

# Local Law Filing

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~~County~~  
~~City~~ of Claverack  
Town  
~~Village~~

Local Law No. 4 of the year 2022

A local law amending the Zoning Law of the Town of Claverack in  
relation to solar energy uses

Be it enacted by the Town Board of the  
(Name of Legislative Body)

~~County~~  
~~City~~ of Claverack as follows:  
Town  
~~Village~~

## Section 1. Legislative Intent

The Town of Claverack (“Town”) presently has in effect a Town Zoning Law which has established regulations for building, construction and allowable uses within the Town. The Town Board has reviewed and revised the regulations concerning solar panel installations in order to preserve and protect the health, safety and welfare of its residents. The Town recognizes the potential benefits and desirability of solar power and renewal energy sources but determines that the Town should regulate the installations. This Solar Energy Law is adopted to advance and protect the public health, safety, and welfare of the Town of Claverack, including: (1) Taking advantage of a safe, abundant, renewable, and nonpolluting energy resource; (2) Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; (3) Increasing employment and business development in the region by furthering the installation of Solar Energy Systems; (4) Mitigating the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources; and (5) Assuring solar development is consistent with the Town’s goals for economic development, housing, recreation and arts, historic character, farming, and natural resources. This law is enacted by the Town Board pursuant to its authority to adopt local laws under Article IX of the New York

State Constitution and Municipal Home Rule Law Section 10, which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the laws 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 2. Enactment**

Chapter 2 entitled DEFINITIONS shall be amended to numerically add the following definitions in alphabetical order:

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

**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.

**GLINT AND GLARE ANALYSIS:** An assessment used to identify any potential glint/glare impacts on nearby residences and roads and the need for any necessary mitigation. The analysis shall be conducted using tools similar to the National Sandia Lab’s Solar Glare Hazard Analysis Tool or ForgeSolar Tools. The results of the analysis shall conform to, the FAA’s policy for Solar Energy System Projects on

Airports as well as equivalent standards appropriate to the surrounding landscape for the proposed project.

**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.

**OCCUPIED RESIDENCE:** Any dwelling that is the primarily used as human living space. This includes any structure formally approved for as a guest house. This does not include non-living space areas such as sheds, decks, barns, or other such ancillary structures.

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

**SOLAR PROJECT TIER or 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:
  - a. Roof-Mounted Solar Energy Systems.
  - b. Building-Integrated Solar Energy Systems.
- B. Tier 2 Solar Energy Systems include the following:
  - a. Ground-Mounted Solar Energy Systems with a Nameplate Capacity of up to 1 MW AC and which generate no more than 150% of the electricity consumed on the site over the previous 12 months or calculated to be consumed over any 12 month period over the next five years.
- C. Tier 3 Solar Energy Systems include the following:
  - a. Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Nameplate Capacity of up to 3.5 MW AC.
- D. Tier 4 Solar Energy Systems are Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems.

### **Section 3. Applicability**

- A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town 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 Facility Area by more than 5% of the original Facility Area (exclusive of moving any fencing) shall be subject to this Local Law.

### **Section 4. General Requirements**

- A. A Building permit shall be required for installation of all Solar Energy Systems.
- B. Tier 2, 3, and 4 Solar Energy Systems also require the review of the Town Planning Board and are subject to the Town Planning Board's approval process. Tier 1 Solar Energy Systems are exempt from Town Planning Board review.
- C. Prior to the issuance of the building permit or final approval by the Planning Board, construction and/or site plan documents must be signed and stamped by a NYS Licensed Professional Engineer or NYS Registered Architect.
- D. 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")].

E. 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 Code.

F. 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.

### **Section 5. 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**

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

- i. 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.
- ii. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
- iii. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
- iv. 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 no higher than 2’ above the exterior roofing material.

#### **B. 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.

### **Section 6. Permitting Requirements for Tier 2 Solar Energy Systems**

All Tier 2 Ground-Mounted Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be subject to a site plan to be reviewed by the Planning Board. The Planning Board has the authority to approve or deny the Site Plan. Tier 2 Solar Energy Systems shall adhere to the standards and requirements established for Tier 1 Ground-Mounted Systems in Section 5(C), in addition to (or in some cases amended by) the following requirements:

A. 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. Identification of adjacent landowners including names and addresses.
  - 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.
- B. Standards. Tier 2 Systems shall adhere to the following standards.
- a. Glare. All Solar Panels shall have anti-reflective coating(s).
  - b. Setbacks. Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts.
  - c. Height. Tier 2 Solar Energy Systems shall be limited to 15 feet at its highest point.
  - d. Lot Size. Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.
  - e. Lot coverage. Tier 2 Solar Energy Systems are exempt from the lot coverage requirements in the underlying zoning district.
  - f. 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.

