

**TOWN OF MOHAWK LOCAL LAW # 1 2023**

**Solar Energy**

**I. Purpose and intent.**

1. The purpose of these regulations is to balance the potential impact on neighbors where solar collectors may be installed near their property while preserving the rights of property owners to install solar collection systems without excess regulation. These regulations are not intended to override the New York State Agriculture and Markets Law.
2. Solar energy is a renewable and energy resource that can prevent fossil fuel emissions and reduce energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid when excess solar power is generated.
3. To maintain the rural character of the community a combined limit of 150 MW of Tier 3 and Tier 4 systems will be permitted within the town. This limit is equally split with 75 MW allowed east of Route 30 A and 75 MW allowed west of Route 30A.

**II. Applicability.**

1. The requirements herein shall apply to all solar collector system installations modified or installed after the effective date of this section.
2. Solar collector system installations for which a valid building permit has been properly issued, or for which installation has commenced before the effective date of this section, shall not be required to meet the requirements of this section, except in accordance with Section V. Safety, found here in this section. Any modification, expansion, or alteration to an existing solar collector system shall only be permitted in accordance with Section IV. Permitting Requirements for Tier 1 Solar Energy Systems.
3. All solar collector systems must obtain a building permit and shall be designed, erected and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the New York State Building Code.

**III. Definitions.**

**ACCESSORY STRUCTURE**

A structure, the use of which is customarily incidental and subordinate to the principal building and is located on the same lot or premises as the principal building.

**AGRIVOLTAIC**

A solar facility where solar panels and food crops are combined on the same land to maximize land use.

**BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS**

A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or facade and which does not alter the relief of the roof.

**COLLECTIVE SOLAR**

Solar installations owned collectively through subdivision homeowner associations, college student groups, “adopt-a-solar-panel” programs, or other similar arrangements.

**ENERGY STORAGE DEVICE**

A device that stores energy from the sun or another source and makes it available for use.

**FLUSH-MOUNTED SOLAR PANEL**

Solar collector systems, panels, and tiles that are installed flush to the surface of a roof or wall of a principal and/or an accessory structure and which cannot be angled or raised for the direct conversion of solar energy into electricity.

**FREESTANDING OR GROUND-MOUNTED SOLAR COLLECTOR SYSTEM**

A solar collector system that is directly installed on the ground and is not attached or affixed to an existing structure and used for the direct conversion of solar energy into electricity.

**GLARE**

The effect produced by light with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**NET-METERING**

A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

**PERMIT GRANTING AUTHORITY**

The Town of Mohawk Code Enforcement Officer is the authority authorized to grant permits for the installation of alternative energy systems.

**PHOTOVOLTAIC (PV) SYSTEMS**

A solar energy system that produces electricity by the use of the semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

**ROOFTOP OR BUILDING MOUNTED SOLAR COLLECTOR SYSTEM**

A solar collector in which solar panels are mounted on top of a roof of a principal and/or an accessory structure either as a flush-mounted system for the direct purpose of converting solar energy into electricity.

**SCREENING**

Vegetation, fencing, or earthen materials used to block visibility toward and/or away from a facility.

**SETBACK**

A minimum horizontal distance from a given point or line of reference, such as from a road edge or right-of-way, within which development is restricted.

**SOLAR ACCESS**

Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

**SOLAR ARRAY**

A group of multiple solar modules with purpose of harvesting solar energy.

**SOLAR CELL**

The smallest basic solar electric device which generates electricity when exposed to light.

**SOLAR COLLECTOR**

A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

**SOLAR ENERGY SYSTEM**

The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment.

A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

- 1. Roof-Mounted Solar Energy Systems.
- 2. Building-Integrated Solar Energy Systems.
- 3. Ground-Mounted Solar Energy Systems with a Nameplate Capacity of up to [25] kW AC.

[OR]

Ground-Mounted Solar Energy Systems with a total solar panel surface area of up to [4,000] Square feet.

- 4. On-Farm Solar Energy Systems

B. Tier 2 Solar Energy Systems include the following:

- 1. Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Nameplate Capacity of up to [1] MW AC and which generate no more than [110] % of the electricity consumed on the site over the previous [12] months.

[OR]

Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Facility Area of up to [8] acres in size and which generate up to [110] % of the electricity consumed on the site over the previous [12] months.

C. Tier 3 Solar Energy Systems include the following:

1. Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Nameplate Capacity of up to [5] MW AC.

[OR]

Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Facility Area of up to [40] acres in size.

- D. Tier 4 Solar Energy Systems are Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems.

### **SOLAR ENERGY EQUIPMENT/SYSTEM**

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

### **SOLAR, GROUND OR POLE-MOUNTED SOLAR ARRAY**

Any solar collector, controls, solar energy device, heat exchanges or solar thermal energy system which is directly installed on the ground and not affixed to an existing structure.

