SOLAR ENERGY FACILITIES LAW

TOWN OF SARATOGA

LOCAL LAW NO. 1 of 2025

BE IT ENACTED by the Town Board of the Town of Saratoga, in the County of Saratoga, as follows:

SECTION ONE: TITLE

This Local Law shall be known as the "Solar Energy Facilities Law" and shall repeal and replace Section 400-16.4 of the Town of Saratoga Town Code entitled "Solar Collection Systems." Local Law No. 1 of the year 2025.

SECTION TWO: PURPOSE

The purpose of this law shall be to provide for the siting, development and decommissioning of solar energy systems subject to reasonable conditions to reduce potential impacts on adjoining properties, while promoting the effective and efficient use of solar energy resources.

The Town finds that well-planned and suitably located solar energy systems can be beneficial. This law seeks to foster, thorough project planning and appropriate siting, the following objectives:

A. Protecting the health, safety and well-being of our First Responders through responsible siting, pre-incident planning and education, continuing education and training, adequate protection and equipment and the implementation of best practices to reduce potential hazards.
B. Allowing Town of Saratoga residents, landowners, farms and government to take advantage of solar energy resources in a way that is consistent with the nature and character of the Town's policies.
C. Protecting the Town's unique ecosystem of plants, wildlife and habitats, particularly in the western upland and rural areas of Town.
D. Recognizing the importance of Agriculture and protecting water and soils conducive to farming. If agricultural lands are to be used for solar siting, the Town encourages consideration of dual-use projects/agrivoltaics, a mixed land use production system combining the agricultural use of the land with solar energy production.
E. Protecting and ensuring farmland, agricultural land and forested land are put to their highest and best use.
F. Protecting and promoting scenic and environmental resources, by minimizing utility-scale solar energy facilities' impacts on these resources, including but not limited to, fresh watersheds, floodplains, historic sites, conservation easements, trails, parklands, wetlands, wildlife, scenery and areas for recreational and outdoor activities.
G. Protecting the property values of those properties neighboring and within the viewshed and sound-shed of a utility-scale solar energy facility.
H. Conserving the rural character of the Town of Saratoga.

SECTION THREE: AUTHORITY

This Local Law is adopted pursuant to Sections 10 and 22 of the Municipal Home Rule Law.

SECTION FOUR: DEFINITIONS

The following terms shall have the meanings indicated. The definitions contained in the Town of Saratoga Zoning Law shall also apply.

ANSI – American National Standards Institute.

ATIMA – As Their Interests May Appear

Ambient Sound – Measured value which represents the summation of the sound in a given environment exclusive of intruding noises from isolated identifiable sources; the sound pressure level exceeded 90% of the time.

Background Sound – Residual sound heard during lulls in the Ambient Sound environment as defined by ANSI standard 12.9, Part 2, and represents the quietest 10% of the time, of any given hour.

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. Commonly referred to as BESS. All Battery Energy Storage Systems, including those that are part of a Solar Energy System, shall follow NYS electrical guidelines.

Building-Integrated Photovoltaic System – A combination of photovoltaic building components integrated into any building envelope system, such as vertical facades, including glass and other façade material, semitransparent skylight system, roofing materials and shading over windows. Building-Integrated Photovoltaic System are Tier 1 solar energy systems.

Consumer Price Index Change – The Consumer Price Index for urban Consumers, as published by the U.S. Department of Labor, Bureau of Labor Statistics. Change shall be calculated in January each year as the percentage difference between the annual average of the most recent calendar year and that of the previous year.

Commissioning – A systematic process that provides documented confirmation that a solar energy system functions according to the intended design criteria and complies with applicable code requirements.

Decommissioning Plan – A plan to retire the physical facilities of the Project, including decontamination, dismantlement, rehabilitation, landscaping and monitoring.

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 as determined by Town Zoning Officer.

Ground-Mounted Solar Energy System – A solar energy system that is affixed to the ground either directly or by support structures or other mounting devise and that is not attached or affixed to an existing structure. Pole mounted solar energy systems shall be considered ground-

mounted solar energy systems for the purposes of this local law. Ground-Mounted Solar Energy Systems are Tier 2 solar energy systems.

Immaterial Modifications – Changes in the location, type of material or method of construction of a solar energy system that will not: (1) result in any new or additional adverse environmental impact not already reviewed and accepted for the project by the Town Planning Board; (2) cause the project to violate any applicable setbacks or other requirements of the law; or (3) cause the project not to conform to the State Environment Quality Review determination or findings issued by the Planning Board.

ISAOA – Its Successors and or Assigns.

Solar Lot Coverage – The area measured from the outer edge(s) of the arrays, inverters, batteries, storage cells and all other mechanical equipment used to create solar energy, exclusive of fencing and roadways.

NEC – National Electric Code.

NFPA – National Fire Protection Association.

Nationally Recognized Testing Laboratory – A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

Non-Participating Property – A property not owned or leased by the solar energy system operator, nor having any land use agreement or easement related to the system.

Occupied Habitat – An area in which a species listed in 6 NYCRR Part 182, defined herein as "species in need of protection" has been determined to exhibit one or more essential behaviors, including behaviors associated with breeding, hibernation, reproduction, feeding, sheltering, migration and overwintering.

Participating Property – A property owned or leased by the solar energy system operator, or a property having any land use agreement or easement related to the system. Where multiple adjacent properties are participating in a solar energy system, the combined lots shall not be considered as one for the purposes of applying setback requirements.

Roof-Mounted Solar Energy System – A series of solar panels on the roof of any legally permitted building and/or structure for the purpose of producing electricity for on-site and/or off-site consumption. Roof-Mounted Solar Energy Systems are Tier 1 Solar Energy Systems.

SEQRA – The New York State Environmental Quality Review Act and implanting regulations.

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 Collector – A solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure affixed to the ground, a building or other structure that harnesses solar radiation to directly or indirectly generate thermal, chemical, electrical or other usable energy, or that reflects

or concentrates solar radiation to a solar or photovoltaic cell, plate, panel, film, array, reflector or other structure that directly or indirectly generates thermal, chemical, electrical or other usable energy.

Solar Substation – A specialized electrical substation specifically designed to connect a solar power plant to the electrical grid.

Solar Energy Equipment – Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

Solar Energy System – A complete system intended for the collection, inversion, storage and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical or usable energy. A solar energy system consists of, but not limited to, solar collectors, mounting devices or structures, generators/turbines, substation, water and energy storage and distribution systems, storage, maintenance and/or other accessory buildings, inverters, combiner boxes, meters, transformers and all other mechanical structures. The area of a Solar Energy System includes all fencing and all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as Tier 1, Tier 2 or Tier 3 Solar Energy System as follows:

1. Tier 1 Solar Energy Systems including the following for Residential, Single Family Home Only.
    a. Roof-Mounted Solar Energy Systems
    b. Building-Integrated Solar Energy Systems

2. Tier 2 Solar Energy Systems include Ground Mounted Solar Energy Systems for Business and Agriculture only, with system capacity up to 49 kW AC and that generate no more than 110% of the electricity consumed on the site over the previous 12 months.

