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2 DRAFT – LAST UPDATED 1/18/25  
3 Town of Otsego  
4 Local Law \_\_ of the Year 2025  
5 A Local Law Amending the Town of Otsego Land Use Law  
6 To Regulate Solar Energy Systems  
7 Working Draft Solar Energy Local Law – Endnotes to be deleted before final.

8 Endnote <sup>I</sup>

9 Solar Energy Systems Local Law

10 **1. Authority**

11 This Solar Energy Local Law is adopted pursuant to sections 261-263 of the Town Law of the State of New York, which authorize the  
12 Town of Otsego, NY to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in  
13 accordance with the Town of Otsego, NY law of New York State, “to make provision for, so far as conditions may permit, the  
14 accommodation of Solar Energy Systems and equipment and access to sunlight necessary therefor.”

15 Endnote <sup>II</sup>

16 **2. Statement of Purpose**

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

- 19 1. To take advantage of a safe, abundant, renewable and non-polluting energy resource;  
20 2. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;  
21 3. To increase employment and business development in the Town of Otsego, NY, to the extent reasonably practical, by furthering  
22 the installation of Solar Energy Systems;  
23 4. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife  
24 and other protected resources; and  
25 5. To create synergy between solar, agriculture, recreational, aesthetic, and residential use.

26 **3. Definitions**

27 **ACTIVE AGRICULTURAL LAND:** Land used for a Farm Operation in accordance with Agriculture and Markets Law § 301 – uses of  
28 which include production of crops, livestock, and livestock products – within the past five years.

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

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

34 **FACILITY AREA:** The cumulative land area occupied during the commercial operation of the solar energy generating facility. This shall  
35 include all areas and equipment within the facility’s perimeter boundary – including the solar energy system, onsite interconnection  
36 equipment, onsite electrical energy storage equipment, and any other associated equipment – as well as any site improvements  
37 beyond the facility’s perimeter boundary such as access roads, permanent parking areas, or other permanent improvements. The  
38 facility area shall not include site improvements established for impact mitigation purposes, including but not limited to vegetative  
39 buffers and landscaping features.

40 **FARM OPERATION:** Land and on-farm buildings, equipment, facilities, and practices which contribute to the production, preparation,  
41 and marketing of crops, livestock, and livestock products as a commercial enterprise (in accordance with Agriculture & Markets Law §  
42 301[11]).

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

**GROUND-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System 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.

**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.

### Endnote <sup>III</sup>

**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.

A. 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 up to 4,000 square feet.

4. On-Farm Solar Energy Systems

B. Tier 2 Solar Energy Systems include the following:

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

- 85 or
- 86 Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Facility Area of up to 5 acres in  
87 size and which generate up to 110 % of the electricity consumed on the site over the previous 12 months.
- 88 C. Tier 3 Solar Energy Systems include the following:
- 89 Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Nameplate Capacity of up  
90 to 5 MW AC.
- 91 or
- 92 Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Facility Area of up to 40  
93 acres in size.
- 94 D. Tier 4 Solar Energy Systems are Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy  
95 Systems.
- 96 **SOLAR PANEL:** A photovoltaic device capable of collecting and converting solar energy into electricity.

97  
98 Endnote<sup>IV</sup>  
99

100 **4. Applicability**

- 101 A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town of Otsego,  
102 NY after the effective date of this Local Law, excluding general maintenance and repair.
- 103 B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the  
104 requirements of this Local Law.
- 105 C. Modifications to an existing Solar Energy System that increase the Facility Area by more than 5 % of the original Facility Area  
106 (exclusive of moving any fencing) shall be subject to this Local Law.

107 Endnote<sup>V</sup>

108 **5. General Requirements**

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

116 Endnote<sup>VI</sup>

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

123 **6. Permitting Requirements for Tier 1 Solar Energy Systems**

124 All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local  
125 zoning code or other land use regulations, subject to the following conditions for each type of Solar Energy Systems:

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

127 1. Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements (exceptions may be  
128 approved by the Town of Otsego Zoning Enforcement Officer:

129 a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface and the  
130 highest edge of the system.

131 b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

132 c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are  
133 mounted or attached.

134 d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the  
135 flat surface of the roof, whichever is higher.

136 2. Glare. All Solar Panels shall have anti-reflective coating(s).

137 3. Height. All Roof-Mounted Solar Energy Systems shall comply with the height limitations in Appendix 3.

138 and

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

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

142 1. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the  
143 building containing the system.

