LOCAL LAW NUMBER #X OF 2021

A LOCAL LAW OF THE TOWN OF CAROLINE
RELATING TO SOLAR ENERGY AND BATTERY STORAGE SYSTEMS
PROPOSED TO BE SITED IN THE TOWN OF CAROLINE, NEW YORK

This Local Law hereby amends and supersedes existing Town rules and regulations pertaining to solar energy generating facilities, and their infrastructure and related battery and storage facilities.

The Town Board of The Town of Caroline, New York, pursuant to Resolution dated _____, 2021, does hereby adopt and pass this Local Law Number #X of 2021, and therefore, be it so enacted as follows:

SECTION 1 – AUTHORITY: This Local Law is adopted pursuant to the powers granted by §§ 130, 261, and 263 of the Town Law of the State of New York, and Municipal Home Rule Law § 10, which authorize the Town of Caroline to adopt local laws that advance and protect the health, safety and welfare of the community. [authority section to be revised]

SECTION 2 – PURPOSE: The purpose of this Local Law is to facilitate and regulate the development and operation of certain renewable energy systems based upon the use of sunlight; to increase employment and business development in the Town of Caroline, to the extent reasonably Practicable, by furthering the installation of Solar Systems and related or independent battery and energy storage systems; to mitigate the impacts of such systems upon environmental resources, such as important agricultural lands, forests, wildlife and other protected resources; and to provide a regulatory scheme for the designation of properties most suitable for the location, construction and operation of such systems. It is in the public interest to allow for and encourage renewable energy systems in accordance with the Town of Caroline Comprehensive Plan.

SECTION 3 – APPLICABILITY: The requirements of this Law apply to all Solar Energy Systems and Battery Energy Storage Systems proposed, modified, or installed after the effective date of this Local Law.

SECTION 4 – DEFINITIONS:

ACCESSORY STRUCTURE – A structure incidental and subordinate to a principal building or use in terms of area and function on the same lot, and used for purposes that are customarily found in association to those of the principal use.

ALTERNATIVE ENERGY SYSTEM – Need definition.

APPLICANT – A property owner, an entity or individual holding an option or contract to purchase a property, or any other affiliate or operator authorized in writing to act for such persons, who submits an application under the provisions of this Code.

BATTERY ENERGY STORAGE SYSTEM – A rechargeable or other energy storage system consisting of electrochemical or other types of storage or cyclable batteries, battery chargers, controls, power conditioning systems and associated electrical equipment designed to provide electrical power to a building or other structure or facility.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM - A combination of photovoltaic building components integrated into the building envelope system of any legally permitted building or structure, such as vertical facades, skylights, roofing materials and shading over windows.

CHAPTER – These land use regulations of the Town as set forth in the Code.

CODE – The local laws, ordinances, codes, and policy requirements of processes, rules, and procedures of the Town of Caroline.

COMMISSIONING - A systematic process that provides documented confirmation that a system functions according to the intended design criteria and complies with applicable code requirements.

DECOMMISSIONING – A systematic process for removing an abandoned Battery Energy Storage System and/or Solar Energy Facility and remediating the land.

FLOOD DAMAGE PREVENTION LOCAL LAW – The Flood Damage Prevention Local Law of the year 2011, entitled "A local law for Flood Damage Prevention as authorized by the New York State Constitution, Article IX, § 2, and Environmental Conservation Law, Article 36."

GROUND-MOUNTED SOLAR ENERGY SYSTEM – A Solar Energy System whose components are attached to a mounting system anchored to the ground (including by static weighting) and detached from any other structure.

LARGE-SCALE BATTERY ENERGY STORAGE SYSTEM - Battery energy storage systems with an aggregate energy Nameplate Capacity greater than or equal to 280kWh.

~~NAMEPLATE CAPACITY – The maximum rated output of the electric power production of the Solar Photovoltaic System or Wind Energy Conversion System in Alternating Current (AC).~~
NAMEPLATE CAPACITY – The maximum rated energy output of the Solar Photovoltaic System or Battery Energy Storage System.

