Town's Zoning Enforcement Officer as accessory to

a structure or as an accessory structure. However, in order to qualify for exemption from the requirements of this law, any solar energy system installed prior to the effective date of this law must establish compliance with The New York State Uniform Fire Prevention and Building Code and in addition must register on a form to be developed with the Town of Otsego Zoning Enforcement Officer within 60 days of the effective date of this law. A photograph of the system to be exempted with details describing the system and date of installation is required to complete the form and establish the exemption.

C. Permits. Prior to installing any solar energy system, a zoning permit must be obtained from the Town of Otsego Zoning Enforcement Officer and a building permit must be obtained from the Uniform Code Enforcement Officer of the County of Otsego or whoever is acting on behalf of the Town of Otsego at the time of the application.

D. Requirements Applicable To Roof-Installed Building-Integrated Photovoltaics.

All roof-installed building-integrated photovoltaics must comply with all applicable provisions of the appropriate sections of the New York State Uniform Fire Prevention and Building Code (Uniform Code), including the Fire Service and Fire Access Codes. A building permit and an electrical permit shall be required for installation of any building-integrated photovoltaics. Signage that directs firefighters and emergency responders to switches to turn off such systems must be prominently displayed with notification of locations to local agencies.

E. Code Compliance. The installation of any solar collector or panel, whether on the roof, integral to the building, attached to the main structure, an accessory structure, or as a detached, freestanding or ground-mounted type of installation shall meet the zoning, building code and fire code requirements as well as the requirements of this law for its solar energy type. All roof-mounted solar energy systems shall be mounted in a manner consistent with the relevant provisions of the New York State Uniform Fire Prevention and Building Code (Uniform Code), including the Fire Service and Fire Access Codes and the New York State Energy Conservation Construction Codes.

F. Glare prevention. All solar energy system collectors and related equipment shall be surfaced, designed, and sited so as prevent glare from reflecting onto adjacent properties and roadways. When applying for a zoning permit, the application will not be deemed complete unless it includes a certification from a licensed engineer or solar expert confirming that the installation will meet these criteria.

G. Non-reflective. All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth tone color to aid in blending the facility into the existing environment.

H. Design Principles. All solar energy systems and their associated support elements shall, at the time of installation, be certified by a licensed engineer or architect as designed according to generally accepted engineering practices to withstand snow loads for this region, as well as wind pressures applied to exposed areas by wind from any direction, to minimize the migration of light or sound from the installation and to minimize the development of sight obstructions for adjacent structures or land parcels, as well as the possibility of damage to adjacent properties. The application will not be deemed complete unless it includes a certification from a licensed engineer or solar expert confirming that the installation will meet these criteria.

I. On-going Safety & Annual Inspections. In order to ensure the safety of firefighters and other emergency responders, there shall be a minimum perimeter area as established under the NYS Uniform Code around the edges of the roof for roof-mounted systems and in yard along pathways to provide space for walking around and moving firefighting and other safety equipment around all solar collectors and panels. Signage that directs firefighters and emergency responders to switches to turn off roof-mounted, ground-mounted and building integrated solar energy systems must be prominently displayed, with notification of locations to local firefighting and emergency response agencies. As New York State rules for the safety of firefighting and emergency responders are changed, new solar systems in this town must change to meet those safety requirements. Property owners are required to arrange annual inspections of small-scale solar energy systems for compliance with this section and provide documentation of those inspections to the town zoning enforcement office.

J. Historic Preservation Standards. Any solar energy system proposed to be placed on a building or property within any historic district, or on a registered historic structure must receive approval from the appropriate preservation authority before a solar energy system can be installed. A copy of such approval must be provided to the zoning enforcement officer for the town for inclusion in the property file.

K. Coordination with Existing Land Use Laws. This solar energy system law is intended to work in coordination with the already established procedures and practices of the town's land use planning and zoning laws. However, to the extent that any other town of Otsego law, rule or regulation, or parts thereof, are inconsistent with the provisions of this law, the provisions set forth in this law shall control only as they pertain to solar energy systems.

L. Initial Fee. All applications for intermediate-scale solar energy systems shall be accompanied by an initial application fee to be established by the Town Board.
M. Escrow Account. Some solar energy systems covered by this law may require a time-consuming or complex review by the Planning Board. In such cases, an applicant may be required to provide a single escrow account in which to place funds whenever the planning board determines it is necessary to pay for the town's engineering, legal and environmental review costs, for construction inspection, and for monitoring during the operation of the facility. This escrow account shall be in an amount as determined by the Town Board, after consultation with the Planning Board, and it shall be replenished by the applicant as required by the Town, and shall be maintained for the life of the project. Once the Planning Board has determined the initial amount of escrow, the account shall be established prior to any further Planning Board review.
N. Appeals. In the event the lot where the solar energy system is proposed to be sited is not configured to meet the required dimensional provisions of this law (e.g., height, lot coverage, set-backs, buffer distance or screening requirements), an applicant for a solar energy system may apply to the Zoning Board of Appeals following the Procedures and Referrals set forth in Section 9.02 and 9.03 of the Town's Land Use Law requesting an area variance from strict compliance with the dimensions of this law where the Board will consider the factors outlined in Section 9.02.2 (Area Variances).
O. In accordance with Sections 10 and 22 of the Municipal Home Rule Law of New York State, any proposed solar energy system subject to review by the New York Board on Electric Generation and Siting and the Environment pursuant to Article 10 of the New York State Public Service Law, or the Office of Renewable Energy Siting pursuant to Article 94-c of the Executive Law, the RAPID Act, or any successor state law, shall be subject to all substantive provisions of this law and any other applicable laws, codes, ordinances and regulations of the Town of Otsego.

SECTION SIX: MINIMUM REQUIREMENTS APPLICABLE TO BATTERY ENERGY STORAGE SYSTEMS

Battery Energy Storage Systems (BESS).
A. Compliance with Zoning. Any Battery Energy Storage Systems (BESS) associated with a Solar Energy System shall comply with the Zoning limitations summarized in the Appendix, Tables 1 and 2 applicable to the scale type of the Solar Energy System the BESS supports.
B. Capacity Limits.
1. No Battery Energy Storage Systems (BESS) associated with a small-scale solar energy system shall have an energy capacity that exceeds 600 kWh.
2. Battery energy storage systems (BESS) associated with intermediate-scale energy systems may have an energy capacity that exceeds 600kWh, but may not exceed 110% of two days of energy for the property use.
3. Although battery energy storage systems of more than 600 kWh are permitted for utility-scale solar energy systems, they require site plan approval and a special permit from the planning board and are subject to additional requirements that are set out in Section Nine of this law.
C. Effective Date. The requirements of this Local Law are the minimum requirement that shall apply to all battery energy storage systems permitted, installed, or modified after the effective date of this Local Law, excluding general maintenance and repair.
1. Exception. Except as described in paragraph G below, battery energy storage systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law, provided that the system complies with all applicable provisions of Section 1206 of the New York State Uniform Fire Prevention and Building Code (Uniform Code), including the Fire Service and Fire Access Codes. A building permit and an electrical permit shall be required for installation and continued use of any Battery Energy Storage Systems.
2. Modifications. However, modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Local Law.
D. Code Compliance. All battery energy storage systems shall comply with all applicable provisions of Section 1206 of the New York State Uniform Fire Prevention and Building Code (Uniform Code), including the Fire Service and Fire

Access Codes. A building permit and an electrical permit shall be required for installation of any Battery Energy Storage Systems.