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

145 1. Glare. All Solar Panels shall have anti-reflective coating(s).

146 2. Setbacks. Tier 1 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within  
147 the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in  
148 residential districts.

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

151 and

152 Tier 1 Solar Energy Systems shall comply with the height limitations in Appendix 3.

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

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

156 6. Screening and Visibility.

157 a. All Tier 1 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably  
158 practicable.

159 b. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from  
160 surrounding properties and shading of property to the north, while still providing adequate Solar Access.

161 **7. Permitting Requirements for Tier 2 Solar Energy Systems**

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

165 A. Application & Site Plan Review Requirements. Applications for Tier 2 Solar Energy Systems, including materials for site plan review,  
166 shall include the following:

- 167 1. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar  
168 Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- 169 2. Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating  
170 their consent to the application and the use of the property for the Solar Energy System.
- 171 3. Nameplate Capacity of the Solar Energy System (as expressed in kW or MW).
- 172 4. Zoning district designation for the parcel(s) of land comprising the Facility Area.
- 173 5. Property lines and physical features, including roads, for the project site.
- 174 6. Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
- 175 7. Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large  
176 trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
- 177 8. A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in  
178 each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods,  
179 and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe  
180 the location and layout of all Battery Energy Storage System components if applicable and should include applicable setback  
181 and other bulk and area standards.
- 182 9. A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems,  
183 racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to  
184 the issuance of building permit.

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

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

196 **Endnote VII**

197 **8. Permitting Requirements for Tier 3 Solar Energy Systems**

198 All Tier 3 Solar Energy Systems are permitted through the issuance of a special use permit within the Residential Agricultural 1 and  
199 2 zoning districts, and subject to site plan application requirements set forth in this Section.

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

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

203 **Endnote VIII**

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

206 In addition to existing public notice requirements under local law, Applicants shall deliver notice by first class mail to adjoining  
207 landowners or landowners within 200 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be  
208 provided to the Town of Otsego Planning Board at the public hearing.

209 **Endnote IX**

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

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

- 216 1. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar  
217 Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- 218 2. Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating  
219 their consent to the application and the use of the property for the Solar Energy System.
- 220 3. Nameplate Capacity of the Solar Energy System (as expressed in MW).
- 221 4. Zoning district designation for the parcel(s) of land comprising the Facility Area.
- 222 5. Property lines and physical features, including roads, for the project site.
- 223 6. Map(s) of MSG 1-4 soils and Active Agriculture Lands on the parcel(s) comprising the Facility Area and adjacent parcels.
- 224 7. Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
- 225 8. Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any  
226 large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
- 227 9. Erosion and sediment control and storm water management plans prepared to NYS Department of Environmental  
228 Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- 229 10. A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in  
230 each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods,  
231 and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should  
232 describe the location and layout of all Battery Energy Storage System components if applicable and should include applicable  
233 setback and other bulk and area standards.
- 234 11. A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting  
235 systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted  
236 prior to the issuance of building permit.
- 237 12. A Property Operation and Maintenance Plan that describes continuing site maintenance, anticipated dual-use, and property  
238 upkeep, such as mowing and trimming.

239 **Endnote X**

- 240 13. A Decommissioning Plan [Appendix 4] signed by the owner and/or operator of the Solar Energy System shall be submitted by  
241 the applicant. The decommissioning plan shall address the following:
- 242 a. The time required to decommission and remove the Solar Energy System and any ancillary structures.
- 243 b. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy  
244 System.
- 245 c. The cost of decommissioning and removing the Solar Energy System, as well as all necessary site remediation or  
246 restoration.
- 247 d. The provision of a decommissioning security which shall adhere to the following requirements:

248 1. The deposit, executions, or filing with the Town of Otsego, NY Clerk of cash, bond, or other form of security reasonably  
249 acceptable to the Town of Otsego, NY attorney and/or supervisor, shall be in an amount sufficient to ensure the good  
250 faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and  
251 restorations of the site subsequent to removal.

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

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

260 Endnote<sup>XI</sup>

261 Endnote<sup>XII</sup>

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

264 Endnote<sup>XIII</sup>

265 1. Underground Requirements. All utility lines located outside of the Facility Area shall be placed underground to the extent  
266 feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-  
267 of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

268 2. Vehicular Paths. Vehicular paths within the Facility Area shall be designed in compliance with Uniform Code requirements to  
269 ensure emergency access, while minimizing the extent of impervious materials and soil compaction.

