

# **2021 Solar Energy Local Law- Town of Boonville: Dated 4/20/21**

## **1. Authority**

This Solar Energy Local Law is adopted pursuant to sections 261-263 of the Town Law of the State of New York, which authorizes the Town of Boonville 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.”

## **2. Statement of Purpose**

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

- 1) To take advantage of a safe, abundant, renewable and non-polluting energy resource;
- 2) To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
- 3) To increase employment and business development in the Town of Boonville, to the extent reasonably practical, by furthering the installation of Solar Energy Systems;
- 4) To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources, and;
- 5) To create synergy between solar expansion, the Town’s Comprehensive Plan and Article 1 of the Town of Boonville Zoning Ordinance.

## **3. Definitions**

**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.

**FARMLAND OF STATEWIDE IMPORTANCE:** Land, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey that is of state wide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

**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 that is anchored to the ground via a pole or other mounting system, detached from any other structure, which generates electricity for onsite and/or offsite consumption.

**LOT COVERAGE:** Refer to Section 9K4 of this Document.

**NATIVE PERENNIAL VEGETATION:** native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

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

**PRIME FARMLAND:** Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, which has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

**QUALIFIED SOLAR INSTALLER:** A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSEDA's list of eligible installers or NABCEP’s list of certified installers may be deemed to be qualified solar installers if the Town of Boonville determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

**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 and/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:** Solar collectors, controls, inverters, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic, and passive solar.

**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. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows.

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

- a. Roof-Mounted Solar Energy Systems
- b. Building-Integrated Solar Energy Systems

**B. Tier 2** Solar Energy Systems include Ground-Mounted Solar Energy Systems with system capacity up to [25] kW AC and that generate no more than [110] % of the electricity consumed on the site over the previous [12] months.

**C. Tier 3** Solar Energy Systems are systems including SOLAR ENERGY PRODUCTION FACILITY that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

**SOLAR ENERGY PRODUCTION FACILITY: (Solar Farm):** An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid in order to sell electricity to a public utility entity.

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

**STORAGE BATTERY:** A device that stores energy and makes it available in an electrical form.

## **4. Applicability**

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

B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.

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

D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code"), the NYS Energy Conservation Code ("Energy Code"), and the Town of Boonville Zoning Ordinance.

## **5. General Requirements**

A. A Building permit shall be required for installation of all Solar Energy Systems.

B. Town of Boonville Planning Board is encouraged to condition their approval of proposed developments on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain economically feasible over time.

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

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

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

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

1) Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:

- a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the original roof surface the highest edge of the installed system.
  - b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
  - c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
  - d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
  - e. Rooftop units must be 3 feet from any chimney and shall not be permitted on roof overhangs.
- 2) Glare: All Solar Panels shall have anti-reflective coating(s). The design, construction, operation and maintenance of the solar energy system shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties or public roads.
- 3) Height: All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district and the requirements noted in Section 6.A.1 above whichever is less.

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

C. Roof access shall be maintained as required by applicable Building and Fire Codes.

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

All Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be exempt from site plan review under the local zoning code or other land use regulations, subject to the following conditions:

A. Glare: All Solar Panels shall have anti-reflective coating(s). The design, construction, operation and maintenance of the solar energy system shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties or public roads.

B. Setbacks: Tier 2 Solar Energy Systems shall be subject to the same setback regulations specified for the primary structures within the underlying zoning district. Solar Energy Systems shall not be located within 10' of the primary structure. All Ground- Mounted Solar Energy Systems shall only be installed in the side or rear yards in all districts. Solar Energy Systems may not be located between the front lot line and principal structure.

C. Height: Tier 2 Solar Energy Systems shall comply with height limitations in Appendix 3. Height shall be measured at maximum tilt.

D. Screening and Visibility.

1) All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.

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

E. Lot Size: Tier 2 Solar Energy Systems, The total surface area of all ground-mounted and freestanding solar collectors on the lot shall not exceed the maximum coverage percentage including dwellings and structures as required by the underlying district.