3. Tier 3 Utility Scale Solar Energy Systems 50 kW or larger.

Solar Panel – A photovoltaic device capable of collecting and converting solar energy into electricity.

Species in Need of Protection – Species listed in Title 6, Part 182 of the New York Codes, Rules and Regulations as Endangered, Threatened or of Special Concern.

TDE – Town Designated Engineer.

UL – Underwriters Laboratory, an accredited standards developer in the United States.

Uniform Code – The New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

Utility-Scale Solar Energy System – Solar energy generation facility designed and intended to supply energy into a utility grid for off-site consumption.

SECTION FIVE: APPLICABILITY AND GENERAL REQUIREMENTS

1. Major renewable energy facilities for off-site consumption and having a nameplate capacity of twenty (20) megawatts or more and that require greater than 100 acres of land, the function of which is to generate energy for transfer, sale, storage or other transmission or consumption beyond the parcel or parcels upon which the facility is located, are prohibited in all Districts in the Town of Saratoga, **except for the Rural District.**

   Rural Agriculture and Natural resources focus on maintaining and protecting key resources while supporting agricultural businesses and preserving natural resources.

2. The requirements herein shall apply to all solar energy system and equipment installations modified or installed after the effective date of this law, excluding general maintenance and repair.

3. Solar energy system installations for which a valid building permit has been issued, or, if no building permit is presently required, for which installation has commenced before the effective date of this law shall not be required to meet the requirements of this law.

4. Modifications to an existing solar energy system that increase the system's area by more than 5 percent (exclusive of moving any fencing) shall be subject to this law.

5. A building permit shall be required for installation of all solar energy systems. All proposed ground-bounded foundations for ground mounted solar energy systems shall require evaluation and approval of a Town Designated Engineer.

6. 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 and the Town of Saratoga Code.

7. To the extent that any other town law, rule or regulation, or parts thereof, are inconsistent with the provisions of this law, the provisions set forth in this law shall control only as they pertain to solar energy systems.

SECTION SIX: REQUIREMENTS FOR SMALL-SCALE SOLAR ENERGY SYSTEMS

1. Prior to installing a small-scale solar energy system, a building permit shall be obtained from the Uniform Code Enforcement Officer of the Town of Saratoga pursuant to the requirements set forth in the Town's Zoning Ordinance Section 400. All Tier 1 and Tier 2 shall be required to display a permanent plaque or directory placed in an exterior location near the main or front entry of a residence or other structure that is readily visible to firefighters to identify system disconnect(s) location. The plaque or director shall meet all New York State Building Code standards for reflection, lettering and color for easy visibility. As part of the permitting process, the Code Enforcement Officer/Building Inspector shall inspect and evaluate such location and plaque design to ensure its visibility.

2. The installation of a solar collector or panel, whether attached to the main structure, an accessory structure, or as a detached, freestanding or ground-mounted solar collector, shall meet all requirements of this section.

3. All solar collectors and related equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.

4. A ground-mounted solar energy system shall comply with the setback requirements for an accessory structure in the zoning district in which it is located.

5. A roof-mounted accessory solar energy system shall be mounted as flush as possible to the roof. 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. Solar panels on pitched roofs shall be installed at the same angle as the roof's surface with a maximum distance of eight (8) inches between the roof and the highest edge of the system. Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached. To achieve proper solar orientation, panels may exceed the roofline by five (%) feet. All solar panels shall have anti-reflective coating(s) to reduce glare to the maximum extent practicable.

6. Ground mounted solar energy systems shall be permitted only in the Rural and Rural Residential Districts as accessory structures and must meet District setback and coverage regulations and Ground-mounted or freestanding solar collector height shall not exceed 15 feet when oriented at maximum tilt. All Ground mounted solar energy systems shall adhere to the setback requirements for accessory structures in the zoning district within which they are located. Any Ground mounted solar energy systems must meet district setbacks and coverage. Ground mounted solar energy systems shall be limited to Rural and Rural Residential Districts. Ground mounted solar energy systems shall only be permitted in the side or rear yard behind the principal structure. In no instance shall energy systems be permitted in the front yard on the premises. All solar panels shall have antireflective coating(s) to reduce glare to the maximum extent practicable. Ground mounted solar energy systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district. All Ground mounted solar energy systems shall have views minimized from adjacent properties to the extent reasonably practical. 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. A landscape buffer shall be provided around the Ground mounted solar energy system and solar panels to provide screening from adjacent properties and public rights-of-way. A minimum 25-foot buffer, consisting of natural and undisturbed vegetation, shall be provided between all mechanical equipment and solar panel arrays and adjacent properties and roadways to provide screening. The Code Enforcement Officer shall have the authority to increase the buffer to a maximum of 100 feet if necessary to provide adequate screening.

7. Tier 2 solar energy systems that have been abandoned and/or not producing electricity for a period of six (6) months after formal notice by a Town representative/official shall be removed by the property owner at the property owner's expense. Failure to remove such systems after receiving formal notice shall be a violation of this Chapter.

8. All solar collectors and their associated support elements shall, at the time of installation, be designed according to generally accepted engineering practice to withstand wind pressures applied to exposed areas by wind from any direction, to minimize the migration

of light or sound from the installation and to minimize the development of sight obstructions for adjacent structures or land parcels.

9. Residential Photovoltaic systems that are integrated directly into building materials such as roof shingles, and that are a permanent and integral part of and not mounted on the building or structure are exempt from the requirements of this article. However, all applicable building codes shall be met and necessary permits obtained. The Code Enforcement Officer may request assistance from the Planning Board to determine whether a solar energy system should be considered exempt or not.

10. In order to ensure firefighter and other emergency responder safety, there shall be a minimum perimeter provides a 36 inches wide access pathways area around the edge of the roof to provide space on the roof for walking around all solar collectors and panels.

11. Battery Energy Storage Systems associated with a Small-Scale Solar Energy System shall have an energy capacity of no more than 600 kWh and shall comply with all applicable provisions of Section 1206 of the Fire Code of New York State. A building permit and an electrical permit shall be required for installation of Small-Scale Battery Energy Storage Systems. Further mandatory guidance and code for BESS for Small-Scale Solar Energy Systems can be found in NYS BESS code.