270 3. Signage.

271 a. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment  
272 specification information, safety information, and 24-hour emergency contact information. Said information shall be  
273 depicted within an area no more than 8 square feet and in compliance with town sign law.

274 b. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed  
275 on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted  
276 transformers and substations.

277 4. Glare. All Solar Panels shall have anti-reflective coating(s).

278 5. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes  
279 and shall be reasonably shielded and downcast from abutting properties.

280 6. Multiple lots. At the discretion of the Town of Otsego Planning Board, where a Tier 3 Solar Energy System's Facility Area  
281 comprises multiple lots (regardless of ownership by an individual or multiple participating landowners), the combined lots may  
282 be treated a single lot for the purposes of applying specific standards and requirements, including but not limited to lot size and  
283 setback requirements.

284 Endnote<sup>XIV</sup>

285 7. Lot size. The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements of the underlying  
286 zoning district.

287 and

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

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

291 and

292 The Tier 3 Solar Energy Systems shall meet the parcel line setback requirements in Appendix 2, Table 2.1. Fencing, collection  
293 lines, access roads and landscaping may occur within the setback.

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

296 and

297 The Tier 3 Solar Energy Systems shall comply with the height limitations in Appendix 3 depending on the underlying zoning  
298 district.

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

301 **Endnote**<sup>XV</sup>

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

- 305 a. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small  
306 concrete collars.  
307 b. All mechanical equipment of the Solar Energy System, including any pad mounted structure for Battery Energy  
308 Storage System components, switchboards, or transformers.  
309 c. Paved access roads servicing the Solar Energy System.

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

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

314 11. Fencing Requirements. All mechanical equipment, including any structure for Battery Energy Storage System components, shall  
315 be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.

316 12. Screening and Visibility.

317 a. Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent properties to the extent reasonably  
318 practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the  
319 character of the property and surrounding area.

320 b. Solar Energy Systems larger than 10 acres shall be required to:

- 321 1. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent  
322 properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential  
323 significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, shall be  
324 required to be submitted by the applicant.  
325 2. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other  
326 means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from  
327 public roadways and adjacent properties to the extent feasible.

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

335 [OR]as we have no specific laws, the above probably makes sense

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

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

342 **Endnote<sup>XVI</sup>**

343 13. Environmental Resources

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

355 **Endnote<sup>XVII</sup>**

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

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

369 **Endnote<sup>XVIII</sup>**

- 370 D. Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the  
371 special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations  
372 of the decommissioning plan. A new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of  
373 such change in ownership or operator within 30 days of the ownership change.

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

375 All Tier 4 Solar Energy Systems are permitted through the issuance of a [special use permit] within the [again, like tier 3, maybe res ag  
376 1 and 2] zoning districts, and are subject to the site plan and special use permit application requirements established for Tier 3 Solar  
377 Energy Systems in Section 8, in addition to (or in some cases amended by) the following requirements:

- 378 A. Applications for Tier 4 Solar Energy Systems shall:

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

381 B. Pre-Application Meeting.

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

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

391 C. Endnote<sup>xix</sup>

392 Community Engagement Plan.

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

397 Endnote<sup>xx</sup>

398 D. Special Use Permit Standards

399 1. Setbacks: Tier 4 Solar Energy Systems shall meet all applicable parcel line and other setback requirements as outlined in  
400 Appendix 2, Table 2.2. Fencing, collection lines, access roads and landscaping may occur within the setback.

401 2. Agricultural Resources: Tier 4 Solar Energy Systems for which the Facility Area includes Active Agricultural Lands shall adhere to  
402 the following requirements:

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

405 i. A Tier 4 Solar Energy System may exceed the 50% Active Agricultural Land threshold if it incorporates an onsite  
406 activity or program which provides for the use of the land as a Farm Operation. Exceedance beyond the 50% threshold  
407 will only be allowed based on the Town of Otsego Planning Board's determination that the land is being used for a Farm  
408 Operation.

409 b. To the maximum extent practicable, Tier 4 Solar Energy Systems located on Active Agricultural Lands shall be  
410 constructed, monitored, and decommissioned in accordance with the NYS Department of Agriculture and Markets'  
411 "Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands."

412 **10. Safety**

413 A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as  
414 required.

415 B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be  
416 maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is  
417 located in an ambulance district, the local ambulance corps.