F. Electrical Wiring: All electrical wiring shall be installed underground to the extent feasible.

## **8. Additional Permitting requirements for Tier 1 and 2 Solar Energy Systems**

A. Where site plan approval is required elsewhere in this ordinance for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, general site compatibility and environmental impact assessment of proposed solar collectors. Where a site plan exists, an approved modified site plan shall be required if there are any proposed changes to or additions of solar collectors. A site plan review is required for all installations of solar energy equipment on non-dwelling structures and lots.

B. All solar collector installations must be performed by a Qualified Solar Installer, and, prior to operation, the electrical connections must be inspected by the Town of Boonville Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town of Boonville.

C. Where solar energy equipment is to be tied- to and operated in parallel with facilities owned and operated by a public utility, the installation shall comply with all the applicable Rules and Regulations, Public Service Law and utility tariffs governing the interconnection. In addition, copies of any interconnection agreement shall be provided to the Town of Boonville Code Enforcement Officer prior to operation.

D. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use, and, when no longer used, they shall be disposed of in accordance with all applicable laws and regulations. Notification of the installation and/or removal of solar storage batteries shall be made to the Fire Department responsible for response to the location where the batteries are installed.

E. If a solar collector system ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment and facilities no later than 90 days after the end of the twelve-month period. The Town of Boonville retains the option to require a bond or other form of security reasonably acceptable to the Town of Boonville Attorney be obtained in an amount sufficient to cover the future removal of the facility.

## **9. Permitting requirements for Tier 3 Solar Energy Systems**

All Tier 3 Solar Energy Systems (Solar Energy Production Facility) are permitted through the issuance of a special use permit within the Agriculture Rural, Commercial Light Industrial, Industrial, Planned Development, and Residential Suburban zoning districts, and subject to site plan application requirements as set forth in this Section.

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

1) reviewed by the Town of Boonville Code Enforcement/Zoning Enforcement Officer and/or Planning Board for completeness. Applicants shall be advised within 10 business days of the completeness of their application and attachments or any deficiencies that must be addressed prior to substantive review.

2) subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town of Boonville shall schedule a Public Hearing within 62 days of notifying the applicant of a complete application. The Planning Board of the Town of Boonville shall have a notice printed in a newspaper of general circulation in the Town of Boonville at least 5 days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 500 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.

3) referred to the Oneida County Planning Department pursuant to General Municipal Law § 239-m if required.

4) upon closing of the public hearing, the Town of Boonville Planning Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Planning Board and applicant.

**B. Underground Requirements.** All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the high voltage facilities utilized to complete the connection between the electric grid system and the Operators supply lines from the solar energy equipment. Low voltage lines to a “collection” point are not included in this.

**C. Vehicular Paths.** Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

**D. Signage.**

1) No signage or graphic content shall be displayed on the Solar Energy Systems except the Operator’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.

**E. Glare.** All Solar Panels shall have anti-reflective coating(s). The design, construction, operation and maintenance of the solar energy system shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties or public roads. All structures and devices used to support solar collectors shall be nonreflective and/or painted a subtle or earth tone color to aid in blending the facility into the existing environment.

**G. Tree-cutting.** Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible to preserve a visual buffer from adjacent properties and roadways. Previously cleared or disturbed areas are preferred locations for solar panel arrays. The clearing of additional lands to accommodate a proposed Solar Energy Production Facility may be permitted, providing the percentage of newly cleared land on any solar lot does not exceed 10% of the existing woodlands on that lot.

**H. Escrow Agreement:**

a) The Town of Boonville may require the applicant seeking to develop any Tier 3 Solar Energy System to fund an escrow agreement or to sign a developer’s agreement to cover the amount by which the Town of Boonville’s estimated costs and expenses of review, including reasonable legal and engineering fees, exceed (or will exceed) the application fees paid by the applicant.

b) The Town of Boonville may also include a separate agreement, coverage or bonding to protect the integrity of Town roads during this construction activity.

c) Construction and Maintenance. Prior to the issuance of a special use permit for the Solar Energy System and any associated structures, the applicant shall post a financial security in an amount and form acceptable to the Town of Boonville for the purposes of construction and maintenance. The amount shall be 50% of the construction value. Acceptable forms shall include, in order of preference: cash, letter of credit; or a bond that cannot expire; or a combination thereof. Such financial security will be used to guarantee compliance with the conditions of the approval for the Solar Energy System. If the Owner of the site fails to comply with any conditions of the approval during construction or as part of the long term maintenance of the site, all costs of the Town incurred to comply with conditions of the approval shall be paid using the financial security provided by the applicant. Failure to comply with conditions of the approval or to maintain an acceptable level of financial security will result in revocation of the special use permit.

