DRAFT – LAST UPDATED AFTER A WORKSHOP/MEETING ON 4/21/25

Town of Otsego

Local Law \_\_ of the Year 2025

A Local Law Of the Town of Otsego Regulating Solar Energy Systems

Numbered lines highlighted in are areas edited by ck and dd

Working Draft Solar Energy Local Law – Endnotes from NYSERDA have been deleted.

They can be viewed in the earlier drafts including that of 2/24/25.

Solar Energy Systems Local Law

## **1. AUTHORITY**

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

## **2. STATEMENT OF PURPOSE**

This Solar Energy Local Law is adopted to advance and protect the public health, safety, welfare, and especially the aesthetic and historic rural character of the Town of Otsego, NY by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:

1. To take advantage of an abundant and renewable energy source, to the extent that it can be done in a safe and nonpolluting manner, using reliable products by dependable installers [see Appendix 1]and in ways that can contribute to and do not diminish the value and enjoyment of existing agricultural, residential or historic properties in existence before this solar law was adopted.
2. To increase employment and business development in the Town of Otsego, NY, to the extent reasonably practical, by furthering the installation of Solar Energy Systems;
3. To mitigate the negativeimpacts of Solar Energy Systems on environmental resources such as important agricultural lands, aquifers, forests, wildlife, water resources and other protected resources, including aesthetic and historic structures and properties in a manner consistent with the spirit and goals of the Town’s Comprehensive Plan; and
4. To create synergy between solar energy, agricultural, recreational, aesthetic, and residential uses.

## **3. DEFINITIONS**

**AC:** Alternating Current as defined in this document as AC

**ACTIVE AGRICULTURAL LAND:** Land used for a Farm Operation in accordance with Agriculture and Markets Law § 301 – uses of which include production of crops, livestock, and livestock products – except that the period of time shall be five years, rather than two as provided in § 301 of the Agriculture and Markets Law.

**AQUIFER.** A geologic formation that contains water and can provide a usable amount of ground water for wells and public and private water systems.

**BATTERY ENERGY STORAGE SYSTEM:** One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time (not to include a stand-alone 12-volt car battery or an electric motor vehicle).

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEM:** A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows which produce electricity for onsite consumption.

**FACILITY AREA:** The cumulative land area occupied during the commercial operation of the solar energy generating facility. This 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 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 Agriculture & Markets Law § 301[11] or such similar section if § 301 is re-numbered).

**GLARE:** Direct or reflected light that creates discomfort, distraction or decreased visual performance for the observer.

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

**KILOWATT (kW):** A unit of power equal to 1,000 watts. The nameplate capacity of residential and commercial solar energy systems may be described in terms of kW.

**MEGAWATT (MW):** A unit of power equal to 1,000 kW. The nameplate capacity of larger solar energy systems may be described in terms of MW.

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

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

**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 NYS Department of Environmental Conservation.

**NEC:** National Electric Code

**ON-FARM SOLAR ENERGY SYSTEM:** A Solar Energy System located on a

farm which is a “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.

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

**ROOF-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

**SEQRA.** The letters that refer to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”).

**SOLAR ACCESS:** Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

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

**SOLAR ENERGY SYSTEM:** The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy System as follows.

**Tier 1 Solar Energy Systems** include the following:

1. Roof-Mounted Solar Energy Systems.
2. Building-Integrated Solar Energy Systems.
3. Ground-Mounted Solar Energy Systems with a Nameplate Capacity of up to 25 kW AC

or

Ground-Mounted Solar Energy Systems with a total solar panel surface area of 2,000 square feet or less.

4. On-Farm Solar Energy Systems

**Tier 2 Solar Energy Systems** include the following:

Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Nameplate Capacity of up to 1 MW AC and which generate no more than 110% of the electricity consumed on the site over the previous 12 months

or

Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Facility Area of up to 5 acres in size and which generate up to 110 % of the electricity consumed on the site over the previous 12 months.

**Tier 3 Solar Energy Systems** include the following:

Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Nameplate Capacity of up to 5 MW AC.

### or

Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Facility Area of up to 25 acres in size.