418 C. If a Battery Energy Storage System is included as part of the Solar Energy System, they shall meet the requirements of any  
419 applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the  
420 laws and regulations of the Town of Otsego, NY and any applicable federal, state, or county laws or regulations.

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

## 424 11. Permit Timeframe and Abandonment

425 A. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 36 months, provided that [a  
426 building permit is issued for construction OR construction is commenced]. In the event construction is not completed in  
427 accordance with the final site plan – as may have been amended and approved – as required by the Town of Otsego Planning  
428 Board, within 36 months, the applicant may request to extend the time to complete construction for 12 months. Approval of a  
429 request to extend the time to complete construction shall not be unreasonably withheld by the Town of Otsego, NY. If the owner  
430 and/or operator fails to perform substantial construction within 48 months, the approvals shall expire.

431 B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town of Otsego, NY  
432 may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The  
433 decommissioning plan must be completed within 12 months of notification.

434 C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of Otsego, NY may, at its  
435 discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance  
436 with the decommissioning plan.

437 Endnote<sup>XXI</sup>

## 438 12. Enforcement

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

441 Endnote<sup>XXII</sup>

## 442 13. Severability

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

## 447 2.1 Appendix 1: Lot Size Requirements

448 The following table displays the size requirements of the lot for Ground-Mounted Solar Energy Systems to be permitted.

449 *Table 1.1: Lot Size Requirements*

Zoning District	Tier 3 & 4
Residential Low Density	≥ 2 acres
Residential High Density	—
Commercial / Business	≥ 5 acres
Light Industrial	N/A
Heavy Industrial	N/A
Agricultural / Residential	≥ 5 acres

### 451 Key:

452 —: Not Allowed

453 N/A: Not Applicable

## 2.2 Appendix 2: Setback Requirements

The following table provides parcel line setback requirements for Ground-Mounted Solar Energy Systems. Fencing, access roads and landscaping may occur within the setback.

*Table 2.1: Parcel Line Setback Requirements for Tier 3 Solar Energy Systems*

	Tier 3		
Zoning District	Front	Side	Rear
Residential Low Density	100'	100'	100'
Residential High Density	—	—	—
Commercial / Business	30'	15'	25'
Light Industrial	30'	15'	25'
Heavy Industrial	30'	15'	25'
Agricultural / Residential	30'	15'	25'

**Key:**

—: Not Allowed

*Table 2.2: Parcel Line and Other Setback Requirements for Tier 4 Solar Energy Systems*

	Tier 4			
Zoning District	Front	Side	Rear	Non-Participating Occupied Residence
Residential Low Density	100'	100'	100'	250'
Residential High Density	—	—	—	—
Commercial / Business	50'	50'	50'	250'
Light Industrial	50'	50'	50'	250'
Heavy Industrial	50'	50'	50'	250'
Agricultural / Residential	50'	50'	50'	250'

**Key:**

—: Not Allowed

## 2.3 Appendix 3: Height Requirements

The following table displays height requirements for each type of Solar Energy Systems. The height of systems will be measured from the highest natural grade below each Solar Panel. *Table 3.1: Height Requirements*

Zoning District	Tier 1 Roof-Mounted	Tier 1 & 2 Ground-Mounted	Tier 3 & 4 Ground-Mounted
Residential Low Density	2' above roof	10'	15'
Residential High Density	2' above roof	10'	—
Commercial / Business	4' above roof	15'	20'
Light Industrial	4' above roof	15'	20'
Heavy Industrial	4' above roof	15'	20'

Agricultural / Residential	2' above roof	15'	20'
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**Key:**

—: Not Allowed

**2.4 Appendix 4: 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:** \_\_\_\_\_

The full 245 page NYSEDA solar guidebook is available at:

<https://www.nyserda.ny.gov/-/media/Project/Nyserda/Files/Programs/NY-Sun/2023-Solar-Guidebook.pdf>

*The model solar law begins on page 179 of the pdf.*

<sup>i</sup> **Endnote 1:** The Model Solar Energy Local Law can be found on the following page and at [www.nyserda.ny.gov/SolarGuidebook](http://www.nyserda.ny.gov/SolarGuidebook), under the Model Solar Energy Local Law tab. A workable version of this document can also be found online at the above website.

a. This Model Solar Energy Local Law (Model Law) is not intended for adoption exactly as it is written. It is intended to be advisory only, and users should not rely upon it as legal advice. A municipality is not required to adopt this Model Law. Municipal officials are urged to seek legal advice from their attorneys before enacting a solar energy law. Municipalities must carefully consider how the Model Law language may be modified to suit local conditions, their comprehensive plan, and existing zoning and land use regulations and zoning provisions.