SECTION SEVEN: REQUIREMENTS FOR TIER 3 SOLAR ENERGY SYSTEMS

1. Applications, Permits, Fees, Approvals Required and Applicable Zoning Districts

A. A special use permit and site plan approval by the Town of Saratoga Planning Board and a Town building permit shall be required for all utility-scale solar energy systems. Such systems shall only be permitted in the Rural District. Utility scale shall not be located in the following areas of potential sensitivity: 1 (100 year flood hazard zones considered an AE Zone on the FEMA Flood Maps,ii) properties included on or in the viewshed of, the New York State Historic Preservation Office. No utility scale solar energy system shall exceed a maximum project size of 100 contiguous acres, owned by the same person and the parcel must be one tax lot number. No Tier 3 Utility Scale Solar Energy System shall be located within 2.5 miles (nearest property line to property line measurement) of any other Tier 3 Utility Scale Solar Energy System, regardless of whether one of the systems lies outside of the Town of Saratoga. No project shall be on more than one side of a town road or county highway regardless of municipality. The Applicant shall disclose the full scope of the planned size of the project, including any other involved municipalities and shall not segment the application for purposes of reducing the apparent significance of proposed plans. Where the Planning Board or lead agency has reason to believe that the ultimate scope of the project may exceed that which is actually being proposed by the Applicant, it shall conduct its review and base its findings on the larger potential scope. The Planning Board shall concurrently review the site plan and special use permit applications. (**Fee Schedule in the Town of Saratoga Zoning Law by amendment to address fees for Solar Energy Systems**.)

B. No less than sixty (60) days before the date on which an applicant files an application with the Town, the applicant shall contact the Town's Uniform Code Enforcement Officer or Town Planning Board to schedule a pre-submission

conference with the Planning Board in the manner set forth in the Town Zoning Code Section 400-30. At this time, the applicant shall provide the opportunity for an on-site visit by Planning Board members.

C. Upon receipt of an application, the Town requires proof of mailing, at the Developer's expense, a notice of the proposed project to all owners of property within a one-mile radius of the project boundaries regardless of township/municipality. Notices shall contain a summary of the application/project, a designated contact person with telephone number, email address and mailing address from whom information will be available on a going forward basis, as well as a proposed project website to disseminate information to the public. Further, upon receipt of application, the Town shall post notice of same on the Town's website and social media outlets. At the Developer's expense, publication of notice of application shall be made in newspapers designated by the Town of Saratoga for same. Additionally, upon submission of an application, the developer shall conspicuously post signage on all roads abutting the proposed project and at the proposed entryways/exits to the project. Signage must be at least 3 feet by 4 feet and shall contain the name of the proposed project, the application number, a rough concept map of the project and contact information for the developer as well as a proposed project website address. The sign(s) shall be 15 feet or less from the road.

D. All applications for utility-scale solar energy systems shall be accompanied by applicable fees as may be established by the Town Board. The applicant shall provide an escrow account to pay for the Town's engineering, legal and environmental review costs, any necessary mailings by the Town, for construction inspection, annual inspections and for monitoring during operation of the facility. The escrow account shall be in an amount as determined by the Planning Board or Town Board, shall be replenished when required by the Town and shall be maintained for the life of the project. Once the Planning Board has determined the initial amount of escrow, the account shall be established prior to any further Planning Board review.

E. The public hearing that is required in connection with application for a special use permit will be held simultaneously on the proposed site plan. All adjacent property owners will be notified of the public hearing on the application for special use permit and site plan approval in the manner set forth in the Town Zoning Code and as further set forth in paragraph "b" of Section 7 herein. Additionally, privilege of the floor shall be allowed to the public at all subsequent Planning Board meetings where an application is discussed.

F. All applications for utility-scale solar energy systems shall include the following:

(1) A site plan which includes a description of the project, including the solar array capacity in MWdc. The site plan is to be prepared, signed and sealed by a professional engineer registered in New York State including:

(a) Site plan shall provide north arrow and scale. It shall include property lines and physical dimensions of the site including fenced in project area and GPS coordinates for corner fence posts;

(b) Location, approximate dimensions and types of existing structures and uses on the site, public roads and other properties within 2,500 feet of the boundaries of the site including any bordering municipalities. Site plan shall provide neighboring homes, outbuildings and distance from property lines;

(c) Location and description of all solar energy system components, whether onsite or offsite, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of the SEQRA special use permit and site plan approval;

(d) Location of all above and below-ground utility lines on the site as well as transformers, the interconnection point with transmission lines and other ancillary facilities or structures, including accessory facilities or equipment;

(e) Locations of setback distances as required by this law and all Town laws;

(f) All other proposed facilities, including electrical Solar Energy Substations, storage or maintenance units, fencing and laydown and storage areas to be used as part of construction;

(g) On all adjacent parcels the following items shall be shown with dimensions to the property line, setbacks, houses, structures, roads, utilities and private or public wells.

(h) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting and screening vegetation or structures.

(i) The applicant must identify whether or not battery energy storage is part of the solar energy system project at any time during the life of the project. If BESS is to be included in the solar energy system project at any time during the life of the project, applicant will need to follow Town Battery Energy Storage System Code. Battery Energy Storage Systems are prohibited in any areas that do not have a municipal water supply on site;

(j) All site plan application materials required under Section 400-30 of the Zoning Law of the Town of Saratoga.

2. An electrical diagram detailing the solar energy system installation, associated components and electrical interconnection methods, with all disconnects and overcurrent devices identified. Additionally, the diagram should incorporate the power company infrastructure post-interconnection, showing utility meter upgrades, transformer capacity considerations, and any required grid protection equipment to accommodate the solar system's integration. (This detailing may illustrate other visual impacts off property and also provide an understanding or onsite power company installations.)

3. Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc.

4. A storm water pollution prevention plan as per NYS DEC, SWPPP and MS4 and the Town of Saratoga Stormwater Management requirements to detail storm water runoff management and erosion control plans for the site.

5. Documentation of utility notification, including an electric service order number.

6. Decommissioning plan, including cost estimate and description and form of financial surety as described in Section Eight of this law.

7. Visual Impact Study by 3rd Party shall be provided showing the proposed solar energy system in relation to the building/site along with elevation views and dimensions and manufacturer's specs and photos of the proposed solar energy system, solar collectors and all other components. Photographic simulations of the facility shall be prepared from a variety of representative viewpoints to demonstrate the post-construction appearance of the facility. There shall be at least 4 views for each season for a total of 16 views. Where vegetation screening is relied on for facility mitigation, leaf-on and leaf-off simulation shall be provided. Seasonal drone imaging which accurately depicts the property at different times during the year shall be electronically submitted. Additional simulations shall be provided upon the request of the Planning Board.