- g. Environmental Resources
  - i. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
  - ii. 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.
  - iii. Use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.

## **Section 7. Permitting Requirements for Tier 3 Solar Energy Systems**

All Tier 3 Solar Energy Systems are permitted through the issuance of a Special Exception Permit within the Highway Commercial and Commercial Industrial Park zoning districts as well as the Mining Overlay areas within the Rural Agricultural zoning district, and subject to site plan application requirements set forth in this Section.

- A. Application & Site Plan Review Requirements. Applications for Tier 3 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. Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
  - h. 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.
  - i. Erosion and sediment control and storm water management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
  - j. 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.

- k. 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.
- l. A Property Operation and Maintenance Plan that describes continuing site maintenance, anticipated dual-use, and property upkeep, such as mowing and trimming.
- m. A Decommissioning Plan (see Appendix 1) signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant. The decommissioning plan shall address the following:
  - i. The time required to decommission and remove the Solar Energy System and any ancillary structures.
  - ii. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
  - iii. The cost of decommissioning and removing the Solar Energy System, as well as all necessary site remediation or restoration.
  - iv. The provision of a decommissioning security which shall adhere to the following requirements:
    - 1. The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town 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.
    - 2. The amount of the bond or security shall be 125% of the cost of removal and site restoration for the Tier 3 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 not include the amount of the estimated salvage value of the Solar Energy System.
  - v. 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.



- B. Special Exception Permit Standards. Planning Board may issue a Special Exception Permit for a Tier 3 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.
    - i. 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.
    - ii. 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 Planning Board, where a Tier 3 Solar Energy System's Facility Area comprises multiple lots (regardless of ownership by an individual or multiple participating landowners), the combined lots may be treated a single lot for the purposes of applying specific standards and requirements, including but not limited to lot size and setback requirements.
  - g. Lot size. The property on which the Tier 3 Solar Energy System is placed shall be greater than 5 acres.
  - h. Setbacks. The Tier 3 Solar Energy Systems shall be setback a minimum of 200' from adjacent private property lines or 500' from an Occupied Residence, whichever is greater. The Planning Board may reduce this setback, if, in its sole discretion and only after a site plan is presented and a site tour is provided to the majority of Planning Board members, that a reduced setback will have no significant impact on adjacent properties. Fencing, collection lines, access roads and landscaping may occur within the setback.

- i. Height. The Tier 3 Solar Energy Systems shall be no higher than 15' at its highest point. This height requirement can be waived by the Planning Board if the panels are being raised to accommodate continued or new agricultural purposes.
- j. 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. The Planning Board may add additional fencing requirements to help the project fit within the local community or meet other conservation needs such as requiring fencing that matches nearby agricultural fencing and/or is more suitable for wildlife movement.
- k. Screening and Visibility.
  - i. 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.
  - ii. Solar Energy Systems larger than 10 acres shall be required to:
    - 1. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to be submitted by the applicant.
    - 2. At the request of the town, submit a Glint and Glare Analysis that identifies the potential glare impacts to nearby properties and roadways.
    - 3. Submit a screening & landscaping plan from a licensed landscape architect 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, adjacent properties, and other nearby residential properties identified in the visual assessment to the extent feasible.
      - a. The screening & landscaping plan shall specify the locations, installation timing, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the New York State.
      - b. The screening and landscaping plan should aim to implement as much screening as possible in advance of construction within the Facility Area.

- c. The landscaped screening shall be comprised of a minimum of 1 evergreen tree, at least 6 feet high at time of planting, plus 2 supplemental trees or shrubs for every 10 linear feet of fencing. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. This minimum screening requirement may be reduced or modified if adjoining properties are participating properties or if the adjoining property owners call for an alternative plan. Solar Energy System proposals are encouraged to engage the community and develop projects which include community benefits within the landscaping area.
- d. Review of survival of plantings will be required annually for the life of the project. Any dead or severely degraded trees shall be replaced.
- e. Additional landscaping, screening and/or earth berming may be required by the Planning Board to mitigate visual and aesthetic impacts.
- f. The Planning Board may elect to waive certain screening and landscaping requirements in select locations based on an applicant's demonstration of non-impact, impact mitigation on adjacent parcels, and/or based on the applicant's demonstration of incorporating the input and desire of landowners identified through the visual assessment.