NON-PARTICIPATING RESIDENCE OR OCCUPIED BUILDING – Any residence or building or structure expected or intended for human occupation or use, including as a workplace, where the owner of such residence, building, or structure has not agreed in writing with the owner or operator of an alternative energy facility to allow certain uses to be sited adjacent to or in proximity to such non-participating structure; ~~such a lease, license, or easement allowing a Tower Fall Zone to overlay their residence, building, or structure,~~ or granting access to wind, light or air; or waiving any noise, setback, or zoning requirements.

PARTICIPATING RESIDENCE OR OCCUPIED BUILDING - Any residence or building or structure expected or intended for human occupation or use, including as a workplace, where the owner of such residence, building, or structure has agreed in writing with the owner or operator of an alternative energy facility to allow certain uses to be sited adjacent to or in proximity to such participating structure; ~~such a lease, license, or easement allowing a Tower Fall Zone to overlay their residence, building, or structure,~~ or granting access to wind, light or air; or waiving any noise, setback, or zoning requirements.

PRACTICABLE – Capable of satisfying the overall project purposes, after taking into consideration cost, time, technology and logistics.

RIGHT-OF-WAY - The total width of any land reserved or dedicated as a thoroughfare, alley, pedestrian or bicycle way, railway, waterway, or utility line.

SMALL-SCALE BATTERY ENERGY STORAGE SYSTEM - Battery energy storage systems with an aggregate energy Nameplate Capacity less than 280kWh.

SMALL-SCALE SOLAR ENERGY SYSTEM – A Building-Mounted Solar Energy System whose photovoltaic components occupy an area greater than 150 square feet on any code-compliant structure, or a Ground-Mounted Solar Energy System whose components cover a land area less than 10,000 square feet and whose energy output is primarily for on-site consumption. Small-Scale Solar Energy Systems may generate energy in excess of the energy requirements of a property if it is to be sold back to a public utility or placed on or delivered to the local or regional electrical grid.

SOLAR ENERGY FACILITY – Ground-mounted or free-standing (racking or ballasts) solar collection devices, Solar Energy System related equipment, and other associated infrastructure whose components cover a land area greater than 10,000 square feet. The primary intention of a Solar Energy Facility is the generation of electricity or other conversion of solar energy to a different form of energy for commercial or off-site sale to a public utility, off-site users, or for placement on or delivery to the local or regional electrical grid.

SOLAR PANEL – A photovoltaic device capable of collecting and converting solar energy into electrical energy.

SOLAR PHOTOVOLTAIC SYSTEM or SOLAR ENERGY SYSTEM – An energy system that consists of one or more solar energy collection devices, solar energy related balance of system equipment, and other associated infrastructure with the primary intention of generating electricity, storing electricity, or otherwise converting solar energy to a different form of energy.

SOLAR THERMAL SYSTEM – A Solar Energy System used to generate heated liquid from sunlight for transfer to potable water, a process liquid, or to a hydronic heating system using a collector and a transfer liquid, or an alternative Solar Energy System used to generate heated air from sunlight to heat spaces through passive convection or active fan driven means using a collector. This includes so-called 'passive' thermal systems using or creating heated water for swimming pools and residential uses.

VISUAL IMPACT ASSESSMENT – A report prepared by a registered Landscape Architect or other qualified professional that includes a Visual Assessment Form pursuant to SEQRA and TEQRA, and visually illustrates and evaluates the relationship of proposed new structures or alterations to nearby natural landscapes and to pre-existing structures in terms of visual character and intensity/scale of use (e.g., scale, materials, color, door and window size and locations, setbacks, roof and cornice lines, and other major design elements). Such report also includes an analysis of the visual impacts on neighboring properties from the proposed development and alterations, and of the location and configuration of proposed structures, parking areas, open space, and gradient changes. Photo-simulations or balloon tests may be required as part of the Visual Impact Assessment.