E. Noise. If ground-mounted, Battery Energy Storage Systems shall be located as close as practicable to the center of the solar panel array. The average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of 55 dBA as measured at the outside wall of any residence or business on an adjacent property during the daytime and 45 dBA during the evening. At the Planning Board's discretion, and depending on the types of adjoining properties, noise levels of 70 dBA may be allowed during construction. Applicants may submit equipment and component manufacturers noise ratings to demonstrate compliance. The applicant may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.

F. Mitigation Measures. If anticipated noise levels exceed limits described above, an applicant must implement noise control measures, such as acoustic barriers, custom silencers on fans, or specific equipment layouts, to meet the required standards.

G. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

H. Signage. The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number. As required by the 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.

J. Safety. Battery Energy Storage Systems, components and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70 (or the NEC section that replaces it).

K. Vegetation and Tree-Cutting. Unless determined otherwise by the Planning Board, Areas within not less than 20 feet on each side of the Battery Energy Storage System shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery or cultivated ground cover such as green grass, ivy, succulents or similar plants may be used as ground cover provided they do not form a means of readily transmitting fire.

SECTION SEVEN: REQUIREMENTS FOR SMALL-SCALE SOLAR ENERGY SYSTEMS

A. Small-Scale Solar Energy Systems include the following:

1. Residential Roof-Mounted Solar Energy Systems with a Nameplate Capacity not more than 12 **kW AC**.
2. Building Integrated Solar Systems
3. Ground-Mounted Solar Systems with a nameplate capacity up to 25 **kW AC** or a panel or collector surface area up to 2,000 square feet that are permanent as that term is defined herein and not small-scale portable as that term is defined in this local law.
4. On-Farm Solar Energy Systems that generate not more than 110 % of the electricity consumed solely for farm-related uses over the 12 months previous to installation.

B. Battery Energy Storage Systems. No Battery Energy Storage Systems (BESS) associated with a Small-Scale Solar Energy System shall have an energy capacity that exceeds 600 kWh.

C. Zoning Limitations Applicable to Small-Scale Solar energy systems (See Appendix, Tables 1 and 2 for summary)

1. Small-Scale Roof Mounted Solar Energy Systems.

a. Permitted. Small-scale roof mounted solar energy systems are permitted as of right in all zones within the town.

b. Height. A small-scale roof-mounted solar energy system shall not be mounted in such a way as to exceed the height restrictions for the zone in which it is constructed. However, if, upon proof from a certified solar expert or licensed engineer, added height is needed in order to achieve proper solar orientation, panels may exceed a roofline by up to five feet, provided such a slope meets the other requirements of this law, and is not prohibited by some other section of this law.

2. **Small-Scale Ground-Mounted Solar Energy Systems**

a. Not permitted. Small-scale ground-mounted solar energy systems are not permitted in the lake protection zones, currently described in Section 4.04 Otsego and Canadarago Lake Shoreline Protection Area (O&CLPA) of t he town's land use law.

b. Permitted. Small-scale ground-mounted solar energy systems are permitted as accessory structures in all zoning districts other than the lake shoreline protection areas, however, site plan review by the Town's Planning Board is required for small-scale ground-mounted solar energy systems in Zones H-R, H-B, and sR/E.

c. Where ground-mounted or freestanding small-scale solar energy systems or collectors are permitted as accessory structures in the zoning districts of the town described above, in addition to the criteria applicable to all small-scale solar energy systems outlined in section A above, they are subject to the following additional conditions:

i. **Height.** A ground-mounted or freestanding solar energy system collector height shall not exceed 15 feet when oriented at maximum tilt.

ii. **Buffer distance**. Regardless of the set-backs established for the zones in which the small-scale ground-mounted system is to be located, a buffer distance between the facility area, all mechanical equipment including solar panel arrays shall be set at least **40** feet from the lot lines of properties adjacent to the system, at least **70** feet from the center of the road, and at least **100** feet from the nearest wall of any adjacent residence or business.

iii. **Screening.** Regardless of the set-backs for the zones in which the small-scale ground-mounted system is to be located, the buffer shall include screening between of all mechanical equipment including solar panel arrays and adjoining properties. The screening buffer may include natural vegetation, such as trees, or a fence set at a height and distance from adjoining lot lines, roadways and adjacent residence or businesses in order to reduce the visual impact of the ground-mounted system.

SECTION EIGHT: REQUIREMENTS FOR INTERMEDIATE-SCALE SOLAR ENERGY SYSTEMS

A. Intermediate-Scale Solar Energy Systems include the following:

1. Roof-mounted Solar-energy systems not included under Small-Scale Solar Energy Systems that are intended to provide energy solely for residential, educational, recreational, museum or business uses permitted in the town on a single lot or abutting lots under a single ownership with a Nameplate Capacity of 12 **kW AC** or more, but less than 2 **MW AC.**

2. Ground-Mounted Solar Energy Systems with Nameplate Capacity that does not exceed 2 **MW AC** and does not generate more than 110% of the electricity necessary solely for the operation of the residential, educational, recreational, museum or business uses on the site or consumed solely on the site over the 12 months previous to installation.

3. Ground-Mounted Solar Energy Systems with a panel surface or facility area between 2000 square feet and up to three (3) acres of lot coverage in size.

4. In addition to the items described in Section Five (Requirements applicable to all solar energy systems), the following conditions apply for intermediate-scale systems.

B. Zoning limitations. (See Appendix, Tables 1 and 2 for summary)

1. Roof-mounted intermediate-scale solar-energy systems shall be permitted as of right only in the RA-1, RA-2, GB-1, GB-2, H-B, H-R Zoning Districts.

2. Roof-mounted intermediate-scale systems shall be permitted only with site plan approval by the Planning Board in the R/E Zoning District and in the Otsego & Canadarago Lakeshore protection area zones.

3. Ground-mounted intermediate-scale solar-energy systems shall only be permitted with site plan approval in the RA-1, RA-2, GB-1, GB-2, H-B, H-R and R/E Zoning Districts. Ground-mounted systems are not permitted in the Otsego & Canadarago Lakeshore protection area zones.

