

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 Deerfield

FILED
STATE RECORDS
OCT 06 2022

DEPARTMENT OF STATE

Local Law No. Two (2) of the year 2022

A local law Providing for the regulation of Solar Energy Systems in the Town of Deerfield
(Insert Title)

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

County City Town Village
(Select one.)

of Deerfield NY as follows:

See Attached documents

(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. Two (2) of 2022 of the (County)(City)(Town)(Village) of Deerfield was duly passed by the The Town Board on October 3 2022, in accordance with the applicable (Name of Legislative Body) provisions of law.

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) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

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

* 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.)

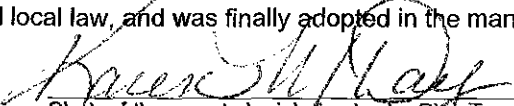
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon 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.

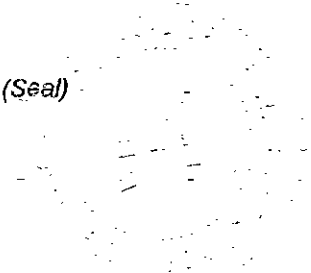
(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

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.



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

Date: 10/5/2022



LOCAL LAW NO. # 2 OF 2022

A LOCAL LAW PROVIDING FOR THE REGULATION OF SOLAR ENERGY SYSTEMS IN
THE TOWN OF DEERFIELD

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF DEERFIELD, AS
FOLLOWS:

Section I. Purpose.

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

- 1) To protect and promote farmland and agricultural economy and culture;
- 2) To ensure that farmland and agricultural land continues to be used for and in support of agricultural purposes;
- 3) To protect and promote environmental, scenic, and aesthetic resources by minimizing solar energy systems impacts of important agricultural lands, forests, wildlife, parks, historic sites and other protected resources;
- 4) To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources. The use of small-scale, on-farm sources alternative to energy generation is beneficial to local farmers allowing them the ability to cut utility costs and/or supplement their income;

5) To protect adjoining/surrounding property owners by mitigating the potential impacts from solar energy systems;

6) To create zoning regulations in support of the Town of Deerfield's Comprehensive Plan;

7) To support the US industry and economy; All Solar Energy Equipment shall be sourced, manufactured, and assembled in the United States. All Solar Energy Equipment must follow the requirements of the Inflation Reduction Act.

8) To create zoning regulations in accordance with the Town of Deerfield's Comprehensive Plan.

SECTION II. Town of Deerfield Solar Energy Law

The Town Board for the Town of Deerfield hereby adopts a Local Law entitled "The Town of Deerfield Solar Energy Law" which shall read as follows.:

1. Authority

This Solar Energy Local Law is adopted pursuant to sections 261-263 of the Town Law and section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the 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. Definitions

A. 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 (See definition of Solar Energy Systems).

B. 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.

C. 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.

D. 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, that generates electricity for onsite or offsite consumption.

E. 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.

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

G. PRIME FARMLAND: Land, designated as “Prime Farmland or Prime Farmland if Drained” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that 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.

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

I. 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.

J. **SOLAR ARRAY:** a collection of linked solar modules made up of multiple solar panel

K. **SOLAR ENERGY EQUIPMENT:** Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

L. **PUBLIC UTILITY-** a business organization (such as an electric company) performing a public service and subject to special governmental regulation.

M. **IPP – Independent Power Producer:** entity that does not own public utilities but does own facilities to generate power for sale to end users.

N. **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.

1) Tier 1 Solar Energy Systems include the following:

- a. Roof-Mounted Solar Energy Systems
- b. Building-Integrated Solar Energy Systems

2) Tier 1 and 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.

3) Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

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

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

Q. FOREST: 60% to 100% of the land is covered by tree canopy, while only 25% to 60% of wood is covered by tree canopy. A forest must be at least 1.24 acres.

3. Applicability

A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in Town of Deerfield 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 conditions 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 Deerfield Code.

4. General Requirements

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

B. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act.

C. Solar Application Fee:

Tier 1 solar systems: \$75 for each solar array.

Tier 2 solar systems: \$75 for each solar array.

Tier 3 solar systems: \$5,000.00 per MW up to 20 MW, and \$7,500.00 per MW for 20 MW and over.

All applications fees are non-refundable.