8. A completed SEQRA Full Environmental Assessment Form is required and submitted when site plan is submitted.

9. Sound studies providing details of the proposed noise that may be generated by inverter fans, or other noise-generating equipment that may be included in the project, including actual readings of existing daytime and nighttime ambient noise at the boundary of the participating properties; the sound study shall predict the potential increase in noise from the project over the existing ambient noise levels. Sound studies shall be provided for Pre-Construction, Proposed-Construction and Post-Construction.

10. A GIS viewshed analysis of the Zone of Visual Impact (ZVI); defined as the area from which the proposed undertaking may be visible within a one-half (0.5) mile buffer around solar fields covering 4 to 39 acres in size, a one-mile buffer around solar fiends covering 40 to 60 acres, a three-mile buffer for solar fields covering 61 to 80 acres and a four-mile buffer for solar fields covering 81 – 100 acres. Positive visibility of the solar field must be based upon bare-earth topography only (do not factor in vegetation). Forested lands shall be assigned a height of 30 feet unless otherwise factually disputed. The analysis should be presented as an orthorectified aerial base map with the buffer boundary and project area indicated and ZVA highlighted. A balloon study which provides aerial viewshed maps, model-massing and photorealistic simulations shall be performed if deemed necessary by the Town Planning Board. All required tests must comply with specific balloon test performance criteria and simulation guidelines of the National Park Service and Bureau of Land Management.

11. The results of on-site bird and bat migration, nesting and habitat surveys. Surveys must be conducted during the appropriate seasonal windows during the year prior to submittal of an application. Applicants shall use the most recent New York State Department of Environmental Conservation survey protocols for grassland birds and winter raptors. For other wildlife, applicants shall follow NYSDEC guidance on appropriate survey methods.

12. The applicant shall demonstrate that any glare or heat to be produced by the solar project does not have a significant adverse impact on neighboring properties or roadways by providing a glare analysis that is from an independent third-party designee approved by the Planning Board. All solar collectors and related equipment shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent properties or public roadways. All solar collectors and their associated support elements shall have a non-reflective finish and be of neutral paint colors to achieve visual harmony with the surrounding area. Panels shall not reflect more than 2% of incoming sunlight. All solar panels shall have anti-reflective coating(s) to reduce glare to the maximum extent practicable.

13. Install monitoring wells down gradient or in any areas deemed appropriate by Planning Board, based on the findings of a groundwater study completed by the applicant. The study shall assess groundwater flow direction, seasonal variations and potential contamination risks to determine optimal well placement. The number, depth and sampling frequency of the monitoring wells shall be specified in accordance with industry standards and regulatory requirements to ensure ongoing assessment of groundwater quality and environmental impact.

G. Prior to final approval by the Planning Board, all engineering documents, including site plan, Stormwater Pollution Prevention Plan and Decommissioning Plan, shall be signed and sealed by a New York State licensed professional engineer.

2. PERMITTING REQUIREMENTS

Requirements "A" through "U" below shall apply to all utility-scale Tier 3 solar energy systems:

A. Code Compliance

All utility-scale solar energy systems shall adhere to all applicable Town of Saratoga building, plumbing, electrical and fire codes. Except for conditions specified in this law, all systems shall comply with the provisions of the Town Zoning Ordinance for the zoning district in which they are located.

B. Fencing

All solar panels, electrical and control equipment, substations, including any battery and storage cells, shall be labeled and secured to prevent unauthorized access. Such aforementioned equipment shall be enclosed with a seven (7) foot high fence as per National Electric Code requirements. Fencing shall have a self-locking gate to prevent unauthorized access and shall be wildlife permeable/friendly. Fencing shall include one way wildlife gates every 1,000 linear yards of perimeter fencing. Barbed wire fencing is prohibited. Fixed-knot woven wire or other wildlife friendly fencing and mixed use fencing is preferred and shall include areas that shall allow small-to-medium sized animals (e.g. turtles, racoons, birds, baby deer) areas which to easily pass through. Fencing shall be located inside the tree buffer described in Requirement 'D' of this subsection. A cleared 15-foot buffer shall be maintained around the outside of the fence for wildland fire fighting.

C. Signs

Warning signage shall be placed on solar equipment to the extent appropriate. Solar equipment shall not be used for displaying advertising. All signs, flags, streamers or

similar items, both temporary and permanent, are prohibited on solar equipment except the following which must be posted at all roads of ingress/egress, and substation fencing: (a)manufacturers or installer's identification; (b) appropriate warning signs and placards; (c) signs that may be required by a federal or state agency; (d) signs that provide a 24-hour emergency contact phone number and warn of any danger and € signs that direct Fire Department and Hazmat to emergency safety protocols. Said information shall be depicted within an area of no more than eight square feet. As required by the National Electric Code (NEC), disconnect and emergency shut-off 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. No advertising signage is permitted.

D. Visual Impact

A solar energy system shall not be installed in any location that would substantially detract from or block the view(s) of all or a portion of a recognized scenic viewshed, as viewed from any public road, right-of-way or publicly owned land within the Town of Saratoga or that extends beyond the border of the Town of Saratoga. For purposes of this subsection, consideration shall be given to any relevant portions of the current, amended and/or future Town of Saratoga Comprehensive Plan and/or any other prior, current, amended and/or future officially recognized Town Planning document or resource, including but not limited to Open Space Plans.

A minimum 200 feet landscape buffer shall be provided around the perimeter of the Solar Energy System, inclusive of the Solar Energy Substation and any and all Solar Energy Equipment to provide screening from adjacent properties. The Solar Energy System and all components as described above shall be completely screened from adjacent property.

The Solar Energy System, including any proposed off-site infrastructure, shall be located and screened in such a way as to avoid visual impacts as viewed from public locations, public roads and highways, and other locations identified by the Town Planning Board. To accomplish this screening, existing vegetation shall be utilized to the fullest extent practicable and/or at least two rows of native evergreen trees other screening acceptable to the Town Planning Board which is capable of forming a continuous hedge at least 14 feet in height at planting shall be required and maintained for the life of the project.

Acceptable screening would include maintenance of existing vegetation, new vegetative barriers or berms, landscape screen or other opaque enclosures, or any combination thereof capable of fully screening the site. The applicant shall guarantee that all plantings that form part of the approved landscape and screening plan will be maintained and replaced as necessary during the life of the project.

The applicant shall provide a bond in an amount as determined by the Town Planning Board or Town Board to maintain and/or replace the landscaping and screening that is not adequately maintained and/or replaced by the developer, its successors and/or assigns as their interests may appear, and shall be replenished by same when required by the Town and shall be maintained for the life of the project.

1. When the site is surrounded by existing mature trees, a buffer of 250 feet where no trees shall be cut shall be established and maintained as a wild zone for the life of the facility. The exception to this shall be dead or diseased trees, which will be cut and removed so as to encourage healthy growth of existing trees.