### **SOLAR PANEL**

A device for the direct conversion of solar energy into electricity.

### **SOLAR STORAGE BATTERY**

A device that stores energy from the sun and makes it available in an electrical form.

### **SOLAR-THERMAL SYSTEMS**

Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

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

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

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

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

- a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface the highest edge of the system.
- b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

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

d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

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

3. Height. All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

#### B. Building-Integrated Solar Energy Systems

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

#### C. Ground-Mounted Solar Energy Systems

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

2. Setbacks. Tier 1 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts.

3. Height. Tier 1 Solar Energy Systems shall be subject to the height limitations specified for accessory structures within the underlying zoning district.

4. Lot Size. Tier 1 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

5. Lot coverage. Tier 1 Solar Energy Systems are exempt from the lot coverage requirements in the underlying zoning district.

6. Screening and Visibility.

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

b. 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.

#### V. Permitting Requirements for Tier 2 Solar Energy Systems.

All Tier 2 Ground-Mounted Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be subject to site plan approval. Tier 2 Solar Energy Systems shall adhere to the

standards and requirements established for Tier 1 Ground-Mounted Systems in Section [IV(C)], in addition to (or in some cases amended by) the following requirements:

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

1. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
2. Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
3. Nameplate Capacity of the Solar Energy System (as expressed in kW or MW).
4. Zoning district designation for the parcel(s) of land comprising the Facility Area.
5. Property lines and physical features, including roads, for the project site.
6. Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
7. Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
8. A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all Battery Energy Storage System components if applicable and should include applicable setback and other bulk and area standards.
9. A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

B. Standards. Tier 2 Systems shall adhere to the following standards.

1. Lot coverage. Tier 2 Solar Energy Systems are exempt from the lot coverage requirements in the underlying zoning district.
2. Screening/Visibility. Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.

3. Environmental Resources

- a. Tree-cutting. Removal of existing trees larger than [6] inches in diameter should be minimized to the extent possible.
- b. To the extent practicable, Tier 2 Solar Energy System Owners shall utilize and maintain native perennial vegetation to provide foraging habitat for pollinators in all appropriate areas within the Facility Area.
- c. Use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.

**VI. Permitting Requirements for Tier 3 Solar Energy Systems.**

All Tier 3 Solar Energy Systems are permitted through the issuance of a solar energy facility permit within the Agricultural zoning district, and subject to site plan application requirements set forth in this Section.

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

- 1. Reviewed by the Planning Board for completeness. Applicants shall be advised within 30 days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
- 2. Subject to a public hearing to hear all comments for and against the application. This hearing shall be in compliance with all existing public hearing requirements established under law by the Town of Mohawk.
- 3. Referred to the Montgomery County Planning Board pursuant to General Municipal Law § 239-m if required.
- 4. Upon closing of the public hearing, the Planning Board shall take action on the application within 60-days of the public hearing, which can include approval, approval with conditions, or denial. The 60-day period may be extended upon consent by both the Planning Board and applicant.

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

- 1. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- 2. Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
- 3. Nameplate Capacity of the Solar Energy System (as expressed in MW).

4. Zoning district designation for the parcel(s) of land comprising the Facility Area.
5. Property lines and physical features, including roads, for the project site.
6. Map(s) of MSG 1-4 soils and Active Agriculture Lands on the parcel(s) comprising the Facility Area and adjacent parcels.
7. Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
8. Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
9. Erosion and sediment control and stormwater management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
10. A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all Battery Energy Storage System components if applicable and should include applicable setback and other bulk and area standards.
11. A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
12. A Property Operation and Maintenance Plan that describes continuing site maintenance, anticipated dual use, and property upkeep, such as mowing and trimming.
13. A Decommissioning Plan signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant. The decommissioning plan shall address the following:
  - a. The time required to decommission and remove the Solar Energy System and any ancillary structures.
  - b. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
  - c. The cost of decommissioning and removing the Solar Energy System, as well as all necessary site remediation or restoration.
  - d. The provision of a decommissioning security which shall adhere to the following requirements:
    1. The deposit, executions, or filing with the Town of Mohawk Clerk of cash, bond, or other



form of security reasonably acceptable to the Town of Mohawk attorney, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal.