#### **I. Decommissioning.**

1) Solar Energy Systems excepting interconnection equipment turned over to the Utility operator, that have been abandoned and/or not producing electricity for a period of 1 year shall be removed at the Owner and/or Operators expense, which at the Owner's option may come from any security made with the Town of Boonville as set forth in Section 11(B) herein below. Details and proof of Interconnection equipment that was transferred to the Utility operator shall be provided to the Town of Boonville at startup. The owner or operator shall notify the Town of Boonville Code Enforcement Officer by certified mail of the proposed date of discontinued operation and plans for removal.

2) A decommissioning plan (see Appendix 5) signed by the owner and/or operator of the Solar Energy System and accepted by the Town of Boonville shall be submitted by the applicant, as part of the application addressing the following:

a. The cost of removing the Solar Energy System.

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

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

3) Security.

a. The deposit, executions, or filing with the Town of Boonville Clerk of cash, bond, or other form of security reasonably acceptable to the Town of Boonville Attorney and/or 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 125 % of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 2 % annually for the life of the Solar Energy System. The applicant's estimate shall be prepared by a qualified engineer, setting forth the costs associated with decommissioning the Solar Energy System at issue.

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 of Boonville, 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.

c. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in Section 11(B) and 11(C) herein below.

**J. Site plan application.** For any Solar Energy system requiring a Special Use Permit, site plan approval shall be required. In addition, a completed SEQRA (Full EAF) application shall be supplied. The site plan application shall include the following information:

- 1) Property lines and all physical features, including roads, for the project site
- 2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures
- 3) A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- 4) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- 5) Where solar energy equipment is to be tied- to and operated in parallel with facilities owned and operated by a public utility, the installation shall comply with all the applicable Rules and Regulations, Public Service Law and utility tariffs governing the interconnection. In addition, copies of any interconnection agreement shall be provided to the Town of Boonville Code Enforcement Officer prior to operation.
- 6) 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.
- 7) Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the specified use of the property for the Solar Energy System.
- 8) Zoning district designation for the parcel(s) of land comprising the project site.
- 9) Operation and Maintenance Plans. Such plan shall describe standard operating procedure for the facility, scheduled maintenance plans for equipment and property upkeep, such as mowing and trimming.
- 10) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Town of Boonville Planning Board.

11) Noise: Details of the proposed noise that may be generated by inverter fans. The Planning Board shall require a noise analysis to determine potential adverse noise impacts. Noise producing equipment shall be sited and or insulated to minimize noise impacts on adjacent properties as approved by the Planning Board during site plan review.

12) Land Use/Taxes: Provide statement co-signed by the applicant and the landowner 1) that the establishment of the proposed Solar Energy System shall not result in a tax penalty, pursuant to Section 305 or 306 of the New York State Agriculture and Markets Law, due to conversion of land to a non-agricultural use, which shall also state the last year, if any, for which the subject lands received an agricultural real property tax exemption, or 2) that the establishment of the proposed Solar Energy System may result in a tax penalty, pursuant to Section 305 or 306 of the New York State Agriculture and Markets Law, along with a statement indicating the most recent year, if any, for which the subject lands received an agricultural real property tax exemption, which shall also include a statement of the number of acres to be converted from an agricultural to a non-agricultural use and an estimate of the total amount of tax penalty to be imposed, including interest. In the case of an application for a Solar Energy System to be located on private lands owned by a party other than the applicant a copy of the lease agreement with the property owner shall be filed with the Town of Boonville.

13) Proof of Insurance: The applicant and the owners of the property where the Solar Energy System is to be located shall file with the Town of Boonville Code Enforcement Officer proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with the construction and operation of the facility.