D. This Article shall take precedence over any inconsistent provision of the Zoning Law of the Town of Deerfield.

E. NYS unified solar permit, which is attached, shall be required to be filled out before any building or zoning permit will be issued.

5. Permitting Requirements for Tier 1 Solar Energy Systems

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

A. Roof-Mounted Solar Energy Systems

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 18 inches between the roof surface and 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.
- e. 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 and may not be installed on structures which are non-conforming to setback requirements.
- f. Solar installer shall provide documentation that the structure and roof must be able to meet any state load bearing requirement with solar arrays installed.

2) Glare: All Solar Panels shall have anti-reflective coating(s) and proof of such must be provided with the building permit application. Anti-reflective coatings shall last the lifetime of the panel.

3) Fire Safety: Identification required on Meter outside of house (ex. VIR sticker) stating Solar equipment installed on the roof of the house.

B. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system. They shall be shown to meet the applicable requirements for a Tier 1 Solar Energy System.

6. Permitting Requirements for Tier 2 Solar Energy Systems

The application shall include evidence that the system shall be used solely to reduce the on-site consumption of electricity. All Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be exempt from site plan review under the local zoning code or other land use regulations, subject to the following conditions:

A. Glare: All Solar Panels shall have anti-reflective coating(s) and proof of such must be provided with the building permit application. Anti-reflective coatings shall last the lifetime of the panel.

B. Setbacks: Tier 2 Solar Energy Systems shall be setback a minimum of 30 ft. from any side or rear property line. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards (preference is in the rear yards and it must be shown that installation in the rear yard cannot be accomplished). In all cases, the solar panels shall be located a minimum of 60 ft. from a dwelling unit on an adjoining non-participating property.

C. Height: Tier 2 Solar Energy Systems shall be less than 12 feet in height in all zoning districts.

D. Fire Safety: Identification required on Meter outside of house (ex. VIR sticker) stating Solar equipment installed on the roof of the house.

E. Screening and Visibility:

1) All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable. Any questions on what is reasonable shall be determined by the Planning Board.

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. Any Tier 2 Solar Energy System to be used strictly for Agricultural purposes in accordance with NYS Agriculture and Markets Law may have some of the requirements of this article waived by the Planning Board.

3) All Solar Energy Systems shall adhere to all applicable federal, state, county and Town of Deerfield laws, regulations and building, plumbing, electrical, and fire codes.

4) Any Solar Energy System shall be accessible for all emergency service vehicles and personnel.

5) All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color.

6) The design, construction, operation, and maintenance of any Solar Energy System shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists.

7. Permitting requirements for Tier 3 Solar Energy Systems

All Tier 3 Solar Energy Systems are permitted through the issuance of a [special use permit] within the [A Agriculture, C-2 Highway Commercial, PD-E Planned Development Extraordinary] zoning districts, and subject to site plan application requirements set forth in this Section. Tier 3 Solar Energy Systems generating more than 18 MW are prohibited in the Town of Deerfield. Furthermore, Tier 3 Solar Energy Systems shall not collectively occupy more than a total of 150 acres in the Town of Deerfield. All land must be owned by 1 person. A copy of the Local Law shall be sent to the applicant and the landowner at the time the application is submitted to the Building Inspector.

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

- 1) Reviewed by the Town Code Enforcement Officer for completeness. The Town Code Enforcement Officer will then forward his checklist to the Planning Board, by having it placed on the next available agenda, for them to determine completeness of the application materials. Applicants shall be advised within 10 business days of the first Planning Board meeting of the completeness of their application materials or any deficiencies that must be addressed prior to substantive review of the Special Use Permit and Site Plan.

Once the application package materials are deemed complete and while the Planning Board is completing their reviews, the project/application shall be referred to the Town Board to decide on the completion of a Host Community Agreement. This Agreement, if necessary, will need to be finalized before the Planning Board acts on the Special Use Permit.

- 2) Subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town of Deerfield shall have a

notice printed in a newspaper of general circulation in the Town of Deerfield at least [15] days in advance of such hearing. Applicants shall have been delivered the notice by registered mail or personal delivery to adjoining landowners or landowners within [2500] feet of the property and any other property that the Planning Board deems necessary, and a minimum of 20 landowner properties, at least [15] days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing. A notice stating that an application for a solar energy system has been filed with the Town of Deerfield setting forth the date and time for the hearing before the Planning Board. The developer shall provide that at least one temporary sign be located on the property no later than 30 days prior to the hearing, and to be removed at the completion of the Application process. The sign must be in a location designated by the Planning Board, in one or more location(s), if deemed necessary by property size. The sign dimensions must be 4 ft. by 8 ft. in size. The sign must be approved by the Planning Board and shall include: a) Acreage; b) Brief description of the project; c) Map of grounds; d) Contact information, including website, phone number and QR CODE; and e) The notice shall state: "Contact the Town of Deerfield with upcoming public hearing dates".