SECTION 5 – ALTERNATIVE ENERGY SYSTEMS, GENERALLY:

5.1 The requirements of this § 5 and its subsections apply to all Solar Energy Systems and Battery Energy Storage Systems proposed, modified, or installed upon any lands or structures, excluding routine or minor general maintenance and repair. However, "routine or minor general maintenance and repair" shall not in any one situation or case involve the replacement or repair of 50% or more of the area or square footage of land occupancy of the use, or 50% of the value of the facility. The determination as to whether a given action or application qualifies as "routine or minor general maintenance and repair" shall be determined in each case and for all lands, parcels, and uses, by the Town's Code Officer by written opinion, duly filed.

5.2 The installation of any Solar Energy System does not carry with it any right to a clear line of sight to the sun. It is understood that an Applicant, installer, or developer has the responsibility to make sure that the Solar Energy System(s) are positioned in such a way that they will achieve the optimal energy production Practicable. It is the responsibility of the Applicant, installer, or developer to obtain any and all rights, easements, or agreements as are or may be necessary to acquire and maintain a line of sight to the sun, if necessary.

5.3 No Solar Energy System shall be located in a manner as will unreasonably reduce or impede the amount of sunlight available to any adjacent lot.

5.4 No Solar Energy System shall be located in a manner as to reduce or impede the function of any other pre-existing Solar Energy System or any radio or microwave communication device.

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

~~**613.7** Any Alternative Energy System, including all Solar Energy Systems and Wind Energy Conversion Systems that produce electricity primarily for active farming or agricultural uses, where the generation is less than one hundred and ten percent (110%) of the farm use, are exempt from Site Plan Review or Zoning Permit review if, in the determination of the zoning officer, the following standards are demonstrated and met: (i) all building, electrical, fire and other codes have and will be adhered to; (ii) where required, applicable permits and approvals will be, or have been, obtained for interconnection with any distributed electric power system, including distribution or metering to any local or regional electrical grid; and (iii) all other applicable zoning rules, such as yardage and setbacks, have been duly met.~~

5.6 All Alternative Energy Systems, except as exempted below, require building permits.

5.7 No grid-tied Solar Energy System may be installed until the Applicant has submitted evidence that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator or meter, including the receipt of documentation from said utility that it will connect the system. Off-grid systems shall be exempt from this requirement.

SECTION 6 – SMALL-SCALE SOLAR ENERGY SYSTEM PERMIT REQUIREMENTS:

6.1 Building permits are required for all Solar Energy System installations except Solar Energy Systems under 1,000 watts that are not grid-tied or connected to a building or Accessory Structure.

6.2 Small-Scale Solar Energy Systems that are Building-Integrated Solar Energy Systems must be:

i. Mounted or integral to a lawfully-permitted building or structure;

ii. To the maximum extent Practicable, Solar Energy Systems must not obscure architectural details or features; and

~~iii. May not be installed in required open space or buffer areas, park or playground/recreational set aside areas, in required front yards, or within any required side or rear yard setbacks, or in a manner as violates any bulk, density, coverage or yardage rules for the zone in which situate.~~

6.3 Small-Scale Solar Energy Systems that are Small-Scale Ground-Mounted Solar Energy Systems must meet the following requirements:

i. No components of Ground-Mounted Solar Energy Systems shall exceed 18 feet above finished grade when the system is oriented at maximum tilt from horizontal.

~~ii. All such systems must meet all setback and yardage requirements as are required of principal buildings or structures in the applicable zoning district.~~

~~iii. The horizontal surface area covered by Ground-Mounted Solar Energy Systems must be included in total lot coverage calculations and, when combined with the coverage of other structures, the total area must not violate any Minimum Open Space required in the underlying zoning district. In Planned Development Areas that do not reference underlying bulk or area requirements for Solar Energy Systems, the addition of a ground-mounted system shall not create or extend any lot coverage beyond 25%.~~

~~iv. Ground-Mounted Solar Energy Systems are not permitted in any front yard and must be sited entirely behind the Front Yard Line as depicted in Section 504, Schedule II – Drawing 1.~~