**Tier 4 Solar Energy Systems** are Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems.

**SOLAR PANEL:** A photovoltaic (PV) device capable of collecting and converting solar energy into electricity.

## **APPLICABILITY**

A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town of Otsego, NY after the effective date of this Local Law, excluding general maintenance and repair.

B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law. 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 be registered with the Town of Otsego Zoning Enforcement Officer within 60 days of the effective date. A photograph of the system to be exempted with details describing the system and date of installation is required.

C. Modifications to an existing Solar Energy System that increase the Facility Area by more than 5 % of the original Facility Area (exclusive of moving any fencing) shall be subject to this Local Law.

## **5.GENERAL REQUIREMENTS**

A. A permit shall be required for installation of all solar energy systems. The type of permit required shall depend on the tier of the system. A zoning permit shall be required for a Tier 1 system. A zoning permit and the approval of the Planning Board shall be required for Ground Mounted Tier 1 systems and for all Tiers 2 and above.

B. Prior to the issuance of the building permit or final approval by the Town of Otsego Planning Board, construction and/or site plan documents must be signed and stamped by a NYS Licensed Professional Engineer or NYS Registered Architect.

C. Issuance of permits and approvals by the Town of Otsego Planning Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”)].

D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Uniform Code”), the NYS Energy Conservation Code (“Energy Code”), and, to the extent relevant and not inconsistent with the Town of Otsego, NY Land Use Law.

E. For Solar Energy Systems subject to site plan review, the Town of Otsego, NY shall impose, and may update as appropriate, a schedule of fees to recover expenses associated with engineering, environmental, or legal services determined to be reasonably necessary in the processing of an application under this law.

F. The applicant must provide the Town (Planning Board) with a list of all property owners, along with a tax map and aerial map showing all proposed easements for transmission lines. A draft copy of the easement agreements suitable for recording at the Otsego County Clerk's Office should be provided. Final recorded versions of these easements must be submitted for project approval. These easements are required to assess the project's feasibility and confirm the applicant's due diligence.

Additional consideration: The Town shall encourage applicants to use existing infrastructure to minimize the impact of new transmission lines. Efforts should also be made to preserve the rural character of the land.

G. Glare All Solar Panels shall have anti-reflective coating(s) and shall be mounted so as toprevent direct or reflected light from creating discomfort, distraction or decreasing visual performance.

## **6. PERMITTING REQUIREMENTS FOR TIER 1 SOLAR ENERGY SYSTEMS**

Tier 1 ROOF-MOUNTED Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review except in the lake protection zone where site plan review shall be required. Roof mounted systems must meet all other local zoning code AND other land use regulations, and are subject to the following conditions for each type of Solar Energy Systems:

**A. Roof-Mounted Solar Energy Systems.**

1. Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements (exceptions may be approved by the Town of Otsego Zoning Enforcement Officer):
   1. Plans for new roof-mounted solar panels must be shown to the relevant ocal fire authority.

before installation to insure that the design will permit firefighters to work safely on the roof. Property owners must show this approval to the Town Zoning Enforcement Officer.

* 1. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface and the highest edge or panel of the system.
  2. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
  3. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

1. Height. All Roof-Mounted Solar Energy Systems shall comply with the height limitations in of the relevant zone as shown on the table in Appendix 4.

and

All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

**B. Building-Integrated Solar Energy Systems**

Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system and shall be reviewed by the appropriate County authority.

**C. Ground-Mounted Solar Energy Systems**

1. Glare. All Solar Panels shall have anti-reflective coating(s) and shall be mounted so as topreventdirect or reflected light from creating discomfort, distraction or decreasing visual performance for those who can observe the panels, especially individuals on roadways and neighboring properties.

2 Setbacks. Tier 1 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district as shown on the Table in Appendix 4.

3. Height. Tier 1 Solar Energy Systems shall be subject to the height limitations specified for accessory structures within the underlying zoning district.

And

Tier 1 Solar Energy Systems shall comply with the height limitations in Appendix 4.

4 Lot Size. Tier 1 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

5. Lot coverage. Tier 1 Solar Energy Systems are not exempt from the lot coverage requirements in the underlying zoning district.