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

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

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

<sup>ii</sup> **Endnote 2:** Municipalities are specifically authorized to adopt legislation to accommodate Solar Energy Systems and equipment. The Model Law Authority Section references this delegated authority. The municipal attorney should be consulted regarding this Section as well as the Model Solar Energy Law in its totality.

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

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

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

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

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

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

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

See Guidelines for Review of Local Laws Affecting Small Wind Energy Production Facilities and Solar Devices, available at [https://agriculture.ny.gov/system/files/documents/2019/11/guidelines\\_for\\_solar\\_and\\_small\\_wind\\_energy\\_facilities.pdf](https://agriculture.ny.gov/system/files/documents/2019/11/guidelines_for_solar_and_small_wind_energy_facilities.pdf).

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

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

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

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

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

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

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

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<sup>vi</sup> **Endnote 6:** The Solar Guidebook provides an overview of the SEQRA process and instructions for solar energy projects. Access the Solar Guidebook at [www.nyseda.ny.gov/SolarGuidebook](http://www.nyseda.ny.gov/SolarGuidebook).

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

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

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

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

<sup>Ⓞviii</sup> **Endnote 8:** Municipalities are encouraged to consider and establish a reasonable period for determining the completeness of a Solar Energy System permit application, which may be shaped by factors including:

- Availability and capacity of the Reviewing Board and/or municipal officials tasked with reviewing applications.
- Cadence of Reviewing Board meetings; if meetings are held monthly, a 30-day review period may be necessary to allow the Board to issue a completeness determination.
- Supplemental review and support services provided by a consultant or third-party.

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

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

<sup>xi</sup> **Endnote 11:** Decommissioning is the process of removing an abandoned Solar Energy System and remediating the land. When describing requirements for decommissioning Solar Energy Systems, it is possible to specifically require the removal of infrastructure, disposal of any components, and the stabilization and re-vegetation of the site. A decommissioning plan is required for Tier 3 Solar Energy Systems.

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It is important to note that despite many municipalities' choice to require a financial mechanism for decommissioning, there is no specific authority to do so as part of a land use approval for solar PV projects. Therefore, a municipality should consult the municipal attorney when evaluating financial mechanisms.

For additional resources, please refer to NYSERDA's Fact Sheet on Decommissioning Solar Panel Systems, available at [nyserda.ny.gov/SolarGuidebook](https://nyserda.ny.gov/SolarGuidebook).

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

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

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

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

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

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

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

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

<sup>xvi</sup> **Endnote 16**: In general, municipalities should think through how helpful SEQRA can be in mitigating adverse impacts of any proposed system approved through a special use permit under this Section. When determining the appropriate SEQRA

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

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

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

For additional resources, please refer to NY-Sun’s “State Environmental Quality Review (SEQR) for Solar,” available at [nyserda.ny.gov/SolarGuidebook](http://nyserda.ny.gov/SolarGuidebook).

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

- Plant short-growing, low-maintenance, native seed mix underneath and around the panels;
- Plant a diverse Pollinator seed mix in between the rows of panels;
- Plant buffers with vegetation that benefit Pollinators and early successional species; Plant native shrubs along the property boundary;
- Specify a minimum number of species of native flowers (encouraged to include species for each bloom period) and native grass species.

<sup>xviii</sup> **Endnote 18:** For more information about solar and agriculture, including dual-use approaches and relevant NYS programs, please refer to the ‘Solar Installations on Agricultural Lands’ section of the Solar Guidebook, available at: [www.nyserda.ny.gov/SolarGuidebook](http://www.nyserda.ny.gov/SolarGuidebook).

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

Other optional approaches for addressing agriculture include:

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

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

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

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

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

- Details of outreach strategies and activities that will be used to engage stakeholders and interested parties.
- Planned frequency of public events and strategies to ensure that events are widely attended by a representative cross section of community residents.
- Details of the direct benefits to the community.
- Details on past/planned engagement regarding payments in lieu of taxes agreements or host community agreements.
- Describe local interests and concerns, including identifying plans to thoughtfully build support for and respectfully responding to any opposition.
- Identify strategies the Applicant will use to mitigate concerns raised by the public.
- Method for soliciting feedback and input from the public and the process for sharing feedback and responses publicly.

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

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

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

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