- 3) Referred to the Oneida County Department of Planning 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 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.
- 5) Any application which consists of multiple parcels/lots of land must demonstrate to the reviewing board that all applicable parcels/lots are under one owner, either individual or corporate entity. Applications that contain multiple parcels/lots of land owned by multiple owners shall not be considered/approved.

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. All paths shall have a turnaround to accommodate large vehicles.

D. Signage.

- 1) 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 less than 32 square feet (located at the service entrance, on the gated facility fence).
- 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). Anti-reflective coatings shall last the lifetime of the panel.

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. Removal of existing trees larger than 4 inches in diameter is prohibited. Any herbicides shall be prohibited. Clear-cutting of all native and non-invasive trees in a single contiguous area exceeding 20,000 square feet shall be prohibited, except for agricultural and farm management practices as shown in a submitted arborist's report.

H. Site disturbance. Site disturbance, including, but not limited to, grading, soil removal, excavation, soil compaction, and tree removal shall be minimized to the maximum extent practicable. The siting of a solar energy system shall take advantage of natural topography and vegetative screening. The facility should

be located at a lower elevation on the property if practicable. Forested sites shall not be deforested to construct a solar energy facility.

I. Stormwater Pollution Prevention Plan (SWPPP). A SWPPP prepared to NYS Department or Environmental Conservation standards, if applicable, and to such standards as may be established by the Town Board of Deerfield.

J. Decommissioning.

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

a. The land Lease, if any, ends.

b. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 6 months, as provided to the Town Board of Deerfield, as a quarterly report, by the utility owner.

c. Upon the reduction of electricity generation of a Solar Energy System below 10% of the design capacity for 1 year, based on the date of energization

d. The system is damaged and will not be repaired or replaced.

e. Abandoned prior to the completion of construction.

f. The facility has been otherwise abandoned for 6 months. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in the accepted Decommissioning Plan.

g. A designated representative of the Town of Deerfield will check the NYSERDA portfolio at NYSERDA DER Integrated Data System, or appropriate reporting agency, and present a monthly report of the electricity generation and capacity factor to the Town Board of Deerfield.

2) Decommissioning Plan

A Decommissioning Plan signed by the Developer of the Solar Energy System shall be submitted by the applicant, addressing the following:

- a. The cost of removing the Solar Energy System, including all associated transmission facilities (lines, transformers, and ancillary equipment).
- b. The work and time required to decommission and remove the Solar Energy System and any ancillary structures, and to remediate any environmental impacts.
 - c. The time required to repair any damage caused to the Property by the installation and removal of the Solar Energy System.
 - d. The developer must follow the Town of Deerfield's Solar Panel Recycling Regulations (see Appendix 3).

3) Decommissioning Costs

- a. The Developer may complete all decommissioning work with either their own finances or workforce. However, for cost estimating purposes, all work associated with decommissioning is assumed to be undertaken by a third party retained by the Owner or Town of Deerfield.
- b. Cost estimates are to be certified by a licensed architect or engineer and accepted by the Town of Deerfield and updated every 3 years beginning 5 years after construction at the cost of the Developer. The surety instrument should be adjusted according to the updated cost estimates, as well as automatic increases as outlined in the Surety section.

4) Decommissioning Work and Schedule. The work and time required to remove the Solar Energy System any ancillary structures, shall include:

- a. All efforts to properly remove and dispose of all components of the Solar Energy System in accordance with the Decommissioning Plan and Federal, State and local laws.

- b. All efforts to properly remove and dispose of any infrastructure above and below ground associated with the Solar Energy System, including but not limited to foundations, driveways, roads, fences, lighting and/or other utilities.
- c. Developer will hire a certified independent inspector to verify that work is being done to specification.
- d. All efforts to identify and remediate any hazardous or otherwise contaminated material released onsite during the construction, operation and/or decommissioning of the Solar Energy System. The Decommissioning Plan, including remediation and restoration, must be completed within 6 months of notification by the Town of Deerfield. All costs associated with testing for hazardous or otherwise contaminated material released onsite will be the Developer's responsibility.