6. Screening and Visibility.

* 1. All Tier 1 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.
  2. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and/or shading of adjoining property while still providing adequate Solar Access.

## **7. PERMITTING REQUIREMENTS FOR TIER 2 SOLAR ENERGY SYSTEMS**

All Tier 2 Ground-Mounted Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be subject to site plan approval. Tier 2 Solar Energy Systems shall adhere to the standards and requirements established for Tier 1 Ground-Mounted Systems in Section [6(C)], in addition to (or in some cases amended by) the following requirements:

**A. Application and Site Plan Review Requirements**.

Applications for Tier 2 Solar Energy Systems, including materials for site plan review, shall include the following:

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 or MW).
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 500 feet 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.

**B. Standards. Tier 2 Systems shall adhere to the following standards.**

1. Screening/Visibility. Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
2. Environmental Resources
   1. Tree-cutting. Removal of existing healthy trees larger than 6 inches in diameter should be minimized to the extent possible.
   2. To the extent practicable, Tier 2 Solar Energy System Owners shall utilize and maintain native perennial vegetation to provide foraging habitat for pollinators in all appropriate areas within the Facility Area.
   3. Use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.

## **8. PERMITTING REQUIREMENTS FOR TIER 3 SOLAR ENERGY SYSTEMS**

All Tier 3 Solar Energy Systems are permitted through the issuance of a solar use permit within the Residential Agricultural 1 and 2 zoning districts, and subject to site plan application requirements set forth in this Section.

**A. Applications for the installation of Tier 3 Solar Energy System shall be:**

1. Reviewed by the Planning Board for completeness. Applicants shall be advised within 45 days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

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

In addition to existing public notice requirements under local law, applicants shall deliver notice by first class mail to adjoining landowners or landowners within **500** feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Town of Otsego Planning Board at the public hearing.

1. Referred to the County Planning Department pursuant to General Municipal Law § 239-m if required.
2. Upon closing of the public hearing, the Town of Otsego Planning Board shall take action on the application within 60-days of the public hearing, which can include approval, approval with conditions, or denial. The 60-day period may be extended upon consent by both the Town of Otsego Planning Board and applicant.

**B. Application & Site Plan Review Requirements. Applications for Tier 3 Solar Energy Systems, including materials for site plan review, shall include the following:**

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 MW).
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. Map(s) of MSG 1-4 soils and Active Agriculture Lands on the parcel(s) comprising the Facility Area and adjacent parcels.
7. Adjacent land uses on contiguous parcels within a 500 foot radius of the site boundary.
8. Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any healthy 6 inches or larger, trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
9. Erosion and sediment control and storm water management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
10. A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all Battery Energy Storage System components if applicable and should include applicable setback and other bulk and area standards.[Appendix 4]
11. A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
12. A Property Operation and Maintenance Plan that describes continuing site maintenance, anticipated dual-use, and property upkeep, such as mowing and trimming.
13. A Decommissioning Plan [Appendix 2] signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant. The decommissioning plan shall address the following:
14. The time required to decommission and remove the Solar Energy System and any ancillary structures.
15. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
16. The cost of decommissioning and removing the Solar Energy System, as well as all necessary site remediation or restoration.
17. The provision of a decommissioning security which shall adhere to the following requirements:
    1. The deposit, executions, or filing with the Town of Otsego, NY Clerk of cash, bond, or other form of security reasonably acceptable to the Town of Otsego, NY attorney and/or supervisor, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal of all the solar system above or below ground level and restorations of the site subsequent to removal.

2.The amount of the bond or security shall be 115% of the estimated cost of removal and site restoration for the Tier 3 Solar Energy System, and shall be revisited every 3 years and updated as needed to reflect any changes (due to inflation or other cost changes).