4. Where ground-mounted or freestanding intermediate scale solar energy systems or collectors are permitted, whether as accessory structures or with site plan approval in the zoning districts of the Town described above, they are subject to the following additional conditions:

a. **Height.** A ground-mounted or freestanding solar energy system collector height shall not exceed 15 feet when oriented at maximum tilt.

b. **Buffer distance**. Regardless of the set-backs established for the zones in which the intermediate-scale ground-mounted system is to be located, a buffer distance between the facility area, all mechanical equipment including solar panel arrays shall be set at least **60** feet from the lot lines of properties adjacent to the system, at least **80** feet from the center line of the roadway, and at least **200** feet from any adjacent residence or business.

c. **Screening.** Regardless of the set-backs for the zones in which the intermediate-scale ground-mounted system is to be located, the buffer shall include screening between of all mechanical equipment including solar panel arrays and adjoining properties. The screening buffer may include natural vegetation, such as trees, or a fence set at a height and distance from adjoining lot lines, roadways and adjacent residence or businesses in order to reduce the visual impact of the ground-mounted system.

d. **Lot coverage.** When added to any other structures on a lot, the total of lot coverage for the facility area of a ground-mounted or freestanding intermediate scale solar energy systems shall not exceed **60%.**

C. Site plan approval. Must be obtained from the Town of Otsego Planning Board and must adhere to the standards set out in Section 8.01-8.05 of the town land use law, in addition to those that follow. [Note. Solar Energy Systems need to be added to Section 8.02 of the Land Use Law as #5.]

D. Application & Site Plan Review Requirements. Three copies of an application are required. Any application for an Intermediate-scale Solar Energy Systems, including materials for site plan review, shall include the items described on the list below. Some items may differ depending on whether the system is roof mounted or ground mounted.

1.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.

2. 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

3.Nameplate Capacity of the Solar Energy System (as expressed in kW AC or MW AC).

4. Zoning district designation for the parcel(s) of land comprising the Facility Area.

5. Property lines and physical features, including roads, for the project site.

6. Adjacent land uses on contiguous parcels within a certain radius of the site boundary.

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.

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.

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.

10. Vegetation description, if needed, that will provide foraging habitat for pollinators in all appropriate areas within the Facility Area.

11. Description of how integrated pest management practices will be implemented to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.

12.Description with images of screening/visibility plan so that views from adjacent properties will be minimized 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.

13. Tree-cutting documentation. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.

14. To the extent practicable, Intermediate-scale Solar Energy System Owners shall utilize and maintain native perennials.
15. Lighting. A description of the location, height, intensity, bulb type and direction of all exterior
16. A description of the location, height, size, design and type of construction of all signs.
17. A description of the construction sequence for each phase of construction
18. A list of all permits from other agencies that have been or will be required for this application, the dates these permits were or will be applied for and the current status of each permit. When these permits are approved, the applicant shall promptly provide copies and supporting documentation to the Planning Board Clerk for project record.
19. Environmental assessment documents as required by the New York State Environmental Quality Review Act (SEQRA). If the Planning Board is declared as the Lead Agency, the applicant shall complete Part 1 of either the short or long Environmental Assessment Form (EAF) as directed by the Planning Board. If another agency is declared as the Lead Agency, the applicant shall keep the Planning Board informed of all steps in the environmental review process.

E. Concurrent Reviews. If a special use permit is required for an intermediate-scale system, the Planning Board shall concurrently review the site plan and special use permit applications and apply the standards set forth in Section 7.03 of the Town's Land use law.
F. Processing & Criteria For Reviewing the Site Plan Application. Except where a section of this solar energy law provides a different process or standard, the Planning Board, in reviewing the site plan application, shall follow the process and criteria set out in Section 8.05 of the Town's Land Use Law, titled (Processing the Site Plan Application).
G. Escrow Account. Where site plan approval is required as described above, an applicant may be required to provide a single escrow account in which to place funds whenever the planning board determines it is necessary to pay for the town's engineering, legal and environmental review costs, for construction inspection, and for monitoring during the operation of the facility. This escrow account shall be in an amount as determined by the Town Board, after consultation with the Planning Board, and it shall be replenished by the applicant as required by the Town, and shall be maintained for the life of the project. Once the Planning Board has determined the initial amount of escrow, the account shall be established prior to any further Planning Board review.

SECTION NINE: REQUIREMENTS FOR UTILITY-SCALE SOLAR ENERGY SYSTEMS

A. Utility-Scale Solar Energy Systems include the following:
1. A solar energy generation facility designed and intended to supply energy into a utility grid for off-site consumption, generally a commercial operation.
2. A solar energy system on a single lot or abutting lots under a single ownership with a Nameplate Capacity of 2 MW **AC** or more, but not exceeding 5 **MW AC.**

B. Permitting Process and Approvals Required
1. Special Use Permit and Site Plan approval. In addition to the items described in Section Five of this law (Requirements applicable to all solar energy systems), a Special Use Permit and Site Plan approval by the Town of Otsego Planning Board are required for utility-scale systems.
2. Processing & Criteria For Reviewing the Site Plan Application. Except where a section of this solar energy law provides a different process or standard, the Planning Board, in reviewing the application for a Special Use Permit and site plan application, shall follow the process and criteria set out in Section 8.05 of the Town's Land Use Law, titled (Processing the Site Plan Application) and Section 7.03. Special Permits.
3. Concurrent Reviews. The Planning Board shall concurrently review the site plan and special use permit applications**.**
4. Clearing or grading before review is not permitted. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of the SEQRA special use permit and site plan approval.

C. Zoning Limitations. (See Appendix, Tables 1 and 2 for Summary)
1.Where permitted. Utility-scale systems shall only be permitted in the RA-1, RA-2, GB-1 and GB-2 Zoning Districts. They are considered Special Permitted Uses in the zones where permitted. Utility Scale Solar energy systems are not permitted in H-B, H-R, R/E or Section 4.04 Otsego and Canadarago Lake Shoreline Protection Area (O&CLPA) zones.

2. Lot size and coverage. Utility-scale systems shall not be permitted on lots that are smaller than 16 (sixteen) acres. The facility area of utility-scale solar energy system, when added to any other structures on the lot, shall not exceed **sixty percent (60%)** and may not be sited on non-contiguous parcels. The Facility Area of a utility-scale system is limited to ten (10) acres of lot coverage.

c. Height. A ground-mounted or freestanding solar energy system collector height shall not exceed 15 feet when oriented at maximum tilt.

d. Buffer distance. Regardless of the set-backs established for the zones in which the utility-scale ground-mounted system is to be located, the facility area for all mechanical equipment including solar panel arrays, shall be set at least **350** feet from the lot lines of properties adjacent to the system as well as from the center line of any roadway, and at least **500** feet from the exterior walls of any adjacent residence or business.

e. Screening**.** Regardless of the set-backs for the zones in which the utility-scale ground-mounted system is to be located, screening shall be provided between all mechanical equipment including solar panel arrays and battery storage systems. The screening may include natural vegetation, such as trees, or a fence set at a height and distance from adjoining lot lines, roadways and adjacent residence or businesses designed to reduce the visual impact of the ground-mounted system.