5) Restoration

The work and time required to repair and restore any damage or disturbances caused to the Property by construction, operation and/or decommissioning of the Solar Energy System shall include:

- a. All efforts to properly grade the Property back to pre-disturbed condition or a condition otherwise agreed upon by all involved parties.
- b. Unless otherwise agreed upon, restoration will include:
 - a. Proof rolled subgrade.
 - b. Fill materials compacted to the modified proctor report submitted by developer and landowner during application process
 - c. Six inches (minimum) of topsoil.
 - d. Seed and mulch.
- c. Materials to be used:
 - a. Fill material: NYSDOT Item No.: 203.05
 - b. Topsoil: NYSDOT Specification Section 713-01
 - c. Seed: NYSDOT Specification Section 713-04
 - d. Mulch: NYSDOT Specification Section 713-05
- d. Restoration is to be completed after all removal and remediation efforts at the Property are completed.

e. Restoration shall be considered completed once all grading has been performed and appropriate native vegetation has been properly established onsite to return as close as possible to original landsite. An inspection will be completed, at the Developers expense, 6 months after initial planting to make sure native vegetation has taken to the soil. If the 6-month inspection fails, the landowner shall, at their expense, replace any failed initial planting.

K. Noise - Information on any noise producing equipment (as determined by the Town based off application materials) shall be submitted. If necessary, the Planning Board will require analysis of the noise on any sensitive receptors, including single family homes.

L. Non-utility generating facilities and IPP's shall not be considered to be a public utility when considering the issuance of a Special Use Permit.

M. Host Community Agreement

1). A host community agreement acceptable to the Town will be required to offset the loss of property tax revenues and investment in public works associated with the anticipated property development.

2) The host community agreement shall include a payment per MW to be negotiated by the Town Board of Deerfield prior to any other permits being issued.

3) The host community agreement shall include a surety to ensure SWPPP compliance and safeguard potential damage to public roads and infrastructure during construction and decommissioning.

4) This agreement will need to be finalized before the Planning Board's final decision on the Site Plan Review.

5) This agreement will require confirmation of any PILOT agreement with the Town Board of Deerfield prior to finalization.

6) This agreement shall be finalized and signed by the Town Board prior to any issuance of any building permit.

N. Security

1. The Solar Developer and the Property Owner shall have concurrent non-cancelling bonds. The deposit, executions, or filing with the Town of Deerfield Clerk of cash, non-cancelling bond, or other form of security reasonably acceptable to the Town of Deerfield attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal.
2. The Solar Developer and the Property Owner shall have concurrent non-cancelling bonds whereas the amount of the bond or security shall be 200%, as of the date of completion, of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of [3% minimum, or the consumer price index, whichever is higher] annually for the life of the Solar Energy System. The decommissioning amount shall not be reduced by the amount of the actual salvage value of the Solar Energy System. The bonding company must have a AAA rating. The bond is noncancellable. No permits will be issued until the surety instrument is in place.
3. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, non-cancelling bond, or security shall be forfeited to the Town of Deerfield, which shall be entitled to maintain an action thereon. The cash deposit, non-cancelling bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed. The cash deposit, non-cancelling bond, or security shall be turned over to the Town of Deerfield immediately upon receipt of proof of decommissioning.

4. Solar Energy Systems that have been abandoned and/or not producing electricity for period of 6 months shall be removed at the land owner and facility operator's expense.
5. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in Section 10(b) and 10(c) herein.

O. Insurance

1)The owner of the solar facilities shall agree to secure and maintain for the duration of the permit and decommissioning, public liability insurance as follows:

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

b. Umbrella coverage: \$10,000,000.

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

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

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

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

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

i. Indemnification: Any application for a Solar Energy System within the Town of Deerfield shall contain an indemnification provision. The provision shall require the Applicant and Owner and Operator to at all times defend, indemnify, protect, save, hold harmless and exempt the town of Deerfield and its officers, councils, employees, attorneys, agents and consultants from any and all penalties, damages, costs or charges arising out of any and all claims, suits, demands, causes of action or award of damages whether compensatory or punitive, or expenses arising therefrom either at law or in equity which might arise out of or are caused by the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said Solar Energy System, excepting however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town of Deerfield or its employees or agents. With respect to the penalties, damages, or changes referenced herein, reasonable attorneys' fees, consultant fees and expert witness fees are included in those costs that are recoverable by the Town of Deerfield.

