

LOCAL LAW #4-2024 AMENDING SECTION 10.27 OF THE TOWN OF RANDOLPH ZONING LAW.

Section 1: Legislative Intent

It is the intent of this local law to update the Town of Randolph solar regulations using the latest NYSERDA guidance.

Section 2: Authority

This Commercial Solar Energy Conversion Systems Law is adopted pursuant to Sections 261–263 of the Town Law and Section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town of Randolph to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Town Law of New York State, “to make provision for, so far as conditions may permit, the accommodation of Solar Energy Systems and equipment and access to sunlight necessary therefor.”

Section 3: Amendment to Section 10.27 (This is part of the Randolph Solar Code) – Commercial Solar Energy Conversion Systems.

Section 10.27 – Commercial Solar Energy Conversion Systems is repealed and replaced in its entirety as follows

A. Statement of Purpose

This updated Commercial Solar Energy Conversion Systems Law is proposed to advance and protect the public health, safety, and welfare of the Town of Randolph by creating regulations for the installation and use of Commercial Solar Energy Conversion Systems and equipment, with the following objectives:

1. To take advantage of a safe, abundant, renewable and non-polluting energy resource.
2. To create synergy between solar and other stated goals as the community pursuant to our comprehensive plan.
3. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources.
4. To provide the opportunity to increase employment and business development in the Town of Randolph, to the extent reasonably practical, by furthering the installation of Solar Energy Systems where appropriate.
- 5 To provide the future opportunity to decrease the cost of electricity to the owners of residential and commercial properties.

B. Definitions

ACTIVE AGRICULTURAL LAND: Land actively used for a Farm Operation in accordance with Agriculture and Markets Law § 301 in a County Certified Agricultural District.

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]).

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.

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.
 4. Ground-Mounted Solar Energy Systems with a total solar panel surface area of up to [4,000] square feet.
 - 5.. On-Farm Solar Energy Systems
- B. Tier 2 Solar Energy Systems include the following:
1. 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.
 2. Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Facility Area of up to [8] acres in size and which generate up to [110] % of the electricity consumed on the site over the previous [12] months.
- C. Tier 3 Solar Energy Systems include the following:
1. 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.
 2. Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Facility Area of up to [40] acres in size.
- D. Tier 4 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 device capable of collecting and converting solar energy into electricity.

C. Applicability

1. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in Town of Randolph after the effective date of this Local Law, excluding general maintenance and repair.
2. 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.
3. 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.

D. General Requirements

1. A Building permit shall be required for installation of all Solar Energy Systems.
2. Prior to the issuance of the building permit or final approval by the Zoning Board of Appeals construction and/or site plan documents must be signed and stamped by a NYS Licensed Professional Engineer or NYS Registered Architect.
3. Issuance of permits and approvals by the Zoning Board of Appeals shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].
4. 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 the Town of Randolph Code.

5. For Solar Energy Systems subject to site plan review, the Town 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.

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

7. 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.

8. 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 and any applicable federal, state, or county laws or regulations.

9. Where deemed necessary by the Zoning Board of Appeals, 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 Town of Randolph, NY

E. Permitting Requirements for Tier 1 Solar Energy Systems

All Tier 1 Solar Energy Systems shall comply with the stipulations outlined in Appendix 1, 2, 3, and are subject to the following conditions for each type of Solar Energy Systems:

1. Roof-Mounted Solar Energy Systems

a. Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements (exceptions may be approved by the Code Enforcement Officer:

1) Solar Panels on pitched roofs shall be mounted with a maximum distance of [8] inches between the roof surface the highest edge of the system.

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

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

4) 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.

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

c. Height. All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations as specified in Appendix 2.

2. Building-Integrated Solar Energy Systems

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

3. Ground-Mounted Solar Energy Systems are Not Allowed – See Appendix 1,2,3

F. Permitting Requirements for Tier 2 Solar Energy Systems

All Tier 2 Ground-Mounted Solar Energy Systems shall be permitted in accordance with Appendix 1, 2 & 3 and are subject to the following conditions for each type of Solar Energy System:

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

- a. 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.
- b. 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.
- c. Nameplate Capacity of the Solar Energy System (as expressed in kW or MW).
- d. Zoning district designation for the parcel(s) of land comprising the Facility Area.
- e. Property lines and physical features, including roads, for the project site.
- f. Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
- g. 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.
- h. 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.
- i. 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.