D. Dimension or Distance Requirements relevant to utility-scale solar energy systems.

1. On or near Water Bodies, Wells and Aquifers. Utility-scale solar energy systems shall not be installed:

a. On or within **5000** feet of Otsego or Canadarago Lake
b. Within **1000** of a residence or business using a well
c. On, over or within **1000** feet of an aquifer.

2. Agriculture. Utility-scale solar energy systems shall not be located on or within **500** feet of prime farmland as defined in this law, or on the areas that consist of farmland of statewide importance, except under the following conditions:

a. The area of prime farmland or farmland of statewide importance on the parcel shall not have been used as prime farmland for at least the preceding three (3) years,
b. The facility site shall not exceed **20%** of the area of prime farmland or farmland of statewide importance on the parcel.
c. The utility scale solar energy systems on prime farmland or farmland of statewide importance shall be required to seed **20%** of the total surface area of all solar panels on the lot with native perennial vegetation designed to attract pollinators.
d. To the maximum extent practicable, utility-scale solar energy systems located on prime farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.
e. Utility-scale 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.

3. Slopes. No utility-scale solar energy systems solar panels shall be placed on slopes of **15 percent** or greater as averaged over **50** horizontal feet. No cutting or filling may be done to alter such natural slopes for placement of panel arrays.

4. Cemeteries. Utility-scale solar energy systems structures and equipment are prohibited within **1000** feet of rural cemeteries and burial grounds. The applicant shall consult with the town historians and cemetery trustees to identify any such burial grounds within the project site.

5. Noise. A utility scale solar energy systems shall be considered a special use in the zones in which it is permitted, and therefore, during its operation, subject to the general requirements for noise for special uses:

a. No activity shall be permitted which produces a sound level of seventy (70) decibels or more as measured on the "A" scale of a standard level meter having characteristics defined by American Standards Association specifications ("ANSI S1.4: Specifications for Sound Level Meters" such measurement being made at any property line during construction. During operation, .
b. The use will not introduce nuisances associated with traffic, noise or lighting, as measured at any property boundary, which are incompatible with adjoining or nearby land uses, or anticipated future land uses.

c. **Blasting.** Blasting is prohibited for the construction of all utility-scale solar energy facilities.

D. Application Process.

1. **Initial Fee.** All applications for utility-scale solar energy systems shall be accompanied by an initial application fee to be established by the Town Board.

2. **Escrow Account**. The applicant shall provide a single escrow account in which to place funds necessary to pay for the town's engineering, legal and environmental review costs, for construction inspection, and for monitoring during the operation of the facility. This escrow account shall be in an amount as determined by the Town Board, after consultation with the Planning Board, and it shall be replenished by the applicant as required by the Town, and shall be maintained for the life of the project. Once the Planning Board has determined the initial amount of escrow, the account shall be established prior to any further Planning Board review. Details of selected escrow account expenses include:

a. **Construction Inspection.** The escrow account required herein shall be used to provide inspection by a town engineering consultant during construction of the solar energy system. Work shall remain accessible and exposed until inspected and accepted by the town's consultant. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to how the work fails to comply with the Uniform Code or conditions of the special use permit. Work not in compliance shall remain exposed until brought into compliance, re-inspected and found satisfactory as completed. During construction, the Town Building Inspector/Code Enforcement Officer can issue a stop order at any time for violations of the special use permit.

b. **Operational Inspection.** Upon 24 hours advance notice to the owner/operator or designated contact person, the Town of Otsego Code Enforcement Officer/Building Inspector or his or her designee may enter the solar energy facility to verify compliance with any requirements or conditions. The solar energy system shall be inspected by a New York State licensed professional engineer, under contract with the town and paid by the escrow account required herein, to ensure that it is operating according to the conditions of the special use permit. Such inspections shall be done annually, and at any other time, upon a determination by the Town's Building Inspector that damage may have occurred. The engineer shall file an inspection report with the Town Code Enforcement Officer/ Building Inspector. All recommendations for maintenance and repair contained in said report shall be completed by the operator within a written schedule agreed on by the Code Enforcement Officer/Building Inspector.

c. **Groundwater & Well Testing.** Using the escrow account required herein, the Town shall provide water testing of private wells within 1,000 feet of the solar energy facility project boundary prior to construction of the system and at annual intervals during system operation. In the event the well owner refuses to grant access to the property and well on which it sits for collection of the data or if the well cannot be accessed for the collection of data for practical purposes, the Town will not be required to do any pre-construction or post-construction testing of the well. Testing will be done for lead, PFAS and other substances that may be determined by the Planning Board, depending on the composition of panels in particular projects. In the event groundwater contamination occurs as a result of the solar facility, the operator, at its sole expense, shall provide an alternative equivalent reliable water source deemed reliable by the Town.

3. **Pre-submission Sketch Conference**. At the earliest possible date in the project planning process, the applicant shall contact the Town's Zoning Enforcement Officer who will request the inclusion of the Uniform Code Enforcement Officer to schedule a pre-submission sketch conference with the Planning Board in the manner set forth in the Town Land Use Law Section 8.03 (Sketch Plan Conference). At part of the sketch plan conference, the applicant shall provide an opportunity for an on-site visit by Planning Board members.

4. Notice. Upon receipt of an application, the Town will, at the applicant's expense, place a notice of the application on the town's website, and in the newspaper of record for the town, and mail a notice of the proposed project to all owners of abutting properties and owners of property within a minimum of **2,500** feet of the property boundaries on which the project is proposed to be sited.

5. Public hearing. The public hearing that is required in connection with application for a special use permit shall be held simultaneously on the proposed site plan. All adjacent property owners within **2,500** feet of the borders of the proposed project property shall be notified of the public hearing on the application for special use permit and site plan approval in the manner set forth in the Town Land Use Law Section 8.05(3).

E. Application Materials. An applicant for a special permit and site plan for a Utility-scale solar energy system must submit the items required for Intermediate-Scale Solar Energy Systems (Section 8.D Application and Site Plan Requirements) of this law. If not already provide as part of that list, all applicants shall additionally submit:

1. A Site Plan. A site plan for a solar energy system utility-scale special permit and site plan must be prepared by a professional engineer or architect licensed and registered in New York State. Note: Prior to final approval by the Planning Board, all engineering documents, including Site Plan, Storm Water Pollution Prevention Plan and Decommissioning Plan, shall be signed and sealed by a New York State-licensed professional engineer or New York State-registered architect. This site plan must include:

a. Property lines and physical dimensions of the site;
b. Location, approximate dimensions and types of existing structures and uses on the site, public roads, and other properties within a minimum of 2,500 feet of the boundaries of the site as well as those. Depending on the size of the project site, the Planning Board may alter this distance;
c. Location and description of all solar energy system components, whether on site or off site;
d. Existing vegetation and proposed clearing and grading of all portions of sites involved:
e. Location of all above and below-ground utility lines on the site as well as transformers, the interconnection point with transmission lines, and other ancillary facilities or structures, including accessory facilities or equipment;
f. Locations of setback and screening distances as required by this law;
g. All other proposed facilities, including electrical substations, storage or maintenance units, fencing and laydown, storage, parking, access and road areas to be used during and after construction;
h. An electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all disconnects and over- current devices identified.