P. Site plan application. For any Solar Energy System requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information: All aspects of the site plan shall be reviewed by the Town of Deerfield Engineer and, if need be, an outside Engineer at the expense of the developer.

- 1) Property lines and physical features, including roads and topographical map of the area, for the project site
- 2) Preservation. Existing on-site vegetation shall be preserved to the maximum extent possible. The removal of existing non-invasive trees greater than 4 inches in diameter shall be minimized to the greatest extent possible. Any herbicide use shall be prohibited. Clear-cutting of

all native and non-invasive trees in a single contiguous area exceeding 20,000 square feet shall be prohibited, except for agricultural and farm management practices as shown in a submitted arborist's report.

- 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 for review prior to the issuance of building permit.
- 5) 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
- 6) 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 use of the property for the Solar Energy System.
- 7) Zoning district designation for the parcel(s) of land comprising the project site.
- 8) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming, fence maintenance. Maintenance schedule must include: Solar facility must be mowed and trimmed at least twice annually. The first mowing/trimming shall commence no later than July 15th and the second mowing shall commence no later than October 15th. No chemical/herbicide shall be used to control vegetation. Mowing will take place inside the fencing to retain pollinators. Mowing outside of the fencing shall happen 1 time every 2 years, with a brush hog only, for fence maintenance only. This will allow for pollinators to grow. Planting inside of the fencing shall consist of at least 75% coverage under the solar panels of either white clover, alsike clover or birdsfoot trefoil, which are low growing pollinators. If the property is

not maintained according to this schedule, the property owner will be billed on their town taxes for the cost of their mowing and trimming. A report will be sent to the Town of Deerfield Town Clerk upon completion of mowing/trimming, 2 times annually. The town shall arrange for a private company to mow/trim at the expense of the property owner upon default by the applicant or owner. The Town shall receive a \$1,000.00 fee per occurrence for administrative costs in addition to the costs of mowing/trimming. For photovoltaic maintenance, washing additives shall be non-toxic and biodegradable. A MSDS sheet shall be submitted to the Town of Deerfield showing washing additives and lubricants used. If grazing is considered, it will not be in lieu of mowing and trimming. A grazing management plan will need to be submitted to the Town Board of Deerfield.

- 9) Erosion and sediment control and storm water management plans (SWPPP) prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board. Plan must be reviewed, and changes be made 3 years after inception of Solar Energy System, and every 5 years after that to make sure original plan is performing adequately and not causing environmental damage. Any expenses will be covered by the landowner.
- 10) Prior to the issuance of the building 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 at the cost of the developer. Finalized permit will be reviewed and approved by Planning Board and the Town Board of Deerfield.
- 11) Electrical power output of proposed project in Watts (AC & DC).

Q. Special Use Permit Standards.

- 1) Acreage Limitations Tier 3 Solar Energy System.
 - a. Tier 3 Solar Energy Systems shall not collectively occupy more than a total of 150 acres in the Town of Deerfield (acreage of leased or owned land accounts for total acreage) and

- b. there is a minimum of 20 acres and a maximum of 50 acres for a single Tier 3 Solar Energy System.

2) 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.

3) Setbacks

- a. Setbacks for placement of Solar panels must be 1000 feet from the front property lines, 700 ft from the side property lines, and 500 feet from the rear property lines. Additionally, setbacks shall not be less than 500 feet from an encompassed properties rear lot line.
- b. Solar facilities must be located at least 2000 ft. from any Historical sites as identified in the Master Plan, by New York State and any Federal agency.
- e. Solar facilities must be located at least 5000 ft. from any scenic overlook as identified in the Master Plan, by New York State and any Federal agency. The placing of Solar development shall not compromise the viewscapes identified by scenic overlooks in the Master Plan, by New York State and any Federal agency at the discretion of the Town Planning Board.
- f. There will be no solar arrays allowed within a 200-year floodplain in the Town of Deerfield.

4) Height

Tier 3 Solar Energy Systems shall be no more than 8 ft. in height.