1. Environmental Resources

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

- m. Agricultural Resources. Tier 3 Solar Energy Systems for which the Facility Area includes lands consisting of MSG 1-4 shall adhere to the following requirements:
  - i. Tier 3 Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 25% of the area of MSG 1-4 within the Facility Area unless as otherwise allowed within this Section.
  - ii. A Tier 3 Solar Energy System may exceed the 25% 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 25% threshold will only be allowed with clear commitments from the applicant and based on the Planning Board's determination that the land is being used for a Farm Operation.
  - iii. Subject to discretion of the Planning Board, if the landowner demonstrates that – notwithstanding the classification as MSG 1-4 – the land cannot be profitably employed due to excessive wetness, rocky conditions or slopes, the land may be excluded from the calculation required by this Section.
  - iv. To the maximum extent practicable, Tier 3 Solar Energy Systems located on MSG 1-4 shall be constructed, monitored, and decommissioned in accordance with the NYS Department of Agriculture and Markets' "Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands."
- n. Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the Special Exception Permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the permit including the decommissioning plan and meets with officials from the Town to verify their written commitments and clarify any non-written commitments made by the prior owner or operator. 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.

### **Section 8. Permitting Requirements for Tier 4 Solar Energy Systems**

All Tier 4 Solar Energy Systems, including those that go through the NYS Office of Renewable Energy Siting, are permitted through the issuance of a Special Exception Permit within the Highway Commercial and Commercial Industrial Park zoning districts as well as the Mining Overlay areas within the Rural Agricultural zoning district, and are subject to the site plan and Special Exception Permit application requirements established for Tier 3 Solar Energy Systems in Section 7, in addition to (or in some cases amended by) the following requirements:

- A. Applications for Special Exception Permit for Tier 4 Solar Energy Systems shall:
  - a. Be reviewed by the Town Planning Board (simply "Planning Board" from her forward) for completeness. Applicants shall be advised within 60 days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

**B. Pre-Application Meeting.**

- a. At least 60 days prior to the submission of an application, the Applicant may conduct a pre-application meeting with the Planning Board to ensure all parties have clear expectations regarding any Town requirements applicable to the proposed Solar Energy System. A written request for this purpose shall be sent to the Planning Board. Submission and review of the application shall not be delayed based on the failure of the Planning Board to respond in a timely manner to a properly filed meeting request.
- b. 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. After the pre-application meeting, the Planning Board may request input from the Columbia County Farmland Protection Board (CCFPB). The CCFPB shall have 45 days to provide a response. Such a response shall be considered advisory only.

**C. Community Engagement Plan.**

- a. 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 Planning Board prior to the submission of a formal application.

**Section 9. Safety**

- A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
- 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.
- C. 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.
- D. Where deemed necessary by the Planning Board, the Applicant shall ensure emergency access to the Facility Area for local first responders by installing an emergency lock box or similar device, in a location subject to approval by the Fire Chief of appropriate fire district with notification of the Columbia County Sheriff.

## **Section 10. Permit Timeframe and Abandonment**

- A. The Special Exception Permit and site plan approval for a Solar Energy System shall be valid for a period of 36 months, provided that 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 36 months, the applicant may request to extend the time to complete construction for 12 months. Approval of a request to extend the time to complete construction shall not be unreasonably withheld by the Town. If the owner and/or operator fails to perform substantial construction within 48 months, the approvals shall expire.
- B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 6 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 12 months of notification unless the owner and/or operator provide a reasonable explanation and timeframe for reinstating electricity generation within 6 months of notification. At its own discretion, the Town may opt to extend this timeline.
- 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.

## **Section 11. 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.

## **Section 12. 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: 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 the Town, [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 6 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, [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 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 125% of the cost of system decommissioning, removal, and site restoration. The decommissioning security does not assume any salvage value of the Solar Energy System. In such value exists, this will provide added buffer above and beyond the 125% estimated decommissioning costs.

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:** \_\_\_\_\_

DRAFT



(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2022 of the Town of Claverack was duly passed by the Town Board on 2022, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer.\*)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County) (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_, and was (approved)(not approved)(repassed after \_\_\_\_\_ (Name of Legislative Body) \_\_\_\_\_ disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ (Elective Chief Executive Officer\*) in accordance with the applicable provisions of law.~~

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County) (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_, and was (approved)(not approved)(repassed after \_\_\_\_\_ (Name of Legislative Body) \_\_\_\_\_ disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_. Such local law was \_\_\_\_\_ (Elective Chief Executive Officer\*) submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_, 20\_\_\_\_, in accordance with the applicable provisions of law.

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_, and (approved)(not approved)(repassed after \_\_\_\_\_ (Name of Legislative Body) \_\_\_\_\_ disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_. Such local law was subject \_\_\_\_\_ (Elective Chief Executive Officer\*) to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_, 20\_\_\_\_, in accordance with the applicable provisions of law.~~

\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

DRAFT

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_, \_\_\_\_\_, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_, 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

\_\_\_\_\_  
Mary Hoose, Town Clerk

Date:

(Seal)