SECTION 7 – SOLAR ENERGY FACILITY SPECIAL CONDITIONS, INCLUDING FOR SITE PLAN REVIEW

7.1 All Solar Energy Facilities require Site Plan review and approval by the Review Board. A Development Review Application must be accompanied by all the appropriate application fees, forms, and number of copies of all plans and supporting documentation, including but not limited to the following:

i. A State Environmental Quality Review Act ("SEQRA") environmental assessment form and a Town Environmental Quality Review ("TEQR") environmental assessment form, substantially completed, with accompanying data, schedules and mappings as reasonably requested by the Town.

ii. Evidence that a copy of the Development Review Application, and submittals outlined below, have been submitted to the appropriate Fire Chief, together with a copy of shut-off switching diagrams.

iii. An emergency response plan.

iv. The location and nature of any proposed utility easements and infrastructure, including a utility plan if required by the Town, and including a one- or three-line electrical diagram detailing the Solar Energy Facility, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices.

v. Identification of areas of potential environmental sensitivity, including Distinctive Views as enumerated in the Tompkins County Scenic Resources Inventory and any Town of Caroline Scenic Resources Inventory; onsite or nearby Unique Natural Areas; slopes greater than 15%; floodplains; historic sites; airports;

government lands; conservation easements; trails; parkland; prime soils; and wetlands (including wetland delineations, as required).

vi. Plans or drawings of the Solar Energy Facility prepared by a Registered Professional Engineer licensed in the State of New York, showing the proposed layout of the system and any potential shading of and from nearby structures or vegetation.

vii. Documentation of solar collector type including but not limited to equipment specification sheets for all Solar Panels and collectors, significant components, mounting systems, and inverters that are to be installed, as well as proposed solar energy production Nameplate Capacity design levels proposed for the Solar Energy Facility and the basis for the calculations of the area of the Solar Energy Facility's Nameplate Capacity.

viii. Documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed installation.

ix. An operation and maintenance plan, including description of continuing Solar Energy Facility maintenance and property upkeep, such as mowing and trimming, safe access to the installation, as well as general procedures for operational inspections and maintenance of the installation.

x. A Stormwater Pollution Prevention Plan (SWPPP) as required by the Town of Caroline Stormwater Management and Erosion and Sediment Control Local Law.

xi. Name, address and contact information for the proposed system installer, together with proof of liability insurance showing compliance with industry standards.

xii. A decommissioning plan and related securitization of such obligation, as further set forth in Section 7.X.

7.2 Additional review processes and requirements:

i. No review shall commence until it is determined by the Review Board that the application and the Site Plan submissions are substantially complete.

ii. At the expense of the Applicant the Town may employ its own consultant(s) to examine the application and related documentation and make recommendations as to whether the criteria for granting approval(s) have been met, including whether the Applicant's conclusions regarding safety, visual impacts, structural integrity, and stormwater management are accurate and comply with generally accepted and reliable engineering and technical data and standards.

iii. The facility must demonstrate compliance with all federal and state laws and all applicable rules and regulations promulgated by any federal or state agencies having jurisdiction.

7.3 **Height.** Solar collection devices are limited to a maximum height of 18' feet when the system is oriented at maximum tilt from horizontal. Movable or tracking systems are permitted, but must meet this 18' maximum height rule.

~~**802.18.4 Coverage.** The horizontal surface area covered by solar collection devices must be included in total lot coverage and, when combined with the coverage of other structures, the total area must not exceed the maximum lot coverage as permitted in the underlying zoning district.~~

7.4 **Appurtenant strucures.** All appurtenant structures to Solar Energy Facilities, including but not limited to equipment structures, storage facilities, Battery Energy Storage containers, transformers, and substations, must be architecturally compatible with each other. Whenever Practicable, structures should be screened from view by vegetation and joined or clustered to avoid or minimize adverse visual impacts.

7.5 **Visual Effect.** The Solar Energy Facility must have the least visual effect reasonably Practicable on the environment, as determined by the Review Board. The determination must be based on site specific conditions including topography, adjacent structures, and roadways. The Review Board may request a Visual Impact Assessment be submitted. Solar Energy Facilities must avoid clearing extensive areas of forest, and Practicable efforts must be made to minimize visual impacts by preserving natural vegetation and providing dense evergreen landscape screening to abutting residential properties and roads, yet screening should minimize the shading of solar collectors.