2. Documentation.

a. Noise level projection data. Details of proposed noise that may be generated by inverter fans, battery storage systems or other noise-generating equipment that may be included in the project, including actual readings of existing daytime and night time ambient noise at the boundary of the participating properties; the sound study shall predict the potential increase in noise from the project over the existing ambient noise levels.
b. A sound study providing details of the solar array locations that are representative of mapped soil and bedrock formations within the facility site.
c. A Geographic Information System(GIS) viewshed analysis of the Zone of Visual Impact (ZVI), which is defined as the area from which the proposed undertaking may be visible within a one-half mile (0.5) buffer around any utility scale solar facility area. Positive visibility of the solar facility area must be based upon bare-earth topography only (do not factor in vegetation). The analysis should be presented as an ortho-rectified (i.e., geometrically corrected to uniform scale) aerial base map with the buffer boundary and project area indicated and ZVI highlighted.
d. Slope information presented on a Geographic Information System (GIS) viewshed analysis of the ZVI which includes a color-coded aspect-slope map or equivalent, with a vertical elevation difference between each line of ten (10) feet.
e. Pre-construction forestation data based on Otsego County GIS aerial mapping showing the any forest conditions on the site over the previous 10 years.
f. Habitat protection data. The results of on-site bird and bat migration, nesting and habitat surveys. Surveys must be conducted during the appropriate seasonal windows during the year prior to submittal of an application. Applicants shall use the most recent New York State Department of Environmental Conservation survey protocols for grassland birds and winter raptors. For other wildlife, applicants shall follow New York State DEC guidance on appropriate survey methods.
g. Subsurface conditions. A description of the characteristics and suitability for construction purposes of the site's subsurface conditions, including such factors as soil corrosivity (for both steel and concrete), bedrock competence, and subsurface hydrologic characteristics and groundwater levels. Analysis should be based on a geotechnical engineering report verifying subsurface conditions, including the results of borings and/or test pits at a subset of 24.

h. Soils. The applicant shall identify appropriate mitigation measures required in locations with highly corrosive soils, soils with a high frost risk, and soils with high shrink/swell potential. The applicant shall provide maps, figures and analyses delineating depth to bedrock and underlying bedrock types, including vertical profiles showing soils, bedrock, water table and typical foundation depths on the facility site, based on information to be obtained from available published maps and scientific literature, review of technical studies conducted on the facility site, and on-site field observations, test pits and/or borings as available
i. Documentation of any required approvals of access to the project site(s), including location of all access roads, gates, parking areas, etc.
j. A storm water pollution prevention plan as per New York State DEC requirements to detail storm water runoff management and erosion control plans for the site.
k. Documentation of utility notification, including an electric service order number.
l. Decommissioning plan. Including cost estimate and description and form of financial surety as described in Section Ten of this law.
m. Elevations. Photo simulations shall be included that show the proposed solar energy system in relation to the building/site along with elevation views and dimensions, and manufacturer's specs and photos of the proposed solar energy system, solar collectors, and all other components.
n. SEQRA. Part I of the Full Environmental Assessment Form completed.
o. All items described in Section H (Contractual Requirements) and in Section I (6, 7 and 8).
p. Any other information not already mentioned that would assist the Planning Board in its review of the Special Permit and Site plan applications, especially those items identified in Section F. below.

F. Planning Review of Site Design and Construction. All utility-scale solar energy systems shall, at minimum, provide:

1. Fencing. All electrical and control equipment, including any battery and storage cells, shall be labeled and secured to prevent unauthorized access. Such equipment shall be enclosed with a fence of sufficient height as required by applicable codes. Fencing shall be located inside the tree buffer described in Requirement "5" of this subsection F.

2. Signs. Although warning signage must be placed on solar equipment to the extent appropriate, solar equipment shall not be used for displaying advertising. Sections 5.01-5.06 of the Town's land use law set out the general limitations on signs, however, all signs, flags, streamers or similar items, both temporary and permanent, are prohibited on solar equipment except:

a. manufacturer's or installer's identification;
b. appropriate warning signs and placards;
c. signs that may be required by a federal or state agency; and
d. signs that provide a 24-hour emergency contact phone number and warn of any danger.

3. Access and Parking**.** A road and parking plan will be provided to assure adequate emergency and service access. Maximum use of existing roads, public and private, shall be made. Any new access road will be reviewed for fire safety purposes by the Town Highway Superintendent, the Zoning Enforcement Officer, the Building Codes Inspector and the chief of the fire company that serves the area containing the property. Site access shall be maintained at a level acceptable to the local fire department and emergency medical services, including snow removal. Snow removal on the site is the responsibility of the permit holder. Solar facility access road shall be no greater than 26 feet wide. All roadways associated with the solar energy system shall remain unpaved and of pervious surfaces.

4. Wetlands protection**.** Solar energy systems shall meet the wetland requirements as provided in Title 6, Parts 663 and 664 of the New York Codes, Rules and Regulations and stream requirements as provided in Title 6, Part 608 of the NYCRR and shall meet all Clean Water Act requirements for placement of fill in Waters of the United States – whichever provides the stricter protection of wetland waters.

5. Deforestation**.** Previously cleared or disturbed areas are preferred locations for solar projects. Forested sites shall not be deforested to construct solar energy facilities. Brush and isolated trees or stands of trees in otherwise open fields or scrubland may be cut, however clear cutting of trees more than three inches in diameter at breast height in a single contiguous area exceeding 20,000 square feet is prohibited. This clearing restriction shall not apply to trees cleared for the access road. Any portion of a property that has been clear-cut in excess of the area described in the paragraph 3 above shall not be included in an application for a utility-scale solar project for a period of five years following such clear-cutting. Site disturbance, including but not limited to, grading, soil removal, excavation and

soil compaction in connection with installation of utility-scale solar energy facilities shall be minimized to the extent practicable.

6.Hazardous Materials**.** All solar panels shall have anti-reflective coating(s) not identified as a hazardous material by the U.S. Environmental Protection Agency. The applicant shall adhere to all federal and state laws, regulations and guidelines regarding PFAS and polytetrafluoroethylene (PTFE) films

7.Wildlife. Species in need of protection, as defined herein, or their occupied habitats, upon or within the facility property or, depending on species, that cross the site shall be identified and to the maximum extent practicable, the solar energy systems shall avoid or minimize adverse impacts to such species or habitats.

8.Underground Wiring**.** All transmission lines and wiring associated with a utility-scale solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code. The applicant is required to show the locations of all proposed underground electric utility lines including substations, switchyards, junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.

9. Negative Visual Impact Avoidance. The solar facility, including any proposed off-site infrastructure, shall be located and screened in such a way as to avoid visual impacts as viewed from public locations, public roads and highways, residences on neighboring parcels, or other locations identified by the Planning Board.