3.In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town of Otsego, NY, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

[[1]](#endnote-1)

**C. Special Use Permit Standards. Town of Otsego Planning Board may issue a special use permit for a Tier 3 Solar Energy System only after it has found that all the following standards and conditions have been satisfied:**

1. Underground Requirements. All utility lines located outside of the Facility Area shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
2. Vehicular Paths. Vehicular paths within the Facility Area shall be designed in compliance with Uniform Code requirements to ensure emergency access, while minimizing the extent of impervious materials and soil compaction.
3. Signage.
   1. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer’s name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet and in compliance with town sign law.
   2. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
4. Glare. All Solar Panels shall have anti-reflective coating(s).
5. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
6. Multiple lots. At the discretion of the Town of Otsego Planning Board, where a Tier 3 Solar Energy System’s Facility Area comprises multiple lots (regardless of ownership by an individual or multiple participating landowners), the combined lots may be treated a single lot for the purposes of applying specific standards and requirements, including but not limited to lot size and setback requirements.
7. Lot size. The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements of the underlying zoning district.

and

The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements in Appendix 4.

1. Setbacks. The Tier 3 Solar Energy Systems shall comply with the setback requirements of the underlying zoning district for principal structures. Fencing, collection lines, access roads and landscaping may occur within the setback.

and

The Tier 3 Solar Energy Systems shall meet the parcel line setback requirements in Appendix 4. Fencing, collection lines, access roads and landscaping may occur within the setback.

1. Height. The Tier 3 Solar Energy Systems shall comply with the building height limitations for principal structures of the underlying zoning district.

and

The Tier 3 Solar Energy Systems shall comply with the height limitations ..[Appendix 4]

a. This height requirement can be waived by the Town of Otsego Planning Board if the panels are being raised to accommodate continued or new agricultural purposes.

10.Lot coverage. Lot coverage of the Solar Energy System, as defined below, shall not exceed the maximum lot coverage requirement of the underlying zoning district. The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:

* 1. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
  2. All mechanical equipment of the Solar Energy System, including any pad mounted structure for Battery Energy Storage System components, switchBoards, or transformers.
  3. Paved access roads servicing the Solar Energy System.

Alternatively, the requirement below measures a system’s lot coverage by Solar Panel square footage and requires that the system not exceed a maximum lot coverage requirement established specifically for Ground-Mounted Solar Energy Systems.

The Tier 3 Solar Energy System shall not exceed 60% of the lot where it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.

1. Fencing Requirements. All mechanical equipment, including any structure for Battery Energy Storage System components, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.
2. Screening and Visibility.
   1. Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
   2. Solar Energy Systems larger than 10 acres shall be required to:
      1. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, shall be required to submitted by the applicant.
      2. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.
3. The screening and landscaping plan shall specify the locations, elevations, height, plant species, and/or materials

that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscaped screening shall be comprised of a minimum of 1 evergreen tree, at least 6 feet high at time of planting, plus 2 supplemental shrubs at the reasonable discretion of the Town of Otsego Planning Board, all planted within each 10 linear feet of the Solar Energy System visible perimeter. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. A list of suitable evergreen tree and shrub species should be provided by the Town of Otsego, NY.

The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Town of Otsego, NY.

ii. The Town of Otsego Planning Board may elect to waive certain screening and landscaping requirements in select locations based on an applicant’s demonstration of non-impact or impact mitigation on adjacent parcels.

13. Environmental Guidelines

1. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
2. Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing Native Perennial Vegetation and foraging habitat beneficial to game birds, songbirds, and Pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes and seed all appropriate areas within the Facility Area. Any project which is designed to incorporate agricultural or farm-related activities or uses within the Facility Area may be excluded from this requirement based on the amount of space actually occupied by the agricultural use(s). This exclusion will only be allowed based on the Town of Otsego Planning Board determination that these lands are being used for actual agricultural uses.
3. Use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.

14. Agricultural Guidelines. Tier 3 Solar Energy Systems for which the Facility Area includes lands consisting of MSG 1-4 shall adhere to the following requirements:

1. Tier 3 Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 50% of the area of MSG 1-4 within the Facility Area.
   1. A Tier 3 Solar Energy System may exceed the 50% MSG 1-4 coverage threshold if it incorporates an onsite activity or program which provides for the use of the land as a Farm Operation. Exceedance beyond the 50% threshold will only be allowed based on the Town of Otsego Planning Board’s determination that the land is being used for a Farm Operation.
   2. Subject to discretion of the Town of Otsego Planning Board, if the landowner demonstrates that – notwithstanding the classification as MSG 1-4 – the land cannot be profitably employed due to excessive wetness, rocky conditions or slopes, the land may be excluded from the calculation required by this section.
2. To the maximum extent practicable, Tier 3 Solar Energy Systems located on MSG 1-4 shall be constructed, monitored, and decommissioned in accordance with the NYS Department of Agriculture and Markets’ “Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands.”