2. Trees to be included in screening shall be native and non-invasive species of evergreen, e.g. Eastern red cedar and white spruce, a minimum of 8' tall and 3" in diameter at breast height. It shall be determined and documented by the developer if at the time of planting any species are threatened due to regional blight, disease, etc. Final decisions on appropriate plantings will be made by the Town Planning Board.
3. The solar facility shall provide for the creation of a buffer that has an offset, double row of densely growing evergreens with the addition of some smaller trees and shrubs in front to create more of a naturalized hedgerow habitat. The purpose of the double row is to provide additional screening early while the trees are still small. While the evergreens should be the dominant tree for screening, the addition of some smaller trees and shrubs are to be provided to benefit wildlife and aesthetics.
4. Appropriate shrubs and small trees to include to create a hedgerow could be shadbush, flowering dogwood, flowering raspberry, maple leaved viburnum, nannyberry and choke cherry.
5. No clear-cutting or deforestation. Removal of trees and other existing vegetation shall be minimized or offset with planting elsewhere on the property.
6. A vegetation management plan shall be required that includes the planting and/or protection of pollinators and perennial vegetation. Clear-cutting of trees beyond what is deemed necessary by the Town Planning Board to install and maintain the Solar Energy Systems shall be prohibited.
7. Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction.
8. All on-site utility and transmission lines shall, to the extent feasible, be placed underground.
9. The plans shall show maximum buffering and screening of utility-scale solar systems that are visible from all adjoining property owners and roadways, regardless of municipality.
10. The design, construction, operation and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar glare onto neighboring properties, public roads, and public parks in excess of that which already exists. The Town Planning Board reserves the right to individually assess what they deem to be sensitive areas potentially impacted by any proposed solar facility as part of their review to ensure that negative impacts of solar ray reflection will be prevented.
11. All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth tone color to aid in blending the facility into the existing environment.
12. No Effect letter from FAA.

E. Panel Height, Location and Durability

Ground-mounted solar panel arrays shall not exceed 15 feet in height when oriented at maximum tilt. All solar collectors and their associated support elements shall, at the time

of installation, be designed according to generally accepted engineering practice to withstand heavy snow loads and wind pressures applied to exposed areas by wing from any direction, to minimize the migration of light or sound from the installation and to minimize sight obstructions for adjacent structures or land parcels. A licensed professional engineer or registered architect shall stamp and sign all construction and other plans and documents to affirm that the design meets all structural requirements, including snow and wind loads, as a condition of those plans being approved.

F. Lot Coverage

A utility-scale Tier 3 solar energy system shall not exceed 25 percent (25%) lot coverage, as defined herein. This land area shall be deemed to include all land under and in between any system components within the general perimeter of the system as a whole.

G. Wetlands

Solar energy systems are not permitted on wetlands. Solar energy systems shall meet wetland requirements as provided in Title 6, Parts 663 and 664 of the New York Codes, Rules and Regulations and Stream Requirements as provided in Title 6, Part 608 of the NYCRR and shall meet all Clean Water Act requirements for placement of fill in Waters of the United States. The Solar Energy System, including Solar Energy Substation, shall be setback at a minimum of 200 feet from wetlands, ponds and streams. Application must comply with current NYS DEC Regulations.

H. Lighting

Artificial lighting of solar energy systems shall be limited to lighting required for safety and operational purposes and shall be cast downward and shielded from all neighboring properties and public roads. Lighting shall be capable of manual or auto-shut off switch rather than motion detection. All lighting sources and fixtures shall fully shield and comply with International Dark Sky lighting standards. No light source may exceed a maximum Correlated Color Temperature (CCT) of 3,000K.

I. Access and Parking

Roadways and parking will be provided to assure adequate emergency and service access. Any new access roads will be reviewed for fire safety purposes by the Town Building Inspector and the Chief of the Fire Company that serves the area containing the property. Site access, including a perimeter around all solar equipment and substations shall be maintained at a level acceptable to the local Fire Department and emergency medical services, including snow removal. Solar facility access road shall be a minimum of with of 20 feet and no greater than 26 feet wide. All roadways associated with the solar energy system shall remain unpaved and of pervious surfaces. No adjoining landowner shall be mandated to permit use of their property for access. Any additional roadways used for any ingress or egress shall be constructed in a manner compliant to Town zoning laws. Snow removal on ingress and egress roads shall be performed within 24 hours of a significant snowfall as determined and required by the local Fire Department.

J. Slopes

No utility-scale solar system shall be installed on gradients exceeding ten percent (10%).

K. Drainage

The solar energy system shall comply with New York State Stormwater Regulations as set forth in 2025 GP. The Stormwater Pollution Prevention Plan shall demonstrate that

the solar system will not create adverse drainage, runoff or hydrology conditions that could impact adjoining and other non-participating properties in violation of New York State Stormwater Requirements. Use of SWPPP and MS4 shall be used in determining adequate drainage. Town of Saratoga MS4 Coordinator shall determine effectiveness and feasibility of drainage plans.

L. Road Use

Designated traffic routes for construction and delivery vehicles to minimize traffic impacts, wear and tear on local roads and impacts on local business operations shall be proposed by the applicant and reviewed and approved or denied by the Town Planning Board.

M. Blasting and Drilling

Blasting and drilling are prohibited for the construction of all utility-scale solar energy facilities.

N. Cemeteries and Historical Sites

Utility-scale solar energy systems structures and equipment are prohibited on rural cemeteries and burial grounds. The applicant shall consult with the Town Historian to identify any such burial grounds within the project site.

O. Hazardous Materials

All solar panels shall have anti-reflective coating(s) not identified as a hazardous material by the U.S. Environmental Protection Agency (EPA). The applicant shall adhere to all federal and state laws, regulations and guidelines regarding PFAS and polytetrafluoroethylene (PTFE) films. No pesticides or herbicides are to be used on the property for the lifetime of the project.

P. Deforestation

Previously cleared or disturbed areas are preferred locations for solar projects. Forested sites shall not be deforested to construct solar energy facilities. Brush and isolated trees or stands of trees in otherwise open fields or scrubland may be cut, however, clear cutting of trees more than three inches in diameter at breast height in a single contiguous area exceeding 20,000 square feet is prohibited. This clearing restriction shall apply to trees cleared for the access road. Clear-cutting of trees beyond what is deemed necessary by the Town Planning Board to install and maintain the Tier 3 solar energy systems, shall be prohibited.

Removal of trees and other existing vegetation shall be minimized or offset with plantings elsewhere on the property. Tier 3 solar energy systems shall require the preparation of a vegetation management plan that includes detailed planting and/or protection of pollinators and perennial vegetation.

Any portion of a property that has been clear-cut in excess of the area described in the paragraph above shall not be included in an application for a utility-scale solar project for a period of five (5) years following such clear-cutting.

