

## Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village  
(Select one:)

of FORESTPORT

Local Law No. 1 of the year 20 21

A local law REGULATION OF SOLAR ENERGY  
(Insert Title)

Be it enacted by the TOWN BOARD of the  
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village  
(Select one:)

of - FORESTPORT as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 20 21 of the (County)(City)(Town)(Village) of FORESTPORT was duly passed by the TOWN BOARD on APRIL 21 20 21, in accordance with the applicable provisions of law.

*(Name of Legislative Body)*

*John H. (TT)*

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

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

*(Name of Legislative Body)*

*(Elective Chief Executive Officer\*)*

**3. (Final adoption by referendum.)**

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

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

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

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

*(Name of Legislative Body)*

*(Elective Chief Executive Officer\*)*

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

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

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

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

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

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

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

(Seal)

*Tracy M. Terry*

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date:

*June 17, 2021*

# 2021 Solar Energy Local Law-Town of Forestport

## 1. Authority

This Solar Energy Local Law is adopted pursuant to sections 261-263 of the Town Law of the State of New York, which authorize the Town of Forestport to adopt provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Town Law of New York State, "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor."

## 2. Statement of Purpose

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

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

## 3. Definitions

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEM:** A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

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

**GLARE:** The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, which generates electricity for onsite and/or offsite consumption.

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

**OWNER:** The entity who owns all or a portion of a solar energy production facility.

**OPERATOR:** The entity responsible for the overall operation and management of a solar energy production facility.

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

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

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

**ROOF-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite and/or offsite consumption.

**SOLAR ACCESS:** Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

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

**SOLAR ENERGY SYSTEM:** The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows.

- A. Tier 1 Solar Energy Systems include the following:
  - a. Roof-Mounted Solar Energy Systems
  - b. Building-Integrated Solar Energy Systems
- B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with system capacity up to 25 kW AC and that generate no more than 110% of the electricity consumed on the site over the previous 12 months.
- C. Tier 3 Solar Energy Systems are systems including Solar Energy Production Facilities that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

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

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

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

#### **4. Applicability**

- A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town of Forestport after the effective date of this Local Law, excluding general maintenance and repair.
- B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
- C. Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 5 % of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Local Law.
- D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code"), the NYS Energy Conservation Code ("Energy Code"), and the Town of Forestport Site Review Law.

#### **5. General Requirements**

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

- B. The Town of Forestport Planning Board is encouraged to condition its approval of proposed developments on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain economically feasible over time.
- C. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].

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

All Tier 1 Solar Energy Systems shall be permitted town-wide and shall be exempt from site plan review, subject to the following conditions for each type of Solar Energy System:

- A. Roof-Mounted Solar Energy Systems
  - 1) Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:
    - a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the original roof surface the highest edge of the installed system.
    - b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
    - c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
    - d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
  - 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 in the Town of Forestport Site Review Law.
- B. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.
- C. Roof access shall be maintained as required by applicable Building and Fire Code.

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

All Tier 2 Solar Energy Systems shall be permitted town-wide as accessory structures and shall be required to go through site plan review under the Town of Forestport Site Review Law, subject to the following conditions:

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

- B. Setbacks. Tier 2 Solar Energy Systems shall be subject to the same setback regulations specified for primary structures in the Site Review Law. Solar Energy Systems shall not be located within 10 feet of the primary structure. All Ground- Mounted Solar Energy Systems shall only be installed in side or rear yards. Solar Energy Systems may not be located between the front lot line and principal structure.
- C. Height. Tier 2 Solar Energy Systems shall not exceed 15 feet in height, measured at maximum tilt.
- D. Screening and Visibility.
  - 1) All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.
  - 2) Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.
- E. Lot Size. The total surface area of all Tier 2 Solar Energy Systems on a lot shall not exceed the maximum coverage percentage including dwellings and structures as required in the Site Review Law.
- F. Electrical Wiring: All electrical wiring shall be installed underground to the extent feasible.