D**. Ownership Changes**. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the maintenance and decommissioning plans. [Appendix 2] A new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator within 30 days of the ownership change.

## **9. Permitting Requirements for Tier 4 Solar Energy Systems**

Tier 4 Solar Energy Systems are only permitted through the issuance of a solar use permit. within the [again, like tier 3, maybe res ag 1 and 2] zoning districts, and are subject to the site plan and special use permit application requirements established for Tier 3 Solar Energy Systems in Section 8, in addition to (or in some cases amended by) the following requirements:

1. **Applications for Tier 4 Solar Energy Systems**

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

1. **Pre-Application Meeting**.

At least 60 days prior to the submission of an application, the Applicant shall conduct a pre-application meeting with the Planning Board and Town Supervisor to ensure all parties have clear expectations regarding any Town requirements applicable to the proposed Solar Energy System. A written request for this purpose shall

be sent to the Town Supervisor. Submission and review of the application shall not be delayed based on the failure of the Town Supervisor to respond in a timely manner to a properly filed meeting request.

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

1. **Community Engagement Plan.**

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

D. **Special Use Permit Standards**

1. Setbacks: Tier 4 Solar Energy Systems shall meet all applicable parcel line and other setback requirements as outlined in Appendix 4. Fencing, collection lines, access roads and landscaping may occur within the setback.
2. Agricultural Resources: Tier 4 Solar Energy Systems for which the Facility Area includes Active Agricultural Lands shall adhere to the following requirements:

a. Tier 4 Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 50% of the Active Agricultural Lands within the Facility Area.

1. A Tier 4 Solar Energy System may exceed the 50% Active Agricultural Land threshold if it incorporates an onsite

activity or program which provides for the use of the land as a Farm Operation. Exceedance beyond the 50% threshold will only be allowed based on the Town of Otsego Planning Board’s determination that the land is being used for a Farm Operation.

1. To the maximum extent practicable, Tier 4 Solar Energy Systems located on Active Agricultural Lands shall be constructed, monitored, and decommissioned in accordance with the NYS Department of Agriculture and Markets’ “Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands.”

## **10.SAFETY**

1. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
2. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is located in an ambulance district, the local ambulance corps.
3. If a Battery Energy Storage System is included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town of Otsego, NY and any applicable federal, state, or county laws or regulations.
4. Where deemed necessary by the Town of Otsego Planning Board, the Applicant shall ensure emergency access to the Facility Area for local first responders by installing an emergency lock box or similar device, in a location subject to approval by the Fire Chief of the respective fire district.

## **11. PERMIT TIME FRAME AND ABANDONMENT**

1. The Solar Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 24 months, provided that a building permit is issued for construction. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Town of Otsego Planning Board, within 24months, the applicant may request to extend the time to complete construction for 12 months. Approval of a request to extend the time to complete construction shall not be unreasonably withheld by the Town of Otsego, NY. If the owner and/or operator fails to perform substantial construction within 48 months, the approvals shall expire.
2. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town of Otsego, NY may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 12 months of notification.
3. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of Otsego, NY may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

## **12. ENFORCEMENT**

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of Town of Otsego, NY and New York State.

## **13. SEVERABILITY**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

**APPENDIX 1 .COMPANY OVERVIEW FOR CORPORATE APPLICANTS**

A corporate applicant must provide the following:

A. Basic company information:

* Company name
* Year founded and the number of continuous years in business
* Ownership status (public or private company, LLC, LLP, S-CORP, sole proprietorship)
* Federal tax identification number
* Corporate and local office location
* Number of employees in corporate and local office at time of submittal
* The firms experience modification rate (EMR) for each of the past three years and your firms OSHA ratings(recordable, incidents rates, and lost workday incident rates for the past three years
* A description of any ongoing or previous litigation your firm has been involved in, and state that you are not debarred, suspended, or otherwise prohibited or limited from conducting business by any federal, state or local agency.