Site disturbance, including but not limited to, grading, soil removal, excavation and soil compaction in connection with installation of utility-scale solar energy facilities shall be minimized to the extent practicable.

Q. Wildlife

Development and operation of Solar Energy Systems shall have no significant impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats identified by the Town of other federal or state regulatory agencies. Applicant site maps shall delineate sensitive environmental features along with other site information to identify and describe how the proposed utility-solar energy system shall avoid or mitigate adverse impacts to these resources. Lands that have the highest ecological value as evidenced by large, continuous areas of forest, undisturbed drainage areas, wetlands or NYS DEC identified critical habitats or rare plant and animal populations shall be avoided. The applicant shall hire an independent, third-party environmental monitor to oversee compliance with environmental commitments and siting requirement, and the ongoing obligation of same for the lifetime of the project. The environmental monitor shall perform regular site inspections of construction work sites and provide annual inspections of the completed solar energy system at the expense of the developer, ATIMA, ISAOA.

R. Agriculture

Solar energy systems shall limit the use of agricultural areas within their project limits to no more than 10 percent (10%) of soils classified by the NYS Department of Agriculture and Markets' Agricultural Land Classification as mineral soils groups 1 through 4. All solar energy systems shall adhere to the Department of Agriculture and Markets' Guidelines for Construction Mitigation for Agriculture Lands.

S. Underground Wiring

All transmission lines and wiring associated with a utility-scale solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code. The Planning Board may waive this requirement if sufficient engineering data is submitted by the applicant to demonstrate that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead and underground electric utility lines including substations, switchyards, junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.

T. Noise

The solar energy system shall be shown to not have adverse or unreasonable noise impacts on surrounding homes or other sensitive receptors. The one-hour average noise generated from the solar energy system's components and associated ancillary equipment, including but not limited to, transformers, inverters, storage devices, substations and tracking motors shall provide for no discernable difference from existing noise levels at property lines. Substations and inverters shall comply with minimum setbacks required herein. The Planning Board may require additional setbacks as needed to provide for no discernable difference from existing noise levels at the property line. The system must meet all Town noise ordinances.

In addition to a sound study performed by an independent third-party vendor, applicants shall submit equipment and component manufacturers' noise ratings to demonstrate compliance. The applicant shall be required to provide operating sound pressure level measurements from a reasonable number of sampled locations at the perimeter of the solar energy system to demonstrate compliance with this standard. All components of

solar energy system from a sound perspective – transformers, inverters, storage devices, substations and tracking motors shall be taken into consideration for the purposes of a noise study.

The applicant shall hire an independent, third-party engineer/noise monitor approved by the Town to oversee compliance with noise requirements and the ongoing obligation of same for the lifetime of the project. The engineer/noise monitor shall perform a site inspection if a noise complaint regarding is made to the Town of Saratoga Code Enforcement Officer and shall provide annual inspections of the completed solar energy system at the expense of the developer, ATIMA, ISAOA.

PENALTIES FOR NON-ADHERENCE, SHUT DOWN, FINES SHALL BE DETERMINED BY CODE ENFORCEMENT/TOWN BOARD

U. Construction Hours and Guidelines

Pre-construction, Construction and routine maintenance activities on the facility shall be limited to Monday through Friday between the hours of 8 a.m. and 6 p.m. Work shall not be done outside these hours or on Saturdays or Sundays and holidays, to ensure the quiet rural characteristics of the Town. Construction lighting shall be limited consistent with Requirement "H" above. Construction work hour limits apply to facility construction, maintenance and to construction related activities, including maintenance and repairs of construction equipment at outdoor locations, large vehicles idling for extended periods at roadside locations and related disturbances. This condition shall also apply to vehicles used for transporting construction or maintenance workers, small equipment and tools used at the facility site for construction or maintenance activities. If, due to safety or continuous operation requirements, construction activities are required to occur beyond the allowable work hours, the applicant shall notify the Town of Saratoga Code Enforcement Officers. Such notice shall be given at least forty-eight (48) hours in advance, unless such construction activities are required to address emergency situations, threatening personal injury, property or severe adverse environmental impact that arise less than twenty-four (24) hours in advance. In such cases, as mush advance notice as is practical shall be provided.

PENALTIES FOR NON-ADHERENCE, SHUT DOWN, FINES, FLAGGERS/TRAFFIC HOLD UPS AND DELAYS SHALL BE DETERMINED BY CODE ENFORCEMENT/TOWN BOARD.

V. Completion

Within thirty (30) days after completion of a community-scale solar energy system, the applicant shall file in the office of the Code Enforcement Officer, a post-construction certification from a professional engineer registered in New York State stating that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected.

3. Contractual Requirements

Prior to obtaining site plan approval, the applicant for a utility-scale solar energy system shall execute the following contractual agreements with the Town:

A. <u>Bond</u>

The applicant is required to provide a Bond to cover damages to Town roads during construction.

B. Community Hosts

The applicant shall enter into a community host agreement providing a public benefit fee to mitigate the additional burdens placed on the Town as a result of the project. The fee shall be utilized as a source of funding for prospective costs and expenses associated with and related to anticipated municipal services and additional infrastructure improvements to be provided as a result of the project's presence within the Town. The fee shall be $1,000.00 annually per megawatt generated.

C. Project Escrow Account

Applicants for Tier 3 systems are responsible for paying all costs incurred by the Town related to review of Planning Board and Zoning Board of Appeals applications, including but not limited to consultant; engineering and attorney's fees. Applicants for Tier 3 systems are required to enter into an escrow agreement and establish an escrow account to cover these costs. No Planning Board or Zoning Board of Appeals review will be undertaken until an escrow agreement is executed and an escrow account funded. The form of the escrow agreement and the amount of the initial escrow deposit must be approved by the Town Board in consultation with Town Counsel.

4. SYSTEM OPERATIONS

A. Required Safety Measures

Before any utility-scale solar energy system becomes active, the owner of the system shall arrange an on-site meeting with the fire department having primary coverage of the project area to review the components of the system, safety issues and procedures for emergency response. This shall include details on the location of labeled warnings, access to the site and emergency disconnection of the system. In addition, the Town may require the installation of placards that provide mutual aid responders with sufficient information to protect them when responding to calls on site. A competent person from the solar company shall be present on site within one (1) hour of any event requiring emergency responders to remain at the facility. Additionally, the following is required:

Fire Safety Compliance – Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code and all applicable codes, along with a map of access points.

Operation and Maintenance Manual – Such plan shall describe continuing maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code and all applicable codes.