5) Lot coverage

A Tier 3 Solar Energy System shall not exceed fifty percent (50%) of the lot on which it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.

- 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.
- 6) Fencing Requirements. Perimeter fencing shall allow for the movement of small wildlife by using fixed-knot woven wire or other wildlife friendly fencing. Barbed wired fencing is prohibited. All mechanical equipment shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access. Individual projects will need to establish a wildlife mitigation plan to address large wildlife movement (ex. Bear, deer, coyote) concerns at the solar company's expense. The consulting firm will be appointed by the Town Planning Board.
- 7) Screening and Visibility.
- a. Solar Energy Systems shall have views minimized from adjacent properties 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 shall be required to:
 - I. 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, at the sole discretion of the Planning Board, additional impact analyses, including for example a digital viewshed report, shall be required to be submitted by the applicant.

- ii. The solar developer shall install screening and landscaping as designated by Appendix 2. The screening & landscaping plan (Appendix 2) 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 Deerfield. 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. The landscaped screening shall be comprised of native evergreen trees, at least [7] feet high at time of planting. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. A list of suitable evergreen tree and shrub species should be provided by the Town of Deerfield and Appendix 2.

8) Agricultural Resources. For projects located on agricultural lands:

- a. Any Tier 3 Solar Energy System located on the areas that consist of Prime Farmland or Farmland of Statewide Importance is prohibited. It is up to the developer to flag any Prime Farmland and Farmland of Statewide Importance with consultation from USDA Natural Resources Conservation Service (NRCS).

AND

Any Tier 3 Solar Energy System located on the areas that consist of Prime Farmland When Drained shall not exceed [50] % of the entire lot.

- b. To the maximum extent practicable, Tier 3 Solar Energy Systems located on Prime Farmland When Drained shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.

- c. Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to a minimum of 20% 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.
- 9) 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 the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the Zoning Officer and Town of Deerfield Attorney of such change in ownership or operator 30 days prior to the ownership change.
 - 10) All applications for any Tier 3 solar system shall be considered a Type 2 action, invoking the long form of SEQR (State Environmental Quality Review).
 - 11) Solar Energy Systems are prohibited less than one mile from any established DEC net conservation benefit plan area.
 - 12) A comprehensive onsite study of all threatened and endangered species and other wildlife shall be conducted at the developer's expense. The Planning Board of the Town of Deerfield will choose the company or organization. The study shall be conducted for a period of no less than 1 year.

8. Safety

A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.

B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including

snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is in an ambulance district, the local ambulance corps.

C. Storage Batteries included as part of the Tier 3 Solar Energy System are not covered under this local law.

D. Developer shall create a fire protection plan, including training for firefighters, equipment needed for fire remediation and cost of equipment. All costs associated with the fire protection plan, including training and equipment shall be paid for by developer. The Developer shall present this plan to the Town Planning Board before any permit is issued.

9. Permit Time Frame and Abandonment

A. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 12 months, provided that a building 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 12 months after approval, the Town of Deerfield may extend the time to complete construction. The extension timeframe shall be in the form of a written request and subsequent approval of said request will be at the discretion of the Town Planning Board. If the owner and/or operator fails to perform substantial construction after [6] months, the approvals shall expire.

B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for [6] months, the Town of Deerfield 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 [180] days of notification.

C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of Deerfield shall 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. Penalties

Any person, who shall construct, reconstruct, relocate, enlarge or modify any site to be used for a commercial free-standing solar photovoltaic system in violation of the provisions of this local law, shall be subject to: A. A fine not to exceed One Thousand and 00/100 Dollars (\$1,000.00) or imprisonment for a term not to exceed fifteen (15) days, or both. Each day a violation continues shall be considered a new violation. B. A civil action inclusive of injunctive relief in favor of the Town to cease any and all such actions which conflict with this local law and, if necessary, to remove any constructions, improvements, or related items or byproducts which may have taken place in violation of this local law.

11. Enforcement

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of Town of Deerfield.

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.

13. Other

- a. All solar panels must meet the latest California regulations “Restriction of Hazardous Substance Directive” or similar regulations, commonly known as RoHS.
- b. All solar panels must have a design rating to withstand a 200 year weather event in the area of their installation.
- c. An inspection of all solar panels shall be made directly following any storm or weather event (as classified by the local, regional, or national weather services), or directly following a rated earthquake.
- d. If any solar panels are damaged: Soil testing shall be conducted within 4 business days under any solar panel(s) and within a 20’ diameter of such panel(s) to determine any leakage of hazardous materials. If such leakage is determined, then remedial actions must immediately

commence to remove and replace any soil contamination, and testing will commence until soil is determined not to have any leakage of hazardous materials.