- The plans shall show maximum buffering and screening of utility-scale solar systems that are visible from the State Touring Routes including State Route 28 and Route 80 as well as their feeder highways, Otsego County Highways 26 and 11.
- Acceptable screening would include maintenance of existing vegetation, new vegetative barriers or berms, landscape screen or other opaque enclosures, or any combination thereof capable of fully screening the site. The applicant shall guarantee that all plantings that form part of the approved landscape and screening plan will be maintained and replaced if necessary during the life of the project.
- When the site is surrounded by existing mature trees, a buffer where no trees shall be cut shall be established and maintained as a wild zone for the life of the facility. The exception to this shall be dead or diseased trees, which will be cut and removed so as to encourage healthy growth of existing trees. A tree replacement plan shall be included in the site plan approval.
- Trees to be included in screening shall be native and non-invasive species of evergreen, e.g. Eastern red cedar and white spruce, a minimum of 8' tall and 3" in diameter at breast height. It shall be determined and documented by the developer if at the time of planting any species are threatened due to regional blight, disease, etc. Final decisions on appropriate plantings will be made by the Planning Board.
- The solar facility shall provide for the creation of a buffer that has an offset, double row of densely growing evergreens with the addition of some smaller trees and shrubs in front to create more of a naturalized hedgerow habitat. The purpose of the double row is to provide additional screening early while the trees are still small. While the evergreens should be the dominant tree for screening, addition of some smaller trees and shrubs are to be provided to benefit wildlife and aesthetics.
- Examples of appropriate shrubs and small trees to include to create a hedgerow could be shadbush, flowering dogwood, flowering raspberry, maple leaved viburnum, nannyberry, and choke cherry.
- The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists. The Planning Board reserves the right to individually assess what they deem to be sensitive areas potentially impacted by any proposed solar facility as part of their review to ensure that negative impacts of solar ray reflection will be prevented**.**
- Artificial lighting of solar energy systems shall be limited to lighting required for safety and operational purposes and shall be cast downward and shielded from all neighboring properties and public roads. Lighting shall be capable of manual or auto-shut off switch rather than motion detection.

10. Drainage**. T**he solar energy system shall comply with New York State storm-water regulations as set forth in GP-0-25-001, or as subsequently amended. The Storm-water Pollution Prevention Plan shall demonstrate that the solar system will not create adverse drainage, runoff or hydrology conditions that could impact adjoining and other non-participating properties in violation of New York State storm-water requirements.

Otsego Lake and Canadarago Lake watersheds are to be protected with suitable drainage designs consistent with recommendations from established watershed protection plans.

11. Road Use**.** Designated traffic routes for construction and delivery vehicles to minimize traffic impacts, wear and tear on local roads, and impacts on local business operations shall be proposed by the applicant and reviewed by the Planning Board and the Town Highway Superintendent.

H. Contractual Requirements. Prior to obtaining site plan approval, the applicant for a utility-scale solar energy system shall execute contractual agreements with the Town on the following topics, on forms to be drafted by the Town's attorneys:

1. Road Use**.** Utility-scale solar energy systems shall execute a road use agreement with the Town, County or State if Town , County , NY State roads are used for the project. Prior to the issuance of the building permit and commencement of construction, an existing condition survey of the approved hauling routes using town, county or state roads shall be undertaken by the applicant at the applicant's expense. Any road damage during construction caused by the operator or its subcontractors on town roads shall be repaired or reconstructed to the satisfaction of the Town Highway Superintendent or other appropriate municipal officials at the operator's expense.

2. Indemnification. The applicant for a utility-scale solar energy system shall execute an indemnification agreement with the Town. The agreement shall require the applicant/owner/operator to at all times defend, indemnify, protect, save, hold harmless and exempt the Town and its officers, councils, employees, attorneys, agents and consultants from any and all penalties, damages, costs or charges arising out of any and all claims, suits, demands, causes of action or award of damages whether compensatory or punitive, or expenses arising therefrom either at law or in equity, which might arise out of or be caused by the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said solar energy system, excepting however any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town or its employees or agents. With respect to the penalties, damages or changes referenced herein, reasonable attorneys' fees, consultant fees and expert witness fees are included in those costs that are recoverable by the Town.

3. Payment-in-Lieu of Taxes**.** The applicant for a utility-scale solar energy system shall enter into an agreement for a payment in lieu of taxes (PILOT) with the Town Board pursuant to Real Property Tax Law Section 487. This PILOT agreement shall be reviewed and approved by the Town Board. A PILOT agreement executed with the county IDA, acceptable to the Town Board, in its sole discretion, for the solar energy system may serve to meet the requirements of this section.

- No building permit shall be issued or construction commenced for a solar energy system until such time as the PILOT agreement has been executed by all parties and recorded at the Office of the County Clerk.
- The PILOT shall run to the benefit of the Town and be executed by the operator and the owners of the real property upon which the solar energy system is to be located . All signatures shall be notarized in such a way that allows the PILOT agreement to be recorded at the Office of the County Clerk. Prior to commencement of construction, the PILOT agreement shall be recorded at the Office of the County Clerk as a lien on the property and indexed against the property/properties upon which the solar energy system is to be constructed. The intent of this provision is so that should the operator of the solar energy system default with regard to the PILOT agreement, such obligation will become the responsibility of the then owner of the property upon which the solar energy system is sited and failure to satisfy the terms of such agreement will permit the Town to enforce such agreement against the owner.

4. Community Host**.** The applicant shall enter into a community host agreement providing a public benefit fee to mitigate the additional burdens placed on the town as a result of the project. The fee shall be utilized as a source of funding for prospective costs and expenses associated with and related to the anticipated municipal services and additional infrastructure improvements to be provided as a result of the project's presence within the town. The fee shall be in an amount established by resolution of the Town Board.

5. Decommissioning. The applicant shall execute a decommissioning agreement as described in Section Ten of this law.

I. System Operations

1. Ownership Changes. If the owner or operator of the solar energy system changes or the owner of the property changes, all requirements of the special use permit shall remain in effect. Approval to operate the system shall continue, provided that the successor owner or operator assumes in writing all of the obligations of the special use

permit, site plan approval, decommissioning plan, security and any agreements. A new owner or operator of the solar energy system shall notify the Building Inspector and the Town Supervisor of such change in ownership or operator 30 days prior to the ownership change. Failure to submit timely notification of ownership change will be considered a violation of law and may result in fines of up to $300 per day for each day that failure to submit the notice of changed ownership continues.

2. Certification After completion of a utility-scale solar energy system, the applicant shall provide a post-construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected. Failure to provide certification will be considered a violation of law and may result in fines of up to $300 per day for each day that the failure to provide certification continues.