7.6 **Soils.** Solar Energy Systems sited on Prime Farmland or Farmland of Statewide Importance may be required to seed up to twenty percent (20%) of the total surface area of panels on the lot with native perennial vegetation designed to attract pollinators. The Review Board may specify free-standing ballast or racking systems. All topsoil will be stockpiled immediately adjacent to the area where stripped/removed and shall be used for restoration on that particular site. No topsoil shall be removed from the site. The Site Plan shall clearly designate topsoil stockpile areas in the field and on the construction drawings.

7.7 **Fencing.** ~~Notwithstanding the provisions found in §611, f~~Fences not exceeding eight (8) feet in height, including open-weave and solid fences, shall be permitted for the purpose of screening or enclosing Solar Energy Facilities. ~~Fencing to prevent unauthorized access shall enclose Solar Energy Facilities.~~ Warning signs with the owner's name and emergency contact information must be placed on any access point to the system and on the perimeter of any fencing. Landscaping or planted buffers are required to avoid adverse aesthetic impacts, and fencing or walls may be required and fences or walls, where required, shall tend towards solid-cover visual buffers that emphasize natural

materials and muted color schemes. Chain link, barbed, razor, and concertina wires, electrically charged wire, railroad ties, concrete masonry units, scrap metal, tarped, and cloth fences and accessory parts ~~should be avoided~~ are not allowed.

7.8 **Utilities.** Practicable efforts, as determined by the Review Board, shall be made to place all utility connections for the Solar Energy Facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. When aboveground cables and transmission lines must cross agricultural fields, utility poles that provide longer spanning distances should be located on field edges to the greatest extent Practicable to avoid bisecting of agricultural lands. Electrical transformers for utility interconnections may be aboveground if required by the utility provider.

7.9 **Lighting.** Motion-activated or staff-activated security lighting around the equipment area of a Solar Energy Facility or Accessory Structure entrance may be installed, provided that such lighting meets International Dark-Sky Association or similar standards and does not produce unreasonable fugitive light or glare from the project site. If the Solar Energy Facilily is fenced, such lighting should only be activated when the area within the fenced perimeter has been entered, or, if not fenced, when a reasonably equivalent area has been entered.

7.10 **Ingress and Egress.** Any new on-site vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction; they should not be more than sixteen (16) feet in width and should be constructed at grade. A locked gate at the intersection of the access way and a public road may be required to obstruct entry by unauthorized vehicles. Such gate must be located entirely upon the lot and not on the public Right-of-Way. Fencing, gates, and other locked or secured/inaccessible areas require a lock-box for emergency and fire access as required by code.

7.11 **Parking.** Equipment and vehicles not used in direct support, renovations, additions or repair of any Solar Energy Facility must not be stored or parked on the facility site.

7.12 **Siting Restrictions.** Solar Energy Facilities should not be located in the following areas unless otherwise approved by the Review Board in conjuction with a Site Plan review process:

i. Critical Environmental Areas as designated by the Town of Caroline; areas of special flood hazard concern as defined by the Flood Damage Prevention Local Law; adjacent to or within the control zone of any airport; upon properties that constitute public trust lands, unless consistent with the purposes of such public trust, and in jurisdictional wetlands and wetlands duly declared to be of local importance.

ii. On slopes of greater than fifteen percent (15%). The Review Board may specify free-standing ballast or racking systems that match existing elevations and contour variations.

iii. Within 100 feet of perennial streams and within 50 feet of intermittent streams.

7.13 **Abandonment and Decommissioning.** A Decommissioning Plan shall be submitted with each Application in accordance with §9 of this Chapter. Approval of the Decommissioning Plan by the Town Review Board shall be required, including under Site Plan review. Removal of Solar Energy Facilities must be completed in accordance with the Decommissioning Plan. If the Solar Energy Facility is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality.