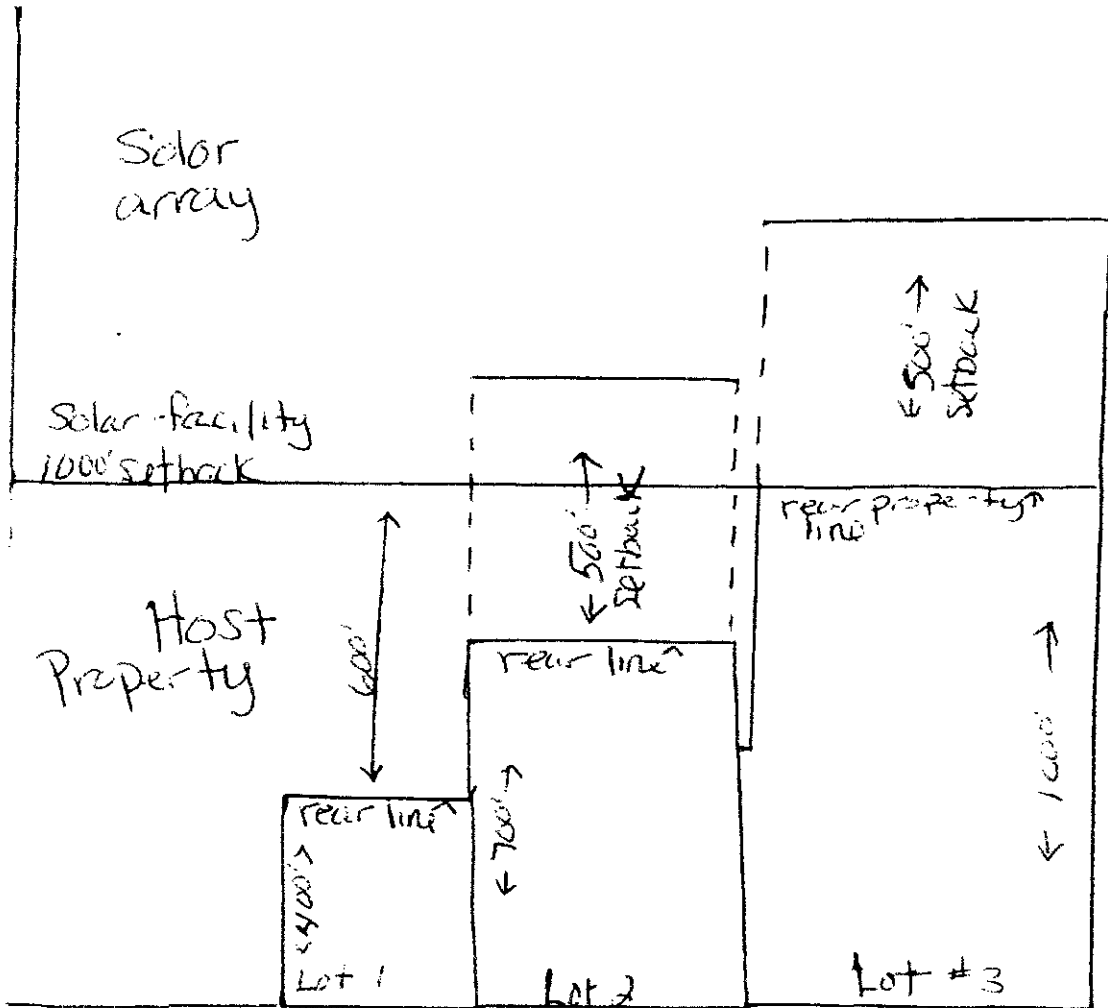
- e. To protect the water supply and streams from potential hazardous materials leaching from damaged solar panels: no solar panels can be installed within 500 feet of any water well, within 1,000 feet of any water shed, stream, aquafer, or any body of water.
- f. Prior to installation, the panel must pass standard waste disposal testing at the time of recycling, damaged goods, etc.
- g. No solar facility shall be permitted within less than one (1) mile of an existing DEC established Net Conservation Benefit Area.