2. Standards. In addition to compliance with Appendix 1, 2 & 3 Tier 2 Systems shall adhere to the following standards.

- a. Lot coverage. Tier 2 Solar Energy Systems are exempt from the lot coverage requirements in the underlying zoning district.
- b. 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.
- c. Environmental Resources
 - 1) Tree-cutting. Removal of existing 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.

G. Permitting Requirements for Tier 3 & 4 Solar Energy Systems

All Tier 3 & 4 Solar Energy Systems shall comply with Appendix 1, 2, 3, the facility area as defined herein shall not exceed more than 40% of the Lot and require the issuance of a Site Plan and Special Use Permit approval by the Zoning Board of Appeals, subject to the requirements and procedures set forth in this Section.

1. Application Review Process:

- a. Applicants may request a pre-application meeting with the Town Supervisor, Town Planning Board, Zoning Board of Appeals, Town Code Enforcement Officer and such consultants as the Supervisor shall determine. Such meeting shall be informal, and no party shall be bound by any statements made.
- b. An original copy of the application and a complete digital version shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. The Town Clerk shall forward the application to the Code Enforcement Officer for review.
- c. The Code Enforcement Officer, in consultation with the Town Engineer and any other consultants deemed necessary, shall determine whether the application is complete. If the application is deemed incomplete, the Town Code Enforcement Officer shall provide the applicant with a written statement listing the missing information. No additional fees shall be required upon submittal of the additional information unless the number or size of Solar Energy Conversion Systems proposed is increased. When the application is complete, it shall be filed with the Town Clerk and the applicant shall be notified it has been accepted for filing.
- d. Upon notification that the application has been accepted for filing, ten (10) copies of the application and a complete digital version shall be submitted to the Town Clerk by the applicant. The Town Clerk shall forward digital copies to each member of the Town Planning Board, Zoning Board of Appeals, Town Board, Code Enforcement Officer and additional copies to such individuals as the Supervisor shall direct.
- e. Before acting on any application the Zoning Board of Appeals shall hold a noticed public hearing in accordance with the requirements of Sections 12.3D/13.4A of this Zoning Ordinance.
- f. In the event any hearing is adjourned by the Zoning Board to hear additional comments, no further mailing shall be required. The Zoning Board will publicize notice of meetings.
- g. Notice of the project shall also be given, when applicable, to (1) the Cattaraugus County Planning Board, if required by General Municipal Law §239-1 and 239-m, and (2) to adjoining municipalities, if required by General Municipal Law § 239-nn.
- h. The Zoning Board of Appeals shall comply with the provisions of SEQRA prior to acting upon an application.
- i. Upon closing of the public hearing, the Zoning Board of Appeals shall take action on the application within sixty-two (62) days in accordance with Sections 12.3F/13.4B of the Zoning Ordinance, which can include approval, approval with conditions, or denial. The time within which the board may render a decision may be extended upon consent by both the Zoning Board of Appeals and applicant.
- j. If approved, the Code enforcement officer will issue, to the applicant, a Special Use Permit for each Solar Energy Conversion System for the purpose of construction and continued operation based on satisfaction of all conditions for said Permit. This authorizes the Code Enforcement Officer to issue a building permit for each approved Solar Energy Conversion System, upon compliance with

the Uniform Fire Prevention and Building Code and the other conditions of this Local Law.

k. The decision of the Zoning Board shall be filed within five business days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.

2. Application & Site Plan Review Requirements. Applications for Tier 3 & 4 Solar Energy Systems, including materials for site plan review, shall include the following:

a. 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.

b. 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.

c. Nameplate Capacity of the Solar Energy System (as expressed in MW).