Emergency Operations Plan – The applicant shall prepare a safety/emergency response plan in cooperation with Town emergency service providers. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local Fire Department, and local Fire Code Official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, Fire Code Officials and emergency responders. The emergency operations plan shall include the following information:

1. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock and personal injuries and for safe start-up following cessation of emergency conditions.
2. Procedures for inspection and testing of associated alarms, interlocks and controls.
3. Procedures to be followed in response to notifications from the solar energy system that, when provided, could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel and providing agreed upon notification to Fire Company personnel for potentially hazardous conditions in the event of a system failure. All means of shutting down the solar energy system shall be clearly marked.
4. The property must be inspected after a national Weather Service designation of a severe weather event to ensure that the property did not sustain damage. Reports of said inspection shall be filed with the Town Building Inspector.
5. Emergency procedures to be followed in case of fire, explosion, release of liquids, oils or vapors, damage to critical moving parts or other potentially dangerous conditions.
6. Response considerations similar to a Material Safety Data Sheet (MSDS) that will address response safety concerns and extinguishment when an MSDS is not required.
7. Procedures for dealing with solar energy system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged equipment for the facility. System owner shall provide guaranteed non-emergency and emergency response times of a qualified subject matter expert to the DPW and local emergency responders.
8. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring propertied and emergency responders.
9. Site must be made available for conducting drills of these procedures and for training local (all agencies within 15 miles) emergency responders on the contents of the plan and appropriate response procedures. Training shall be taught by a New York State certified instructor, performed annually and shall include local and mutual aid emergency responders. Training and specialty equipment shall be paid for by the developer, ATIMA/ISAOA.
10. The system owner shall notify the local Fire Department, County Emergency Management Office and the Town Building Inspector at least one week prior to any scheduled maintenance or equipment swap out.
11. In the event of a fire, all contaminated soil must be removed and disposed of properly, in accordance with all applicable laws.
12. Retention Pond – the applicant for a utility-scale solar energy system shall consult with the fire Department with primary coverage of the project area on the best fire suppression system for the planned technology and preservation of surrounding properties. If the Fire Department determines that water in necessary, the applicant shall develop a well or retention pond(s) holding a sufficient amount of water as determined in site plan review, with dry hydrants (arrangement of piping with one end in the water and the other extending to dry land), for emergency firefighting use.

B. Ownership Changes

If the owner or operator of the solar energy system changes or the owner of the property changes, all requirements of the special use permit and site plan approval shall remain in effect. Approval to operate the system shall continue, provided that the successor owner

or operator assumes in writing all of the obligations of the special use permit, site plan approval, decommissioning plan, security, escrow and any other binding agreements. A new owner or operator of the solar energy system shall notify the Code Enforcement Officer and the Town Supervisor of such change in ownership or operator sixty (60) days prior to the ownership change. All the terms set forth herein shall be binding on developers. ATIMA/ISAOA.

C. Annual Report/Inspection

On a yearly basis, the solar energy system owner shall provide the Town a report showing the rated capacity of the system and the amount of electricity that was generated by the system and transmitted to the grid. The report shall be submitted no later than thirty (30) days after the end of the calendar year. Additionally, an applicant/operator shall hire an independent, third-party engineer/inspector approved by the Town to oversee compliance with site and operational requirements and the ongoing obligation of same for the lifetime of the project. The engineer/inspector shall perform a site inspection if a complaint regarding the solar energy system and any of its components is made to the Town of Saratoga Code Enforcement Officer. Annual inspections of the completed solar energy system shall be performed at the expense of the developer, ATIMA, ISAOA.

D. Vegetation

Following construction of a utility-scale solar energy system, all disturbed areas where soil has been exposed shall be reseeded with native grasses and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust. The use of herbicides or pesticides are prohibited.

E. Project Changes

Any post-approval changes to the solar energy system, except for immaterial modifications as defined herein, shall be done by amendment to the special use permit and site plan approval only and shall be subject to the requirements of Section Seven of this law.

Unless expressly limited by a condition imposed in the permit, the Town Zoning Officer/ Code Enforcement Officer/Building Inspector or other Town designee may, during project construction, allow immaterial modifications to the design of the project as represented in the final set of site plans reviewed by the Planning Board. Such immaterial modifications shall only be allowed in response to a written request by the applicant or owner. All such requests shall be addressed to the authorized Town designee, with copies to the Chairman of the Planning Board, other designee and the Town's designated consultants.

F. Certification

After completion of a utility-scale 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 the design plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected.

G. Insurance

1. The holder of a Special Use Permit for a solar energy system shall agree to secure and maintain for the duration of the permit, public liability insurance as follows (unless waived by the Town board for smaller systems):

(a) Commercial general liability covering personal injuries, death and property damage: $5,000,000 per occurrence, $10,000,000 aggregate, which shall specifically include the Town and its officers, councils, employees, attorneys, agents and consultants as additional named insured;
(b) Umbrella coverage: $10,000,000

2. Insurance Company: The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with at least a Best's rating of "A".

3. Insurance Policy Cancellation: The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least 30 days prior written notice in advance of cancellation.

4. Insurance Policy Renewal: Renewal or replacement policies shall be delivered to the Town at least 15 days before the expiration of the insurance that such policies are to renew or replace.

5. Copies of Insurance Policy: No more than 15 days after the grant of the permit and before construction is initiated, the permit holder shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

6. Certificate of Insurance: A certificate of insurance that states it is for information purposes only and does not confer sufficient rights upon the Town shall not be deemed to comply with this law.

H. Construction Inspection

The escrow account required herein shall be used to provide inspection by a Town engineering consultant during construction of the solar energy system. Work shall remain accessible and exposed until inspected and accepted by the Town's consultant. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to how the work fails to comply with the Uniform Code or conditions of the special use permit. Work not in compliance shall remain exposed until brought into compliance, reinspected and found satisfactory as completed. During construction, the Town Building Inspector/Code Enforcement Officer can issue a Stop Work Order at any time for violations of the special use permit.

PENALTIES FOR NON-ADHERENCE, SHUT DOWN, FINES, FLAGGERS/TRAFFIC HOLD UPS AND DELAYS SHALL BE DETERMINED BY CODE ENFORCEMENT OFFICER/TOWN BOARD.

I. Groundwater Testing

Unadulterated soil samples shall be taken at four (4) corners of the proposed site. Testing shall utilize four (4) foot holes, with testing at two (2) foot increments. One monitoring test hole shall be at the lowest elevation of the site. In addition, monitoring wells shall be installed down gradient or in any areas deemed appropriate by the Planning Board, based on the findings of a groundwater study completed by the applicant. The study shall assess groundwater flow direction, seasonal variations and potential contamination risks to determine optimal well placement. The number, depth, and sampling frequency of the monitoring wells shall be specified in accordance with industry standards and regulatory requirements to ensure ongoing assessment of groundwater quality and environmental impact. In the event groundwater contamination occurs as a result of the solar facility,

the operator, at its sole expense, shall provide a reliable alternative water source and address the contamination in accordance with all legal requirements.