SECTION 8 – LARGE-SCALE BATTERY ENERGY STORAGE SYSTEMS SPECIAL CONDITIONS, INCLUDING FOR SITE PLAN REVIEW

8.1 Building and electrical permits shall be required for all Battery Energy Storage Systems. A development review application must be accompanied by all the appropriate application fees, forms, and number of copies of all plans and supporting documentation, including but not limited to the following:

i. A State Environmental Quality Review Act ("SEQRA") environmental assessment form and a Town Environmental Quality Review ("TEQR") environmental assessment form, substantially completed, with accompanying data, schedules and mappings as reasonably requested by the Town.

ii. Evidence that a copy of the Development Review Application, and submittals outlined below, have been submitted to the appropriate Fire Chief, together with a copy of shut-off switching diagrams.

iii. An emergency response and Fire Safety Compliance Plan. Such plans shall document and verify that the system and its associated controls and safety systems are in compliance with the applicable fire prevention code, including procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions and emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions.

iv. The location and nature of any proposed utility easements and infrastructure, including a utility plan if required by the Town, and including a one- or three-line electrical diagram detailing battery installations, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices.

v. Identification of areas of potential environmental sensitivity, including onsite or nearby Unique Natural Areas; slopes greater than 15%; floodplains; historic sites; airports; government lands; conservation easements; trails; parkland; prime soils; and wetlands (including wetland delineations, as required).

vi. A preliminary equipment specification sheet that documents the proposed Battery Energy Storage System components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

vii. A Commissioning plan or related documents that verify that the system and its associated controls and safety systems are in proper working condition, as conducted and prepared by a New York State Licensed Professional Engineer or Registered Architect after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after Commissioning. A report describing the results of the system Commissioning and including the results of the initial acceptance testing shall be provided to the Review Board prior to final inspection and approval and maintained at an approved on-site location.

viii. A system and property operations and maintenance plan describing continuing Battery Energy Storage System maintenance and property upkeep, as well as design, construction, installation, testing and Commissioning information.

ix. A description of any battery rotation or replacement cycles or operational plans, including whether the batteries are for stand-by power to be distributed on the site or to charge batteries for off-site use.

x. A Stormwater Pollution Prevention Plan (SWPPP) as required by the Town of Caroline Stormwater Management and Erosion and Sediment Control Local Law.

xi. Name, address and contact information for the proposed system installer, together with proof of liability insurance showing compliance with industry standards.

xii. A Decommissioning plan and related securitization of such obligation, as further set forth in §9 of this Chapter. Battery removal/disposal is required for Decommissioning.

8.2 Additional review processes and requirements:

i. No review shall commence until it is determined by the Review Board that the application and the site plan submissions are substantially complete.

ii. At the expense of the Applicant, the Town may employ its own consultant(s) to examine the application and related documentation and make recommendations

as to whether the criteria for granting approval(s) have been met, including whether the Applicant's conclusions regarding safety, visual impacts, structural integrity, and stormwater management are accurate and comply with generally accepted and reliable engineering and technical data and standards.

iii. The facility must demonstrate compliance with all federal and state laws and all applicable rules and regulations promulgated by any federal or state agencies having jurisdiction.

8.3 Large-Scale Battery Energy Storage Systems shall be sited to minimize impacts to the following areas and types of lands:

i. Designated Agricultural Districts and actively-farmed prime agricultural soils as identified by the United States Department of Agriculture-Natural Resources Conservation Service (USDA-NRCS), or alternative available resource.

ii. Critical Environmental Areas as designated by the Town of Caroline, areas of special flood hazard concern as defined by the Flood Damage Prevention Local Law; adjacent to or within the control zone of any airport; upon properties that constitute public trust lands, unless consistent with the purposes of such public trust; and in jurisdictional wetlands and wetlands duly declared to be of local importance.

iii. On slopes of greater than fifteen percent (15%).

iv. Within 100 feet of perennial streams and within 50 feet of intermittent streams.

8.4 All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the 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.

8.5 Signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated therewith, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information. As required by the National Electrical Code, 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.

8.6 Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes ~~and shall be shielded and downcast from abutting properties to the extent reasonably Practicable.~~ provided that such lighting meets

International Dark-Sky Association or similar standards and does not produce unreasonable fugitive light or glare from the project site.