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

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

f. Map(s) of MSG 1-4 soils and Active Agriculture Lands on the parcel(s) comprising the Facility Area and adjacent parcels.

g. 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.

h. 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 Zoning Board of Appeals.

i. 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.

j. 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 a building permit.

k. A Property Operation and Maintenance Plan that describes continuing site maintenance and property upkeep, such as mowing and trimming and Fire Protection/Emergency Response Plan.

l. A Decommissioning Plan signed by the operator of the Solar Energy System shall be submitted by the applicant. The decommissioning plan shall address the following (See Appendix 4 for example):

1) The time required to decommission and remove the Solar Energy System and any ancillary structures.

2) The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.

3) The cost of decommissioning and removing the Solar Energy System, as well as all necessary site remediation or restoration.

4) The provision of a decommissioning security which shall adhere to the following requirements:

a) The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town attorney AND engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal.

The amount of the bond or security shall be [115]% of the cost of removal and site restoration for the Tier 3 & 4 Solar Energy System and shall be revisited every [5] years and updated as needed to reflect any changes (due to inflation or other cost changes). The decommissioning amount shall be reduced by the amount of the estimated salvage value of the Solar Energy System.

b) 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, 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.

3. Special Use Permit Standards. The Zoning Board of Appeals may issue a special use permit for a Tier 3 & 4 Solar Energy System only after it has found that all the following standards and conditions have been satisfied:

a. 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.

b. 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.

c. 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.

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.

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

e. 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.

f. Multiple lots. At the discretion of the Zoning Board of Appeals, where a Tier 3 & 4 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.

g. Lot size. The property on which the Tier 3 & 4 Solar Energy System is placed shall meet the lot size requirements of Appendix 1.

h. Setbacks. The Tier 3 & 4 Solar Energy Systems shall comply with the setback requirements as defined in Appendix 3. Fencing, collection lines, access roads and landscaping may occur within the setback.

i. Height. The Tier 3 & 4 Solar Energy Systems shall comply with the height requirements defined in Appendix 2.

j. Lot coverage. Tier 3 & 4 Solar Energy Systems are exempt from the lot coverage requirements in the underlying zoning district, but the facility area as defined herein shall not exceed 40%.

k. 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.

l. Screening and Visibility.

1) Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways. 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, may be required to be 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 publicly accessible vantage points to the extent feasible.

a) 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 significant adverse aesthetic effects of the system. The Zoning Board of Appeals 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.

m. Environmental Resources

1) Tree-cutting. Removal of existing trees larger than [6] inches in diameter should be minimized to the extent possible.

2) Tier 3 & 4 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.

3) Use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.

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

- 1) Tier 3 & 4 Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than [40%] of the area of MSG 1-4 within the Facility Area.
 - a) A Tier 3 & 4 Solar Energy System may exceed the [40%] 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 [40%] threshold will only be allowed based on the [Reviewing Board]'s determination that the land is being used for a Farm Operation.
 - b) Subject to discretion of the [Reviewing 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 & 4 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."

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

H. Additional Permitting Requirements for Tier 4 Solar Energy Systems

All Tier 4 Solar Energy Systems shall comply with application requirements established for Tier 3 Solar Energy Systems in Section G, in addition to (or in some cases amended by) the following requirements:

1. Appendix 1, 2, 3, the facility area as defined herein shall not exceed more than 40% of the Lot and require the issuance of a Site Plan and Special Use Permit approval by the Zoning Board of Appeals, subject to the requirements and procedures set forth in this Section.
2. Applications for Tier 4 Solar Energy Systems shall:
 - a. Be reviewed by the Code Enforcement officer, Zoning Board and Planning Board for completeness. Applicants shall be advised within 90 days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
 - b. At least 60 days prior to the submission of an application, the Applicant shall schedule and conduct a pre-application meeting with the Code Enforcement officer, Zoning Board, Planning Board and Town Board to ensure all parties have clear expectations regarding Town requirements applicable to the proposed Solar Energy System. A written request for this purpose shall be sent to the Town Board, Zoning Board and Planning Board.