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

- A. Where site plan approval is required in the Site Review Law for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, general site compatibility and environmental impact assessment of proposed solar collectors. Where a site plan exists, an approved modified site plan shall be required if there are any proposed changes to or additions of solar collectors.
- B. All solar collector installations must be performed by a qualified solar installer, and, prior to operation, the electrical connections must be inspected by the Town of Forestport Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town of Forestport.
- C. Where solar energy equipment is to be tied- to and operated in parallel with facilities owned and operated by a public utility, the installation shall comply with all the applicable Rules and Regulations, Public Service Law and utility tariffs governing the interconnection. In addition, copies of any interconnection agreement shall be provided to the Town of Forestport Code Enforcement Officer prior to operation.
- D. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use, and, when no longer used, they shall be disposed of in accordance with all applicable laws and regulations. Notification of the installation and/or removal of solar



storage batteries shall be made to the Fire Department responsible for response to the location where the batteries are installed.

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

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

All Tier 3 Solar Energy Systems are permitted through site plan review, and subject to site plan application requirements as set forth in this Section.

- A. Applications for the installation of Tier 3 Solar Energy System shall be:
  - 1) reviewed jointly by the Town of Forestport Code Enforcement Officer and Planning Board for completeness. Applicants shall be advised within a timely manner of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
  - 2) subject to a public hearing within 62 days of the receipt of a complete application to hear all comments for and against the application. The Planning Board shall have a notice printed in a newspaper of general circulation in the Town of Forestport at least 5 days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 500 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.
  - 3) referred to the Oneida County Planning Department pursuant to General Municipal Law §239-m if required.
  - 4) upon closing of the public hearing, acted upon by the Planning Board shall take action within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Planning Board and applicant.
- B. **Underground Requirements.** All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the 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.
- C. **Vehicular Paths.** Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.
- D. **Signage.**
  - 1) No signage or graphic content shall be displayed on the Solar Energy System except the operator's name, equipment specification information, safety information, and 24-hour

emergency contact information. Said information shall be depicted within an area no more than 8 square feet.

- 2) As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

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

F. 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.

G. Tree-cutting. Where existing forested lands provide visual screening from public highways, or within 500 feet of the hamlet of Forestport, removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible to preserve visual buffers.

H. Project Review and Road Protection Costs.

- 1) The Town of Forestport may require an applicant seeking to develop any Tier 3 Solar Energy System to fund an escrow agreement or to sign a developer's agreement to cover the amount by which the Town of Forestport's estimated costs and expenses of review, including reasonable legal and engineering fees, exceed (or will exceed) the application fees paid by the applicant.
- 2) The Town of Forestport may require coverage or bonding to protect the integrity of Town roads during the construction of, through operation of, and decommissioning of a solar energy production facility.

I. Decommissioning.

- 1) Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 12 months shall be removed at the owner and/or operator's expense, which at the owner's option may come from any security made with the Town of Forestport as set forth below. The owner or operator shall notify the Town of Forestport Code Enforcement Officer and Planning Board by certified mail of the proposed date of discontinued operation and plans for removal.
- 2) A decommissioning plan (see Appendix) signed by the owner and/or operator of the Solar Energy System and accepted by the Town of Forestport shall be submitted by the applicant, addressing the following:
  - a. The cost of removing the Solar Energy System.
  - b. The time required to decommission and remove the Solar Energy System and any ancillary structures.

- c. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
- 3) Security.
  - a. The deposit, executions, or filing with the Town of Forestport Clerk of cash, bond, or other form of security reasonably acceptable to the Town of Forestport Attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 115 % of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 5 % annually for the life of the Solar Energy System. The applicant's estimate shall be prepared by a qualified engineer, setting forth the costs associated with decommissioning the Solar Energy System at issue.
  - b. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town of Forestport, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
  - c. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth below.
- J. Site plan application. For any Tier 3 Solar Energy System, site plan approval shall be required. In addition, a completed SEQRA application shall be supplied. The site plan application shall include the following information and, if applicable, APA must be notified and approval given:
  - 1) Property lines and all physical features, including roads, for the project site.
  - 2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
  - 3) A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
  - 4) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a permit.
  - 5) Where solar energy equipment is to be tied- to and operated in parallel with facilities owned and operated by a public utility, the installation shall comply with all the applicable Rules and Regulations, Public Service Law and utility tariffs governing the interconnection. In addition, copies of any interconnection agreement shall be provided to the Town of Forestport Code Enforcement Officer and Planning Board prior to operation.