**B Project team**

* Provide information about key personnel to be assigned to this project
* Project team, organizational chart, including any key personnel and their proposed role roles
* Provide resumes as outlined in Appendix 1 for all key personnel that will be assigned to this project.
* Provide evidence of all relevant licenses, held by your firm to do work in New York State, attached list and copies of documents as outlined in Appendix 1.

**C. References**

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

* Location and Utility Company name
* System size (kW DC)
* Metering Type (Remote Net Metering, Community Distributed Solar, Onsite)
* Date completed
* Host Customer and/or Owner contract information (name, email, address, phone)

**D. Project Development Experience**

* Provide the total number of megawatts of solar PV your firm has constructed over the last five (5) years.
* Provide the total number of megawatts of solar PV your firm has constructed over the last five (5) years in New York.
* Provide total number of megawatts and projects of solar PV your firm has constructed on landfills and brownfields.
* Detail the types of customers your firm has worked with in the past (for example, residential, commercial nonprofit, or government).
* Describe your firm’s implementation of PV construction standards and other safety measures.
* Provide the number of operational PV systems under your firm’s management.

**E. Project Financing Capability**

* Provide number of PV systems that have been financed by you and/or your financing partner.
* Provide most recent audited financial statements, annual reports, consolidated financials, and Form 10-K (if any). If available, provide similar materials for parent entities, significant affiliates and collaborators.

### **APPENDIX 2. EXAMPLE DECOMMISSIONING PLAN**

**Date: [Date]**

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

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

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

System decommissioning shall be required as a result of any of the following conditions:

1. The land lease – if any – ends, unless the project owner has acquired the land.
2. The Solar Energy System ceases to generate electricity on a continuous basis for 12 months.
3. The Solar Energy System is damaged and will not be repaired or replaced by [Solar Developer Owner].

If any of the above conditions are met, and upon notification or instruction by the Town of Otsego, NY, [Solar Developer Name] shall implement this decommissioning plan. System decommissioning and removal, as well as all necessary site restoration or remediation activities, shall be completed within 12 months.

The owner of the Facility, as provided for in its lease with the landowner, and in accordance with the requirements of the Town of Otsego, NY zoning law, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which shall include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations located less than 36-inches below the soil surface, and/or less than 48-inches below the soil surface in areas consisting of [Mineral Soil Groups (MSG) 1-4 and/or Active Agricultural Lands].
2. For projects located on areas consisting of [MSG 1-4 and/or Active Agricultural Lands], removal of all operator owned equipment, concrete, conduits, structures, fencing, and foundations in accordance with the decommissioning requirements contained in the NYS Department of Agriculture and Markets’ “Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands.”
3. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
4. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

An appendix is included in this plan to provide a project schedule detailing a breakdown of tasks required for the decommissioning removal of the system, including:

1. Time required to decommission and remove the system and any ancillary structures.
2. Time required to repair any damage caused to the property by the installation and removal of the system.

The cost of system decommissioning and removal, as well as all necessary site remediation and restoration activities, is estimated to be $[XXX] as of the date and time this application is filed. A decommissioning security has been OR will be executed in the amount of 115% of the cost of system decommissioning, removal, and site restoration.

This cost estimate and decommissioning surety will be revisited every 3 years and updated as needed to account for inflation or other cost changes.