J. Maintenance

System equipment, grounds, fencing and buffer areas shall be maintained in good condition by the operator. Plant growth shall be controlled by mowing or grazing. The use of herbicides and pesticides is prohibited. Broken panels and any other damaged or malfunctioning equipment shall be removed, replaced or repaired from the site within thirty (30) days of discovery or notification of problem at the expense of the developer, ATIMA/ISAOA.

PENALTIES FOR NON-ADHERENCE/FINES SHALL BE DETERMINED BY CODE ENFORCEMENT OFFICER/TOWN BOARD.

K. Operational Inspection

Upon 24 hours advance notice to the owner/operator or designated contact person, the Town of Saratoga Code Enforcement Officer/Building Inspector or his or her designee may enter the solar energy facility to verify compliance with any requirements or conditions. The solar energy system shall be inspected by a New York State licensed professional engineer, under contract with the Town and paid by the escrow account required herein, to ensure that it is operating according to the conditions of the special use permit. Such inspections shall be done annually and at any other time, upon a determination by the Town's Building Inspector that damage may have occurred. The engineer shall file an inspection report with the Town Code Enforcement Officer/Building Inspector. All recommendations for maintenance and repair contained in said report shall be completed by the operator within a written schedule agreed on by the Code Enforcement Officer/Building Inspector.

PENALTIES FOR NON-ADHERENCE/FINES SHALL BE DETERMINED BY CODE ENFORCEMENT OFFICER/TOWN BOARD.

SECTION EIGHT: ABANDONMENT OR DECOMMISSIONING OF SYSTEMS

1. Decommissioning Plan

An owner or operator of a utility-scale solar energy system that has not generated electricity for a period of six (6) months must notify the Town Supervisor and the Town Building Inspector in writing that the system is no longer operating. If the system ceases to operate for an additional twelve (12) months, the system shall be deemed to be abandoned and shall be decommissioned withing six months by the owner and/or operator of the solar energy system, identify the anticipated life of the project and include, but not limited to, the following provisions:

a. The removal of all energy facilities, structures and equipment including any subsurface wires and footings from the parcel. Any access roads created for building or maintaining the system shall also be removed and replanted with vegetation.

b. The cost of removing the entire solar energy system based upon prevailing wages and any other requirements applicable to municipalities under State or Federal law and no salvage value shall be attributed to any of the components of the solar energy system and/or the solar energy equipment.

c. A schedule and methods for the removal of the solar energy system and/or the solar energy equipment, including any ancillary structures.

d. The time required to restore the property to its pre-installed condition and to repair any damage caused to the property by the installation and removal of the solar energy system.

e. A plan for restoring the property to its pre-installed condition, including grading and vegetative stabilization to eliminate any negative impacts to surrounding properties, and where, if it was previously used for farming, with vegetation suitable for farming purposes, i.e. a hay field, crops or grazing. Such restoration shall follow NYS Department of Agriculture & Markets Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands, as updated.

f. Applicant for a Tier 3 System shall provide a proposed Decommissioning Agreement to the Town Board for review and consideration. No building permit shall be issued for a Tier 3 System unless and until a Decommissioning Agreement in a form approved by the Town board has been executed by the Town and applicant and financial security provided as set forth in Subsection 3. a. below.

g. The remedies to address a failure to decommission a system pursuant to this Section are not exclusive and may be pursued simultaneously, this includes enforcement of the Decommissioning Agreement, calling in of the security required under this Section and using all enforcement and penalty provisions available under the Town Zoning Code.

2. Coordinate with Public Utility Provider

As part of the decommissioning process, the applicant shall provide a detailed plan outlining the steps for proper disconnection and coordination with the public utility provider to ensure a safe and compliant removal of the solar energy system. The plan shall include:

Interconnection Termination & Notification:
- The operator must notify the utility provider before decommissioning begins. Notification should include the Town. Notification must include system details such as interconnection agreement reference, system capacity and point of interconnection. The utility provider shall review and approve the disconnection plan before any removal activities commence.

Disconnection & Infrastructure Removal:
-The applicant shall comply with all requirements set forth in the utility interconnection agreement and ensure that all grid-tied equipment is safely disconnected by a licensed electrical contractor. Any dedicated transformers, switchgear and metering equipment installed specifically for the solar system shall be removed or decommissioned per the utility provider's specifications. If any infrastructure, such as utility poles, transmission lines or underground conduits, is no longer required, the applicant must coordinate with the utility provider for removal or repurposing.

Final Inspection & Compliance:

-The utility provider must perform a final site inspection to verify that all interconnection points have been properly de-energized and that no risks to grid stability or public safety remain.

Utility Certification & Municipal Approval:
-A written confirmation from the utility provider must be submitted to Code Enforcement, certifying that the system has been safely disconnected and that all utility-owned infrastructure has been addressed. Decommissioning shall not be considered complete until the Code Enforcement Officer receives this confirmation and verifies compliance with all decommissioning requirements.

3. **Security**
   a. Security shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal of the solar energy system and restoration of the site subsequent to removal. The Security shall be an evergreen letter of credit issued an A-rated financial institution (relating to Standard & Poor's Rating Services, Inc. ("S&P") or any successor agency thereto) or an A3 rating financial institution (relating to Moody's Investor Services ("MOODY's") or any successor rating agency thereto) on behalf of the company, substantially in the form attached hereto as Exhibit A. The amount of the Security shall be 125 percent of the established cost of removal of the solar energy system and restoration of the property, with an escalator of 2 percent annually (or Consumer Price Index change if more than the annual escalator of 2 percent) for the life of the solar energy system and shall not take into account the net salvage value of any such project components. The Security established by the agreement shall not be subject to disclaimer or rejection in a bankruptcy proceeding.
   b. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the Security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The Security shall remain in full force and effect until ninety (90) days after the restoration of the property, as set forth is the decommissioning plan, is completed.

SECTION NINE: ENFORCEMENT

Any violations of this Local Law are enforceable pursuant to the enforcement and penalty Provisions of the Town Zoning Code. Any solar energy system owner or operator or any Owner or lessee of the real property upon which a solar energy system is located shall be Liable for any violations of this Section.

SECTION TEN: SEVERABILITY

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgement of any court of competent jurisdiction to be impaired, illegal, invalid, unenforceable or 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 and shall be fully severed from this Code and there shall be automatically added in lieu thereof, a provision as similar in terms and intent to such severed provision as may be legal, valuable and enforceable.

SECTION ELEVEN: EFFECTIVE DATE

This local law shall take effect immediately upon the filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.