8.7 Areas within 10' feet on each side of Large-Scale Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent Practicable.

8.8 The accumulation, collection, incineration, disposal, or storage of old, unusable, dead, or damaged batteries is expressly prohibited.

SECTION 9 – ABANDOMENT AND DECOMMISSIONING OF BATTERY ENERGY STORAGE SYSTEMS AND SOLAR ENERGY FACILITIES

9.1 A Decommissioning Plan shall, at a minimum, contain the following elements and meet the following requirements.

i. Specify when and what constitutes an event requiring decommissioning, including abandonment of the facility. In all cases the lack of production for 6 months (or for 12 of any 18 months) and the violation of any site plan conditions, the lack of a current permit or violation of permit conditions, including but not limited to maintenance of any required decommissioning bond or security, shall be an event requiring decommissioning.

ii. Specify the form and type of notice required to the Town in the event of any decommissioning, sale, transfer, partial transfer, assignment, or occurrence of any event which may result in an act or partial order requiring partial or complete decommissioning of the site.

iii. The means and methods by which utility interconnections will be removed and permitted by the utility provider, as well as all electrical and other safety precautions undertaken during removal.

iv. All decommissioning and restoration activities shall be completed within 150 days of the date decommissioning was ordered or required, including under the plan.

v. Demonstrate the removal of all Solar Panels, Battery Energy Storage Systems, electrical appurtenances, structures, equipment, security barriers and transmission lines.

vi. Demonstrate the minimization of disruption to field drains and soils, and the remediation of drains and soils, including stabilization and revegetation of any sites or disturbances, including as minimize erosion. Decompaction of soils to 18

inches and removal of any installed materials to 4 feet is required. The Review Board may allow the owner or operator to leave landscaping or designated below-grade foundations in place to minimize erosion and disruption to vegetation in a proper case, but generally all of the New York Department of Agriculture and Markets' Guidelines for Agricultural Mitigation for Solar Energy Projects shall be adhered to in any plan.

vii. Specify disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations, including the removal of any damaged or contaminated soils. No designation of any facilities by a 'beneficial use declaration' shall be permitted to vary this clean-up and remediation/disposal rule.

viii. Include an expected timeline for execution, together with a cost estimate detailing the projected cost of executing the Decommissioning Plan, duly prepared and sealed by a Professional Engineer. Cost estimations must take inflation into account over the expected life of project, and have a mechanism to ensure the periodic updating and securitization of decommissioning costs.

9.2 Removal of all Large-Scale Battery Energy Storage Systems, Solar Energy Facilities, and Commercial Wind Energy Conversion Systems must be completed in accordance with the Decommissioning Plan. If all site facilities are not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality.

9.3 Financial Surety. An Applicant for a Large-Scale Battery Energy Storage System or Solar Energy Facility shall provide a form of surety, either through Development Escrow Agreement, bond, letter or credit, or like form approved by the Review Board, to cover all costs of decommissioning and removal calculated at a minimum of 125% of the approved estimated cost of decommissioning and restoration. The estimate of costs shall be prepared by a licensed engineer and be sealed accordingly, and the annual cost shall take into account New York State prevailing wage rules and any inflationary rise in surety amounts covered, contain an evergreen clause, or otherwise account for increases in the cost of decommissioning and restoration in a manner as approved by the Review Board. At a minimum, at least once every 3 years after any approval or permit is issued by the Town, the Applicant or then future owner or operator of the facility shall provide updated certified cost estimate for decommissioning, removal, and restoration, and if the resulting 125% cost requirement shows that the exiting security or bond is monetarily insufficient, then the owner shall update such bond or undertaking, or see to its replacement or supplementation in an amount to equal such updated minimum 125% of cost number.

SECTION 10—ENFORCEMENT: Any violation of this Local Law shall be enforced in accordance with this Chapter, the Code, or applicable law.

SECTION 11—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 must not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which must remain in full force and effect.

SECTION 12—EFFECTIVE DATE: This Local Law shall take effect immediately.