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

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

**APPENDIX 3.SHOULD WE INCLUDE AN APPLICATION FORM IF YES IT FITS HERE. IF NO, THE TABLES BECOME APPENDIX 3**

### **APPENDIX 4: LOT SIZE, SETBACK AND HEIGHT REQUIREMENTS**

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

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

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| TIER 3 | | | | | | | |
| Zoning Districts | Lot size min | Lot Coverage  Max | Setback min. From road center | Setback min side yard | Setback min read yard | Max roof mounted height | Max ground mounted height |
| 2.03 Residential-Agricultural 1 (RA1) | 3 acres | - | 300 ft. | 100 ft  Each side | 100 ft | 40 ft | 20 ft |
| 2.03 Residential-Agricultural 2 (RA2) | 3 acres | - | 300 ft | 100 ft  Each side | 100 ft | 40 ft | 20 ft |
| 2.04 Hamlet Residential (H-R) | 1 acre | - | 300 ft | 100 ft  Each side | 100 ft | 30 ft | 15 ft |
| 2.05 Hamlet Business  (H-B) | 1 acre | - | 300 ft | 100 ft  Each side | 100 feet | 35 ft | 15 ft |
| 2.06 General Business 1 (GB-1) | 10,000 sq ft (cen sewr/H20)  20,000 sq ft  (No cen sewr/H20) | 70% | 300 ft State R.O.W. | 100 ft from res or agric properties  100 ft. from Comm. prop.  As long as no violations of NYSUFP&BC | 100 ft from res or agric properties  100 ft. from Comm. prop.  As long as no violations of NYSUFP&BC | 35 ft. | 20 ft |
| 2.07 General Business 2 (GB-2) | 1 Acre w/out cent h20 or  sewer; 20,000 sq ft with cent  h20 or sewer (unless specified  otherwise) | 70% | 300 ft. from center of the road | 100 ft from res or agric properties  100 ft. from Comm. prop.  As long as no violations of NYSUFP&BC | 100 ft from res or agric properties  100 ft. from Comm. prop.  As long as no violations of NYSUFP&BC | 40 ft. | 20 ft |
| 2.08 R/E  Recreational/Educational | 10 acres |  | 300 ft | 100  Each side | 100 ft | 50 ft. | 20 ft |
| 4.04 Section 4.04 Otsego and Canadarago Lake Protection Area | NO TIER 3 PERMITTED IN THIS DISTRICT  Special rules apply in this overlay zone.  Covers an area up to 500 ft from the Otsego lake shore and 100 ft from any tributaries. | | | | | | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| TIER 4 | | | | | | | |
| Zoning Districts | Lot size min | Lot Coverage  Max | Setback min. From road center | Setback min side yard | Setback min read yard | Max roof mounted height | Max ground mounted height |
| 2.03 Residential-Agricultural 1 (RA1) | 3 acres | - | 300 ft. | 100 ft  Each side | 100 ft | 40 ft | 20 ft |
| 2.03 Residential-Agricultural 2 (RA2) | 3 acres | - | 200 ft | 100 ft  Each side | 100 ft | 40 ft | 20 ft |
| 2.04 Hamlet Residential (H-R) | 1 acre | - | 300 ft | 100 ft  Each side | 100 ft | 30 ft | 15 ft |
| 2.05 Hamlet Business  (H-B) | 1 acre | - | 300 ft | 100 ft  Each side | 100 feet | 35 ft | 15 ft |
| 2.06 General Business 1 (GB-1) | 10,000 sq ft (cen sewr/H20)  20,000 sq ft  (No cen sewr/H20) | 70% | 300 ft from State R.O.W. | 100 ft from res or agric properties  100 ft. from Comm. prop.  As long as no violations of NYSUFP&BC | 100 ft from res or agric properties  100 ft. from Comm. prop.  As long as no violations of NYSUFP&BC | 35 ft. | 20 ft |
| 2.07 General Business 2 (GB-2) | 1 Acre w/out cent h20 or  sewer; 20,000 sq ft with cent  h20 or sewer (unless specified  otherwise) | 70% | 300 ft. from center of the road | 100 ft from res or agric properties  100 ft. from Comm. prop.  As long as no violations of NYSUFP&BC | 100 ft from res or agric properties  100 ft. from Comm. prop.  As long as no violations of NYSUFP&BC | 40 ft. | 20 ft |
| 2.08 R/E  Recreational/Educational | 10 acres |  | 300 ft | 100  Each side | 100 ft | 50 ft. | 20 ft |
| 4.04 Section 4.04 Otsego and Canadarago Lake Protection Area | NO TIER 4 PERMITTED IN THIS DISTRICT  Covers an area up to 500 ft from the Otsego lake shore and 100 ft from any tributaries. | | | | | | |

1. [↑](#endnote-ref-1)