- 6) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of a permit.
- 7) Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the specified use of the property for the Solar Energy System.
- 8) Operation and Maintenance Plan that shall describe standard operating procedure for the facility and scheduled maintenance plans for equipment and property upkeep, such as mowing and trimming.
- 9) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- 10) Prior to the issuance of the permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

K. Dimensional Standards.

- 1) Lot size shall be a minimum of 3 acres.
- 2) Minimum setbacks shall be as follows: (not applicable to property line dividing parcels owned by the same person or adjacent properties also participating in the project)
  - 100 feet from non-participating residential property lines
  - 50 feet from the centerline of public roads and non-participating non-residential property lines
  - 250 feet from non-participating occupied residences
- 3) Maximum height of panels shall be 20 feet.
- 4) Lot coverage
  - a. The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:
    - i. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
    - ii. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
    - iii. Paved access roads servicing the Solar Energy System.
  - b. Lot coverage of the Solar Energy System, as defined above, shall not exceed 50%.

- 5) Fencing Requirements. All equipment, including any structure for storage batteries, shall be enclosed by a 7-foot-high fence, with a self-locking gate to prevent unauthorized access.

L. Screening and Visibility.

- 1) Solar Energy Systems larger than 10 acres shall be required to:
  - a. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to be submitted by the applicant.
  - b. Submit a screening and landscaping plan to show adequate measures to screen to minimize views of the Facility from public roadways and adjacent non-participating properties improved with a residence or commercial structure.
  - c. The screening and landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the recommendations, rules, and standards established by the Town of Forestport. The landscaped screening surrounding the panels shall be comprised of a minimum of 1 evergreen tree, at least 6 feet high at time of planting, plus 2 supplemental shrubs or other equivalent vegetation, not limited to evergreen, every 10 feet.

M. Agricultural Resources.

- 1) Any Tier 3 Solar Energy Systems shall minimize the use of actively cultivated Prime Farmland to the extent possible.
- 2) Where applicable, Tier 3 Solar Energy Systems are encouraged to plant native perennial vegetation designed to attract pollinators in maintained buffer areas or where vegetative screening is proposed.
- 3) To the maximum extent practicable, Tier 3 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.
- 4) 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.

N. Ownership Changes. If the owner of the Solar Energy System changes or the owner of the property changes, the permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the permit, site plan approval, and decommissioning plan. A current and new owner of the Solar Energy System shall notify the code enforcement officer of such change in ownership within 90 days of the ownership change. The seller is to reimburse the escrow amount to the buyer, so the town escrow can stay in place.

O. Safety.

- 1) Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required. Installation shall be completed by Qualified Solar Installers.
- 2) Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is located in an ambulance district, the local ambulance corps.
- 3) If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town of Forestport and any applicable federal, state, or county laws or regulations.
- 4) The Tier 3 Solar Energy System owner/operator shall provide a copy of the project site plans and electrical schematic to the responsible local Fire Chief. Upon request, the owner/operator shall cooperate with local emergency services in developing an emergency response plan. The owner/operator shall offer on-site safety training to all local fire departments within 3 months of operation, and a reoccurring refresher training as requested by the local fire departments. The owner/operator shall specify a responsible person with access phone number for public inquiries throughout the life of the installation. Emergency contact number shall be displayed at the entrance to the facilities.

P. Permit Time Frame and Abandonment.

- 1) The permit and site plan approval for a Solar Energy System shall be valid for a period of 18 months, provided that a permit is issued for construction or construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 18 months after approval, the applicant or the Town of Forestport may extend the time to complete construction for 120 days. If the owner and/or operator fails to perform substantial construction after 20 months, the approvals shall expire unless the owner/operator can demonstrate that additional time is needed for good cause, in the event that some circumstance outside the owner/operator's control prevents the completion of decommissioning activities within 6 months.
- 2) Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town of Forestport may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 6 months of notification.

- 3) If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

#### **10. Effect on Other Laws**

To the extent that any law, ordinance, rule or regulation, or parts thereof, are in conflict with the provisions of this law, including all provisions of the laws concerning subdivisions or site plan applications, the more stringent shall control.

#### **11. Enforcement and Penalties**

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the Town of Forestport Site Review Law.

#### **12. Severability**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

**Appendix: Example Decommissioning Plan**

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at: [Solar Project Address] Prepared and Submitted by [Solar Developer Name], the owner of [Solar Farm Name]

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

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

1. The land lease, if any, ends
2. The system does not produce power for 6 months and no construction has been started to repair or upgrade.
3. The system is damaged and will not be repaired or replaced

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

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

All said removal and decommissioning shall occur within 6 months of notification that the Facility is ceasing to produce power for sale.

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

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

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

----- Acceptance:

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