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

2. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town of Mohawk, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

C. Solar Energy Facility Permit Standards. Planning Board may issue a special use permit for a Tier 3 Solar Energy System only after it has found that all the following standards and conditions have been satisfied:

1. Underground Requirements. All utility lines located outside of the Facility Area shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
2. Vehicular Paths. Vehicular paths within the Facility Area shall be designed in compliance with Uniform Code requirements to ensure emergency access, while minimizing the extent of impervious materials and soil compaction.
3. Signage.
  - a. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than [8] square feet.
  - b. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
4. Glare. All Solar Panels shall have anti-reflective coating(s).
5. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

6. Multiple lots. At the discretion of the Planning Board, where a Tier 3 Solar Energy System's Facility Area comprises multiple lots (regardless of ownership by an individual or multiple participating landowners), the combined lots may be treated a single lot for the purposes of applying specific standards and requirements, including but not limited to [lot size, setback] requirements.
7. Lot size. The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements of the underlying zoning district.
8. Setbacks. The Tier 3 Solar Energy Systems shall meet all applicable parcel line and other setback requirements of 250 feet. Fencing, collection lines, access roads and landscaping may occur within the setback.
9. Height. The Tier 3 Solar Energy Systems shall comply with the building height limitations for Principal structures of the underlying zoning district.
  - a. This height requirement can be waived by the Planning Board if the panels are being raised to accommodate continued or new agricultural purposes.
10. Lot coverage. Lot coverage of the Solar Energy System, as defined below, shall not exceed the maximum lot coverage requirement of the underlying zoning district. The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:
  - a. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
  - b. All mechanical equipment of the Solar Energy System, including any pad mounted structure for Battery Energy Storage System components, switchboards, or transformers.
  - c. Paved access roads servicing the Solar Energy System.

Alternatively, the requirement below measures a system's lot coverage by Solar Panel square footage and requires that the system not exceed a maximum lot coverage requirement established specifically for Ground-Mounted Solar Energy Systems.

- a. The Tier 3 Solar Energy System shall not exceed [60%] of the lot where it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.
11. Fencing Requirements. All mechanical equipment, including any structure for Battery Energy Storage System components, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.
12. Screening and Visibility.
  - a. Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent

properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.

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

1. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, shall be required to be submitted by the applicant.
2. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practicable from public roadways and adjacent properties to the extent feasible.
  - i. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Town of Mohawk.
  - ii. The Planning Board may elect to waive certain screening and landscaping requirements in select locations based on an applicant's demonstration of non-impact or impact mitigation on adjacent parcels.

13. Environmental Resources

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

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

- a. Tier 3 Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 50% of the area of MSG 1-4 within the Facility Area.
  - 1. A Tier 3 Solar Energy System may exceed the [50%] MSG 1-4 coverage threshold if it incorporates an onsite activity or program which provides for the use of the land as a Farm Operation. Exceedance beyond the 50% threshold will only be allowed based on the Planning Board determination that the land is being used for a Farm Operation.
  - 2. Subject to discretion of the Planning Board, if the landowner demonstrates that – notwithstanding the classification as MSG 1-4 – the land cannot be profitably employed due to excessive wetness, rocky conditions or slopes, the land may be excluded from the calculation required by this section.
- b. To the maximum extent practicable, Tier 3 Solar Energy Systems located on MSG 1-4 shall be constructed, monitored, and decommissioned in accordance with the NYS Department of Agriculture and Markets’ “Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands.”

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

**VII. Permitting Requirements for Tier 4 Solar Energy Systems.**

All Tier 4 Solar Energy Systems are permitted through the issuance of a Solar Energy Facility Permit within the Agricultural zoning district, and are subject to the site plan and special use permit application requirements established for Tier 3 Solar Energy Systems in Section [8], in addition to (or in some cases amended by) the following requirements:

A. Applications for Tier 4 Solar Energy Systems shall:

- 1. Be reviewed by the Planning Board for completeness. Applicants shall be advised within 60 days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

B. Pre-Application Meeting.

At least 60 days prior to the submission of an application, the Applicant shall conduct a pre-application meeting with the Planning Board to ensure all parties have clear expectations regarding any Town of Mohawk requirements applicable to the proposed Solar Energy System. A written request for this purpose shall be sent to the Planning Board. Submission and review of the application shall not be delayed based on the failure of the Planning Board to respond in a timely manner to a properly filed meeting request.

At the pre-application meeting, the Applicant must provide (1) a brief description of the proposed

facility and its environmental setting, (2) a map of the proposed facility showing project components, (3) the proposed facility’s anticipated impacts, (4) a designated contact person with telephone number, email address, and mailing address from whom information will be available going-forward basis, and (5) an anticipated application submission date.

C. Community Engagement Plan.

Applications for a Tier 4 Solar Energy System shall include a Community Engagement Plan detailing the applicant’s proposed plans and strategies for ensuring adequate public awareness and encouraging community participation. Applicants are highly encouraged to discuss the contents and details proposed in this plan with the [Reviewing Board OR local officials] prior to the submission of a formal application.