- i. 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.
 - c. Community Engagement Plan.
 - i. 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 reviewing officials as defined above prior to the submission of a formal application.
- 3. Special Use Permit Standards
 - a. Setbacks: Tier 4 Solar Energy Systems shall meet all applicable parcel line and other setback requirements as outlined in Appendix 3. Fencing, collection lines, access roads and landscaping must occur within the setback.
 - b. Agricultural Resources: Tier 4 Solar Energy Systems for which the Facility Area includes Active Agricultural Lands shall adhere to the following requirements:
 - i. Tier 4 Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 40% of the Active Agricultural Lands within the Facility Area.
 - ii. A Tier 4 Solar Energy System may exceed the 40% 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 40% threshold will only be allowed based on the Reviewing Board's determination that the land is being used for a Farm Operation.
 - iii. 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."

I. 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 & 4 Solar Energy System is 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 Randolph and any applicable federal, state, or county laws or regulations.

4. Where deemed necessary by the Reviewing Boards 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 Town of Randolph.

H. Permit Timeframe and Abandonment

1. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of thirty-six (36) months, provided that a building permit is issued for construction. In the event construction is not completed in accordance with the final site plan and special use permit within thirty-six (36) months, the applicant may request to extend the time to complete construction for twelve (12) months. Approval of a request to extend the time to complete construction shall not be unreasonably withheld by the Zoning Board of appeals. If the owner and/or operator fails to perform substantial construction within forty-eight (48) months, the approvals shall expire.
2. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for twelve (12) months, the Town 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 twelve (12) months of notification.
3. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town 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.

I. 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.

Section 5: 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: Lot Size Requirements

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

Zoning District	Tier 3 & 4
A.F.R. - Agricultural Forestry Residential	Greater Than 5 acres
R - Residential	Not Allowed
C - Commercial	Not Allowed
E - Expressway	Not Allowed
F-W - Flood District	Not Allowed
F-F - Floodway Fringe District	Not Allowed

Appendix 2: Height Requirements

The following table displays height requirements for each type of Solar Energy System. The height of the system shall be measured from the highest natural grade below each solar panel.

Zoning District	Tier 1	Tier 1 & 2	Tier 3 & 4
A.F.R. - Agricultural Forestry Residential	2' Above Roof	15'	20'
R - Residential	2' Above Roof	Not Allowed	Not Allowed
C - Commercial	4' Above Roof	Not Allowed	Not Allowed
E - Expressway	Not Allowed	Not Allowed	Not Allowed
F-W - Flood District	Not Allowed	Not Allowed	Not Allowed
F-F - Floodway Fringe District	Not Allowed	Not Allowed	Not Allowed

Appendix 3: Setback Requirements Tier 3

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

Tier 3			
Zoning District	Front	Side	Rear
A.F.R. - Agricultural Forestry Residential	30'	15'	25'
R - Residential	Not Allowed	Not Allowed	Not Allowed
C - Commercial	Not Allowed	Not Allowed	Not Allowed
E - Expressway	Not Allowed	Not Allowed	Not Allowed
F-W - Flood District	Not Allowed	Not Allowed	Not Allowed
F-F - Floodway Fringe District	Not Allowed	Not Allowed	Not Allowed

Appendix 3: Setback Requirements Tier 4

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

Tier 4				
Zoning District	Front	Side	Rear	NPR*
A.F.R. - Agricultural Forestry Residential	100'	100'	100'	250'
R - Residential	Not Allowed	Not Allowed	Not Allowed	Not Allowed
C - Commercial	Not Allowed	Not Allowed	Not Allowed	Not Allowed
E - Expressway	Not Allowed	Not Allowed	Not Allowed	Not Allowed
F-W - Flood District	Not Allowed	Not Allowed	Not Allowed	Not Allowed
F-F - Floodway Fringe District	Not Allowed	Not Allowed	Not Allowed	Not Allowed

* NPR - Non-Participating Residence

Appendix 4: Example Decommissioning Plan

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

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

As required by Town of Randolph New York, [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 [Village/Town/City], (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 [Village/Town/City] 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 [5] 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:**_____