14. Property value protection

- a. Properties that are adversely affected as determined by the Planning Board by a Tier 3 solar farm installation shall be purchased by the Solar Farm owners at the full value of their property prior to any announcement of such solar installation. The solar company will also pay the property owner all moving expenses incurred for a move up to 50 miles away from their current location.
- b. The Tier 3 solar company shall pay the property owner (within 500 feet of the proposed solar facility) for hiring two certified appraisers (selected by the property owner) each to make two evaluations of their property (one evaluation of the values prior to the solar farm announcement and one estimate of what it would be after solar farm completion).
- c. For properties within 501- 2,000 feet where property views are negatively affected the same procedure (as in A. above) shall be used to determine property value losses. The highest appraised value (the difference between the two evaluations) will be paid by the solar company to the property owner.
- d. The solar company will also pay all moving costs to such property owner(s) (under C) to move up to 50 miles from their Deerfield property location. If the property owner refuses to move, they will be required to sign a "Hold harmless agreement" preventing them from taking any action against the town or the town's officials (town board, Planning board, Zoning board, or other town employees).

APPENDIX 1: LOT SIZE REQUIREMENTS

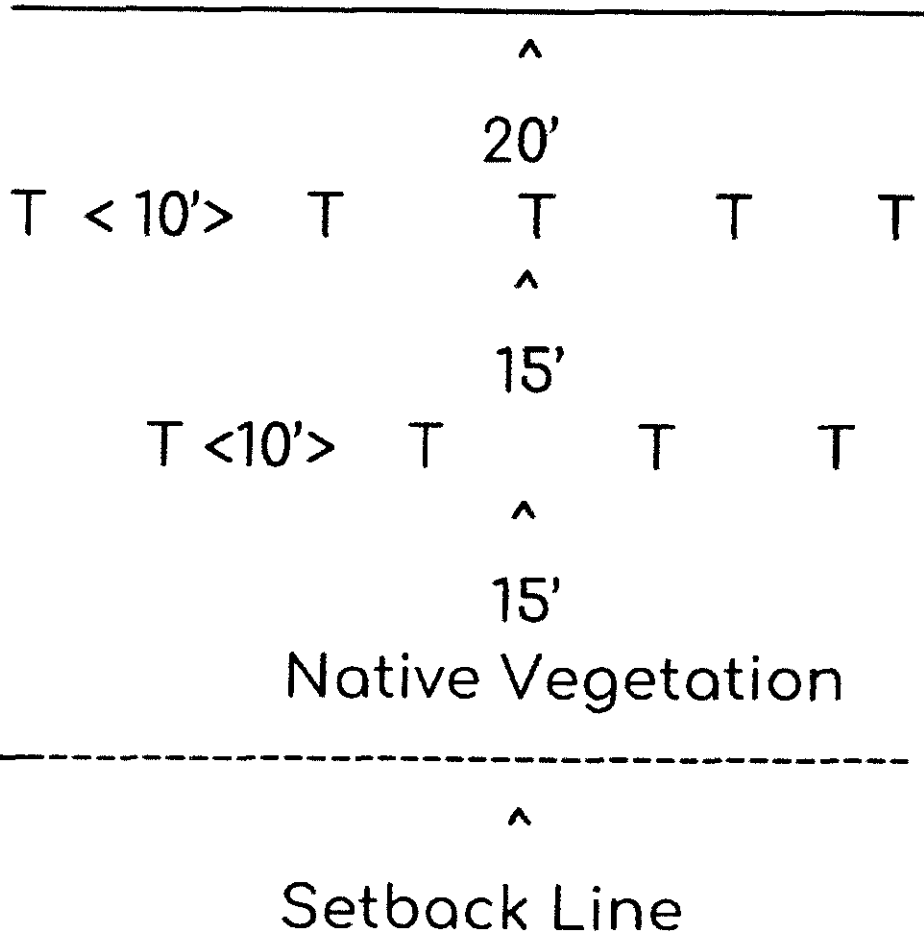
The following table displays the size requirements of the lot for Ground-Mounted Solar Energy Systems to be permitted.



APPENDIX 2: SCREENING AND VISIBILITY

SOLAR PANELS

FENCE



SECTION III. EFFECTIVE DATE

This Local Law shall become effective upon filing in the Office of the New York State Secretary of State.