D. Solar Energy Facility Permit Standards

1. Setbacks: Tier 4 Solar Energy Systems shall meet all applicable parcel line and other setback requirements of 500 feet. Fencing, collection lines, access roads and landscaping may occur within the setback.
2. Agricultural Resources: Tier 4 Solar Energy Systems for which the Facility Area includes Active Agricultural Lands shall adhere to the following requirements:
  - a. Tier 4 Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 50% of the Active Agricultural Lands within the Facility Area.
    - i. A Tier 4 Solar Energy System may exceed the 50% Active Agricultural Land threshold if it incorporates an onsite activity or program which provides for the use of the land as a Farm Operation. Exceedance beyond the 50% threshold will only be allowed based on the Planning Board determination that the land is being used for a Farm Operation.
  - b. To the maximum extent practicable, Tier 4 Solar Energy Systems located on Active Agricultural Lands shall be constructed, monitored, and decommissioned in accordance with the NYS Department of Agriculture and Markets’ “Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands.”

**VIII. Safety.**

1. Prior to operation, electrical connections must be inspected by the Town Code Enforcement Officer and by appropriate electrical inspection person or agency, as determined by the Town.
2. If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than 90 days after the end of the 12 twelve-month period.
3. Solar Energy Systems and Equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. For residential applications, the marking may be placed within

the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover.

- a. For commercial application, the marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.
4. If solar storage batteries are included, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use. When they are no longer in use, they shall be disposed of in accordance with the laws of New York State Fire Prevention and Building Code and local laws of the Town of Mohawk and any other applicable laws or regulations.
5. Glare and heat. No direct or unreasonable glare or transmission of heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.
6. Insurance. The applicant and the owner of the property shall file with the Town proof of insurance in a sufficient amount to cover potential personal and property damage associated with construction and operation of Solar Energy Systems and Equipment.
7. Noise. Noise-producing equipment shall be sited and/or insulated to minimize noise impacts on adjacent properties as approved by the Planning Board.

**IX. Removal of obsolete/unused facilities. Required sureties for construction, maintenance and removal of utility-scale solar collector systems.**

- a. Performance bond and other security.

Prior to the issuance of a building permit, a performance bond or other security sufficient to cover the full cost of the removal and disposal of the utility-scale solar collector system and any associated accessory structures upon abandonment of said facility shall be provided by the owner/operator. This cost shall be provided by the owner/operator and reviewed and approved determined by the Planning Board and Town Code Enforcement Officer. Any such security must be provided pursuant to a written security agreement with the Town, approved by the Town Board and also approved by the Town Attorney as to form, sufficiency and manner of execution. The form of security shall be limited to those permissible under New York State Town Law. If the owner of the site fails to comply with any conditions of the approval during construction or as part of the long-term maintenance of the site, all costs of the Town incurred to comply with conditions of the approval shall be paid using the surety provided by the applicant. Failure to comply with the conditions of the approval or to maintain an acceptable level of surety will result in revocation of the certificate of occupancy.

- b. Removal.

Tier 3 and Tier 4 Solar Energy Systems, including any accessory structures and/or equipment, shall be dismantled and removed from the site when the utility-scale solar collector system has been inoperative or abandoned for 12 consecutive months. As a condition of the certificate of compliance, applicants shall post a surety in an amount and form acceptable to the Town for the purposes of removal or abandonment. The amount shall be determined by an estimate

provided by the owner/operator and reviewed and approved by the Planning Board and Town Code Enforcement Officer. Acceptable forms shall include, in order of preference: cash; letter of credit, or a bond that cannot expire, or a combination thereof. Such surety will be used to guarantee removal of the utility-scale solar collector system should the system be abandoned. Abandonment shall be assumed by the Town if the annual documentation is not provided by the owner, applicant or lessee for one year to the Town of Mohawk Code Enforcement Officer. The Town Code Enforcement Officer shall then provide written notice to the owner to remove the utility-scale solar collector system, and the owner shall have twelve months from written notice to remove the utility-scale solar collector system, including any associated accessory structures and/or equipment, and restore the site to a condition approved by the Planning Board. If the owner, applicant, or lessee fails to remove any associated structures or restore the site to the condition approved by the Planning Board, all costs of the Town incurred to comply with this condition shall be paid using the surety provided by the applicant.

#### **X. Building permit and permit fees for solar panels.**

- a. The fees for all building permits required pursuant to this Local Law shall be paid at the time each building permit application is submitted in such reasonable amount as the Town Board may by resolution establish and amend from time to time.
- b. Building permit shall be valid for a period of 24 months from date of issuance.

#### **XI. Penalties.**

Any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall, upon conviction, be deemed guilty of a violation, punishable by a fine of not more than \$10,000.00, or by imprisonment not exceeding 20 days, or both such fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of this chapter.

#### **XII. Effective date.**

- a. This law shall take effect after its adoption upon filing with New York State.