14) Prior to the issuance of the building permit or final approval by the Town of Boonville Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

#### **K. Special Use Permit Standards.**

##### 1) Lot size

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

##### 2) Setbacks

a. The Tier 3 Solar Energy Systems shall meet the minimum setback requirements in Appendix 2.

##### 3) Height

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

#### 4) Lot coverage

a. The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:

I. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.

II. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.

III. Paved access roads servicing the Solar Energy System.

b. Lot coverage of the Solar Energy System, as defined above, shall not exceed the maximum lot coverage requirement specified in Appendix 4. Lot Coverage must comply with NYS Storm Water regulations.

5) Fencing Requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access. There shall be created and maintained within the security fence and between such fence and components, structures, or fixtures of the solar energy system, a clear and unobstructed buffer area of at least 25' in width encircling the entire perimeter of the facility, with a surface and grade suitable for the safe passage of fire trucks and other emergency service vehicles.

#### 6) Screening and Visibility.

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

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

I. Conduct a visual assessment with photo simulations of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to be submitted by the applicant.

II. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible on a year round basis.

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

7) Agricultural Resources. For projects located on agricultural lands:

1) Any Tier 3 Solar Energy System located on the areas that consist of Prime Farmland or Farmland of Statewide Importance shall not exceed 50 % of the area of Prime Farmland or Farmland of Statewide Importance on the parcel.

Tier 3 Solar Energy Systems on Prime Farmland or Farmland of Statewide Importance shall be required to seed 20 % of the total surface area of all solar panels on the lot with native perennial vegetation designed to attract pollinators.

2) To the maximum extent practicable, Tier 3 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.

3) Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

L. **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 special use permit, site plan approval, and decommissioning plan. A current and new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator within 90 days of the ownership change.

## 10. Safety

A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required. Installation shall be completed by Qualified Solar Installers.

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

C. If Storage Batteries are 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 Boonville and any applicable federal, state, or county laws or regulations.

D. Fire Department Coordination; The Tier 3 Solar Energy System Owner and/or Operator shall provide a copy of the project site plans and electrical schematic to the responsible local Fire Chief. Upon request, the Owner and/or Operator shall cooperate with local emergency services in developing an emergency response plan. The Owner and/or Operator shall offer on-site safety training to all local fire departments within 6 months of operation, and a reoccurring refresher training as requested by the local fire departments. The Owner and/or Operator shall specify a responsible person with access phone number for public inquiries throughout the life of the installation. Emergency contact number shall be displayed at the entrance to the facilities.

## **11. Permit Time Frame and Abandonment**

A. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 18 months, provided that a building permit is issued for construction or construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 18 months after approval, the applicant or the Town of Boonville may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 24 months, the approvals shall expire.

B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town of Boonville may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 12 months of notification, unless the Owner can demonstrate good cause for extending this period that is acceptable to the Town of Boonville.

C. 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.

## **12. Effect on Other Laws**

To the extent that any law, ordinance, rule or regulation, or parts thereof, are in conflict with the provisions of this Section (Article) (Including all provisions of the Code concerning subdivisions or site plan applications, and applications to the Zoning Board of Appeals), this section shall control.

## **13. 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 the Town of Boonville Zoning Ordinance Section 5.9.

## **14. 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.

## **15. Requirements After Approvals: For Tier #3 Solar Energy Systems**

A. Any post-construction changes or alterations to the Solar Energy System shall be done by amendment to the special use permit and site plan review and approval, with public hearing and subject to the requirements of this law.

B. After completion of the Solar Energy System, the applicant shall provide a post-construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to approved plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected.

## **16. Insurance**

The operator of the Solar Energy System shall obtain and maintain insurance, issued by an insurer authorized to do business in New York State, to the specifications and in an amount appropriate for the project. Such insurance shall name the Town of Boonville as an additional insured party. The certificate of insurance shall contain a provision that coverage afforded under the applicable policy shall not be cancelled or terminated until at least 30 days prior notice has been provided to the Town. In the event of a termination, cancellation, or lapse of the required insurance coverage, the special use permit to operate the energy system shall be immediately suspended and operation of the system shall cease. Upon restoration of the required insurance coverage, to the satisfaction of the Town, permission to operate may be restored.