3.Project Changes. Any post-approval changes to the solar energy system, except for immaterial modifications as defined herein, shall be done by amendment to the special use permit only and shall be subject to the requirements of Section Eight of this law. Unless expressly limited by a condition imposed in the permit, the Town Zoning Officer, Code Enforcement Officer, Building Inspector or other Town designee may, during project construction, allow immaterial modifications to the design of the project as represented in the final set of site plans reviewed by the Planning Board. Such immaterial modifications shall only be allowed in response to a written request by the applicant or permittee. All such requests shall be addressed to the authorized Town designee, with copies to the Chairman of the Planning Board, other Town designee, and the Town's designated consultants.

4. Insurance. The holder of a Special Use Permit for a solar energy system shall agree to secure and maintain for the duration of the permit, public liability insurance as follows (unless waived by the Town Board for smaller systems):

- **a.** Commercial general liability covering personal injuries, death and property damage: $5,000,000 per occurrence, $10,000,000 aggregate, which shall specifically include the Town and its officers, councils, employees, attorneys, agents and consultants as additional named insured.
- **b.** Umbrella Coverage: $10,000,000
- **c.** The Town may require that these limits be raised on an annual basis in keeping with the cost of living.
- **d.** Insurance Company: The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with at least a Best's rating of "A".
- e. Insurance Policy Cancellation: The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least 30 days prior written notice in advance of cancellation.
- f. Insurance Policy Renewal: Renewal or replacement policies shall be delivered to the Town at least 15 days before the expiration of the insurance that such policies are to renew or replace.
- g. Copies of Insurance Policy: No more than 15 days after the grant of the permit and before construction is initiated, the permit holder shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.
- h. Certificate of Insurance: A certificate of insurance that states it is for information purposes only and does not confer sufficient rights upon the Town shall not be deemed to comply with this law.

5. Safety/Emergency Response. Before any utility-scale solar energy system becomes active, the owner of the system shall arrange an on-site meeting with the fire department and emergency responders having primary coverage of the project area to review the components of the system, safety issues and procedures for emergency response. This shall include details on the location of labeled warnings, access to the site, and emergency disconnection of the system. In addition, the Town may require the installation of placards that provide mutual aid responders with sufficient information to protect them when responding to calls on site. The applicant shall provide the fire department with such safety equipment as may be necessary to respond to fires specifically of the type found at solar energy installations and battery storage facilities.

6**. Emergency Operations Plan** - The applicant shall prepare a safety/emergency response plan in cooperation with town emergency service providers. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, the local fire code official, the Otsego County Emergency Management Official and filed with the Otsego Town Supervisor and Town Clerk. A permanent copy shall also be placed in an approved location to be accessible to the battery energy storage facility personnel, fire code officials and emergency responders. The emergency operations plan shall include the following information:

a. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
b. Procedures for inspection and testing of associated alarms, interlocks, and controls.
c. Procedures to be followed in response to notifications from the solar energy system and/or battery energy storage system that, when provided, could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire company personnel for potentially hazardous conditions in the event of a system failure. All means of shutting down the solar energy system shall be clearly marked.
d. The property must be inspected after a National Weather Service designation of a Severe Weather Watch or Severe Weather Warning to ensure that the property did not sustain damage. Reports of such inspection shall be filed with the Town Zoning Officer, Town Clerk, Supervisor and County Building Inspector.
e. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling sand/ or extinguishing the fire.
f. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
g. Procedures for dealing with solar energy system and/or battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged equipment from the facility. System owner shall provide guaranteed non-emergency and emergency response times of a qualified subject matter expert to the Building Department and local emergency responders.
h. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders, that shall include but not be limited to a smoke or equivalent test for evacuation purposes.
i. Procedures and schedules for conducting drills of these procedures and for training local emergency responders on the contents of the plan and appropriate response procedures. Training shall be done annually and shall include local and mutual aid emergency responders. The training shall be paid for by the applicant, or by the owner of the battery storage system or utility scale solar energy system if they are different and conducted by a specialist in fighting fires involving batteries of this type.
j. The system owner shall notify the local fire department, county emergency management office and the town building inspector at least one week prior to any scheduled maintenance or battery "swap out."
k. In the event of a fire, all contaminated soil must be removed and disposed of properly, in accordance with all applicable laws.

7. <u>Retention Pond</u> – As part of an emergency management plan, the applicant for a utility-scale solar energy system shall consult with the fire department with primary coverage of the project area on the best fire suppression system for the planned battery technology. If the fire department determines that water is necessary, the applicant shall develop a well or retention pond(s) holding a sufficient amount of water as determined in site plan review, with dry hydrants (arrangement of piping with one end in the water and the other extending to dry land), for emergency firefighting use. The Planning Board may waive this requirement in the unlikely event that it determines that the project area is adequately served by a public water supply.

8. <u>Battery Management System</u> – As part of an emergency management plan, in addition to the general requirements for Battery Energy Storage Systems outlined in Section Six of this law, utility-scale solar energy systems shall be required to adhere to the following standards:

a. Battery Management System (BMS), which will incorporate an HVAC system to maintain environmental temperature and manage humidity for optimal operating conditions for batteries. The BMS must be capable of collecting data at the battery cell and module levels, monitoring temperature, voltage, current, state of charge, and state of health to detect abnormal battery conditions and provide information to prevent and mitigate potential emergency events. The system is required to meet the noise requirements of this local law**.**

b. Monitoring - Battery Energy Storage Systems shall be monitored 24 hours a day, seven days a week, from a remote operations center that can shut off project components when abnormal conditions are identified. The BESS shall also have smoke alarms and fire detection systems that will trigger audio/visual alarms on the BESS containers and be monitored remotely by the operations center, where operators will contact local personnel immediately and ensure that local emergency responders are notified in the event of an emergency.
c. Delivery - No batteries will be delivered to the project site until they are ready to be activated and placed into service. On-site storage of batteries for more than 72 hours prior to activation is prohibited. Storage of batteries for more than 72 hours prior to activation will be considered a violation of law and may result in fines of up to $300 per day for each day that the condition continues.

9. Maintenance. System equipment, grounds, fencing and buffer areas shall be maintained in good condition by the operator. Plant growth shall be controlled by mowing or grazing. The use of herbicides shall be reviewed and approved by the Planning Board. Broken panels and any other damaged or malfunctioning equipment shall be removed from the site within 30 days of discovery or notification of problem.

10. Vegetation. Following construction of a utility-scale solar energy system, all disturbed areas where soil has been exposed shall be reseeded with native grasses and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust. Failure to reseed will be considered a violation of law and may result in fines of up to $300 per day for each day that the failure to reseed continues.

11. Annual Report. On a yearly basis, the solar energy system owner shall provide the Town a report showing the rated capacity of the system and the amount of electricity that was generated by the system and transmitted to the grid. The annual report shall be submitted on the date each year appointed by the town. Failure to submit the annual report will be considered a violation of law and may result in fines of up to $300 per day for each day that the failure to submit the annual report continues.

SECTION TEN: ABANDONMENT OR DECOMMISSIONING OF SYSTEM

Decommissioning Plan

A Notification. An owner or operator of a utility-scale solar energy system that has not generated electricity for a period of six (6) consecutive months must notify the Town Supervisor, he Town Zoning Enforcement Officer, the Town's Building Inspector and the local Fire Chief in writing that the system is no longer operating. If the system ceases to operate for an additional 12 consecutive months, the system shall be deemed to be abandoned and shall be decommissioned within six months by the owner or operator.

B. Submission. A decommissioning plan shall be submitted as part of the original permit application to the Planning Board. The decommissioning plan shall be signed by the owner and/or operator of the solar energy system, identify the anticipated life of the project, and include, but not be limited to, the following provisions:

1. The removal of all energy facilities, structures and equipment including any subsurface wires and footings from the parcel. Any access roads created for building or maintaining the system shall also be removed and re-planted with vegetation.
2. The cost of removing the entire solar energy system based upon prevailing wages and any other requirements applicable to municipalities under state or federal law and no salvage value shall be attributed to any of the components of the solar energy system and/or the solar energy equipment.
3. A schedule and methods for the removal of the solar energy system and/or the solar energy equipment, including any ancillary structures.
4. The time required to restore the property to its pre-installed condition and to repair any damage caused to the property by the installation and removal of the solar energy system.
5. The Decommissioning Plan for restoring the property to its pre-installed condition, including grading and vegetative stabilization to eliminate any negative impacts to surrounding properties, and, where if it was previously used for farming, with vegetation suitable for farming purposes, i.e. a hay field, crops or grazing.

Such restoration shall follow New York State, Department of Agriculture & Markets' Guidelines for Solar Energy Projects: Construction Mitigation for Agricultural Lands, as updated.

6 .A proposed Decommissioning Agreement must be provided by the applicant and approved by the Town Board. No building, zoning special use or site plan approval permit shall be issued for a solar energy system until the Decommissioning Agreement between the applicant and the town has been executed and financial security provided as below set forth.

C. Security

Security 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 of the solar energy system and restoration of the site subsequent to removal. The Security shall be an evergreen letter of credit issued by an A-rated financial institution (relating to Standard & Poor's Rating Services, Inc. ("S&P") or any successor agency thereto) or an A3 rating financial institution (relating to Moody's Investor Services ("Moody's") or any successor rating agency thereto)) on behalf of the company, substantially in the form attached hereto as Exhibit A. The amount of the security shall be 125 percent of the estimated cost of removal of the solar energy system and restoration of the property, with an escalator of 2 percent annually (or Consumer Price Index change if more than the annual escalator of 2 percent) for the life of the solar energy system, and shall not take into account the net salvage value of any such project components. The security established by the agreement shall not be subject to disclaimer or rejection in a bankruptcy proceeding. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The security shall remain in full force and effect until 90 days after the restoration of the property, as set forth in the decommissioning plan, is completed.

SECTION ELEVEN: VIOLATIONS

Unless specifically defined elsewhere in this local law, penalties for violations of the law by applicants, permit holders, property owners or solar energy system operators shall be as described in Section 7.05 of the Town of Otsego's Land Use Law, with each day the violation continues being considered a separate violation.

SECTION TWELVE: PUBLIC UTILITY USE

A solar energy facility shall not be considered a Public Utility Use as that term is defined elsewhere in the Town of Otsego Land Use Law and as defined under New York State Law.

SECTION THIRTEEN: SEVERABILITY

The invalidity of any clause, sentence, paragraph or provision of this local law shall not invalidate any other clause, sentence, paragraph or part thereof.

SECTION FOURTEEN: EFFECTIVE DATE

This local law shall take effect immediately upon the filing in the office of the New York State, Secretary of State in accordance with Sections 10, 22 and 27 of the Municipal Home Rule Law.

Date: _____

APPENDIX: ZONING TABLES

TABLE 1. SOLAR ENERGY SYSTEMS BY TYPE & ZONING DISTRICT
BATTERY ENERGY STORAGE SYSTEMS ARE BOUND BY THE ZONING LIMITATIONS OF THEIR SCALE TYPE

Zoning Districts Where Permitted	Small Scale Rooftop	Small Scale Ground	Small Scale Bld Integ	Intermd Scale Rooftop	Intermd Scale Ground	Intermd Scale Blg Int	Utility Scale
2.02 Residential-Agricultural 1 **(RA1)**	P	P	P	P	SPR	P	SPU+
2.03 Residential-Agricultural 2 **(RA2)**	P	P	P	P	SPR	P	SPU+
2.04 Hamlet Residential **(H-R)**	P	SPR	P	P	SPR	P	NP
2.05 Hamlet Business **(H-B)**	P	SPR	P	P	SPR	P	NP
2.06 General Business 1 **(GB-1)**	P	P	P	P	SPR	P	SPU+
2.07 General Business 2 **(GB-2)**	P	P	P	P	SPR	P	SPU+
2.08 Recreational/Educational **(R/E)**	P	SPR	P	SPR	SPR	SPR	NP
4.04 Otsego and Canadarago Lake Protection Area Overlay **(O&CLP)**	P	NP	P	SPR	NP	NP	NP

Legend
P = Permitted **NP** = Not Permitted **SPR** = Site Plan Review
SPU+ (Specially Permitted Use + Site Plan Review + SEQRA)

TABLE 2 . GROUND-MOUNTED SOLAR ENERGY SYSTEM
ZONING SET-BACK & BUFFER LIMITATIONS WHERE DIFFERENT FROM OTHER USES IN LISTED ZONE
BATTERY ENERGY STORAGE SYSTEMS ARE BOUND BY THE ZONING LIMITATIONS OF THEIR SCALE TYPE

	Small-Scale Ground			Intermediate-Scale Ground			Utility-Scale		
Zoning Districts	Buffer Edge Setback From Road Center	Buffer Edge Setback From Adjoining Property Line	Buffer Edge Setback From Nearest Residence/ Business	Buffer Edge Setback From Road Center	Buffer Edge Setback From Adjoining Property Line	Buffer Edge Setback From Nearest Residence/ Business	Buffer Edge Setback From Road	Buffer Edge Setback From Adjoining Property Line	Buffer Edge Setback From Nearest Residence/ Business
2.02 Residential-Agricultural 1 **(RA1)**	70’	40’	100’	80’	60’	200’	350’	350’	500’
2.03 Residential-Agricultural 2 **(RA2)**	70’	40’	100’	80’	60’	200’	350’	350’	500’
2.04 Hamlet Residential **(H-R)**	70’	40’	100’	80’	60’	200’	350’	350’	500’
2.05 Hamlet Business **(H-B)**	70’	40’	100’	80’	60’	200’	350’	350’	500’
2.06 General Business 1 **(GB-1)**	70’	40’	100’	80’	60’	200’	350’	350’	500’
2.07 General Business 2 **(GB-2)**	70’	40’	100’	80’	60’	200’	350’	350’	500’
2.08 Recreational/Educational **(R/E)**	70’	40”	100’	80’	60’	200’	Not permitted	Not permitted	Not permitted
4.04 Otsego & Canadarago Lakeshore Protection Area (O&CLPA) Not permitted									