## **17. Indemnification**

The applicant, owner and operator of the Solar Energy System shall release and hold harmless the Town of Boonville and all of its officers, officials, employees, appointees, agents, and servants from and against any and all liability and responsibility for any and all accidents, injuries and/or damages of any kind to persons (including death) or property arising out of the installation, construction, operation, maintenance, repair or removal of such system. The applicant, owner and operator shall indemnify and hold harmless the Town of Boonville and all of its officers, officials, employees, appointees, agents, and servants from any and all claims, suits, actions, damages, awards, judgements and costs of every nature, including reasonable attorneys' fees, arising out of the installation, construction, operation, maintenance, repair or removal of such system.

### Appendix 1: Lot Size Requirements

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

*Table 1: Lot Size Requirements*

<b>ZONING DISTRICT</b>	<b>Tier 3 Solar Energy Systems</b>
Agriculture Rural A-R	Greater than 5 acres
Residential Suburban R-S	Greater than 3 acres
Comm. Light Industrial C-LI	Greater than 3 acres
Residential Recreation RR	----
Industrial District I	Greater than 3 acres
Planned Development P-D	Greater than 3 acres
Wellhead Protection W-P	----

**Key:**

----: **Not Allowed**

N/A: **Not Applicable**

## Appendix 2: Parcel Line Setbacks

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

*Table 2: Parcel Line Setback Requirements*

ZONING DISTRICT	Tier 3 Ground Mounted		
	Front	Side	Rear
Agriculture Rural A-R **	50	50	50
Residential Suburban R-S **	50	50	50
Comm. Light Industrial C-LI**	50	50	50
Residential Recreation RR	----	----	----
Industrial District I **	50	50	50
Planned Development P-D**	50	50	50
Wellhead Protection W-P	----	----	----

**Key:**

**\*\* If bordering properties are existing residential use, then the setback shall be the greater of 100' from the property line or 250' from an occupied residence. Measurement from an existing public road is from edge of road right of way or existing road shoulder if no right of way exists.**

**----: Not Allowed; N/A: Not Applicable**

### Appendix 3: Height Requirements

The following table displays maximum 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 at maximum tilt. This section does not apply to Interconnection substations and related equipment, including lightning protection structures installed at substation(s) for safety purposes, or utility poles needed to interconnect a Solar Energy System to the electric grid.

*Table 3: Height Requirements*

ZONING DISTRICT	Tier 2	Tier 3
Agriculture Rural A-R	15	15
Residential Suburban R-S	15	15
Comm. Light Industrial C-LI	15	15
Residential Recreation RR	10	----
Industrial District I	15	15
Planned Development P-D	10	10
Wellhead Protection W-P	15	----

**Key:**

----: Not Allowed

N/A: Not Applicable

### Appendix 4: Maximum Lot Coverage Requirements

The following table displays the maximum lot coverage for Ground-Mounted Solar Energy Systems to be permitted. Refer to Section 9K4 for lot coverage calculation criteria.

*Table 1: Maximum Lot Coverage Requirements*

ZONING DISTRICT	Tier 3 Solar Energy Systems
Agriculture Rural A-R	20%
Residential Suburban R-S	30%
Comm. Light Industrial C-LI	50%
Residential Recreation RR	----
Industrial District I	50%
Planned Development P-D	30%
Wellhead Protection W-P	----

**Key:**

----: Not Allowed

**N/A: Not Applicable**

**Appendix 5: 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 ENERGY PRODUCTION FACILITY]

As required by Town, [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the "Facility").

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends
2. The system does not produce power for 12 months
3. The system is damaged and will not be repaired or replaced

The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 36 inches below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.
4. Stabilization or re-vegetation of the site as necessary to minimize erosion.

All said removal and decommissioning shall occur within 12 months of notification that the Facility is ceasing to produce power for sale.

The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning. Current owner shall notify any subsequent owners of this agreement and their continuing responsibility for these actions.

Facility Owner Name and Title: \_\_\_\_\_

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

Acceptance:

Town of Boonville Representative Name and Position: \_\_\_\_\_

Town of Boonville Signature: \_\_\_\_\_ Date: \_\_\_\_\_