

# Solar Energy Local Law of the Town of Allegany, Cattaraugus County, NY

## 1. Authority.

- A. 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 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. Statement of Purpose.

- A. The Town of Allegany recognizes the importance of solar energy systems in generating electricity for on-premises and off-premises use, the reduction of greenhouse gas emissions, and support for the continuously growing market for solar energy systems. The Town Board of Allegany does hereby desire to enact this Local Law to regulate the construction, maintenance, and placement of solar systems and equipment greater than 1kW along with a Decommissioning Plan for non-functioning equipment in the Town of Allegany. The purpose of this Local Law is to mitigate potential impacts on neighboring properties from Solar Energy Systems installed near their property, while preserving the rights of owners to install these systems on their property.
- B. This Local Law also serves the following additional 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, 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 and other stated goals of the community pursuant to its Comprehensive Plan, such as, but not limited to, revitalization and redevelopment in commercial cores, encouraging additional residential development, and protecting viable agricultural lands.

## 3. Definitions.

**ACCESSORY BUILDING:** A subordinate building located on the same lot with the main building, occupied by or devoted to an accessory use.

**AGRICULTURAL DUAL-USE:** Also referred to as “dual-use” or “Agri voltaic,” this involves the practice of co-locating solar photovoltaic panels on farmland in such a manner that primary agricultural activities including animal grazing, crop or vegetable production can continue simultaneously on that farmland.

**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 system, roofing materials, or over windows, which produce electricity for onsite consumption.

**COLLECTIVE SOLAR:** Solar Installations owned collectively through subdivision homeowner associations or similar groups. Collective solar installations shall be regulated depending upon generation capacity as either small-scale (Tier 1 or Tier 2), or utility-scale (Tier 3), as defined herein.

**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 respect.

**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.

**MITIGATE:** To make or become milder, to make less severe, less harsh or hostile; to moderate.

**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.

**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, 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.

**PRINCIPAL BUILDING:** A building in which is conducted the primary use of the lot on which it is located.

**PRINCIPAL USE:** The main purpose for which a site is developed and occupied, including the activities that are conducted on the site a majority of the hours during which activities occur.

**QUALIFIED SOLAR CONTRACTOR/INSTALLER:** A firm that employs or subcontracts a qualified person (installer) to supervise the installation. The installer shall have the skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Contractors who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA) or are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), Underwriters Laboratory

(UL), or Journeymen Wireman who have completed the International Brotherhood of Electrical Workers/National Electrical Contractors Association installers for the purposes of this definition. Persons who are not on NYSERDA's list or do not hold these credentials may be deemed to be qualified solar installers if the Code Enforcement Officer 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.

**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.

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

**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, utility poles, transformers, substations, accessory buildings, and access to roadways. 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:
  - 1)** Roof-Mounted Solar Energy Systems
  - 2)** Building-Integrated Solar Energy Systems
- B.** Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems that generate up to [110] % of the electricity consumed on the site over the previous [12] months, either capacity-based with system capacity up to 25 kW AC or physical-size based with a total surface area of all solar panels on the lot of up to 4,000 square feet.
- C.** Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

**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 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, or any open applications with fees paid 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 Code.
- E. The Town of Allegany considers small-scale (Tier 1 & 2) solar systems, as defined herein, to be Type 2 actions as defined under Part 617 of NYCRR, Article 8 of the Environmental Conservation Law (SEQRA) and therefore is not subject to environmental review.
- F. Commercial (Tier 3) are considered to have potentially significant adverse environmental impacts and therefore shall be considered Type 1 action. The need for an Environmental Impact statement (EIS) is mandatory.

#### 5. **General Requirement for Tier 1 & 2**

- A. This section governs the placement and installation of small-scale (Tier 1 & 2) Solar Energy Systems as defined herein. A building permit shall be required prior to the installation of all energy systems.
- B. **General design considerations:**
  - 1) **Glare** - All solar panels shall have anti-reflective coating(s). Panels shall be located such that no solar glare is directed onto adjoining properties or public roadways. If the solar energy system creates an adverse impact to the public or neighboring properties, the owner of the system will be required to take measures to mitigate the impact. Failure to take appropriate action will be considered a violation of this law and the owner will be subject to Town of Allegany Zoning Ordinance III Section 10.
  - 2) **Advertising** - No display of advertising of signage, including, but not limited to, streamers, pennants, spinners, flags, reflectors, ribbons, balloons, banners, or other similar materials is prohibited. Exemptions to this include any signage required by the Uniform Code or other safety regulations.
  - 3) All Solar Energy Systems shall be installed using an engineered mounting structure.
  - 4) **Wiring** shall be neatly grouped, routed and continuously supported.
  - 5) Where feasible, Solar Energy Systems shall be consolidated into array groupings, rather than situated in a disjointed manner.

- 6) **Solar Energy Equipment** shall be installed inside walls and attic spaces, when possible, to reduce their visual impact. If some equipment is visible from a public right of way, it should match the color scheme of the underlying structure.

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

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; refer to General Requirements Section 5 (above).

- A. **Mounting (pitched roof):** Solar Panels on pitched roofs shall be installed parallel to the roof on which they are mounted or attached and shall not extend any further than eighteen (18) inches from the roof surface at any point. Solar Panels shall not extend higher than the highest point of the roof surface on which they are mounted or attached and shall not exceed the maximum height restrictions within the zoning district.
- B. **Mounting (flat roofs):** Solar Panels on flat roofs shall not exceed nine (9) feet in overall height or extend more than five (5) feet above the surrounding parapet, whichever is less in height.
- C. **Mounting (other):** Solar Panels may be mounted to the sides of structures, such that no part of the system projects more than 18 inches from the structure or into the side or rear setback of the property.
- D. **Access Pathways:** For flat or pitched roofs, there shall be a minimum three (3) foot wide clear access pathway from the eave to the ridge on each roof slope (pitched), between the Solar Panels and roofline (flat), between Solar Panels and roof-mounted mechanical equipment, and along the roof ridge for smoke ventilation.
- E. **Building-Integrated Solar Energy Systems** shall be shown on the plans submitted for the Building Permit Application for the building containing the system.

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

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; refer to General Requirements Section 5A. If requirements are not met, applicant will be referred to the Planning Board for Site Plan Review.

- A. **Glare** - All Solar Panels shall have anti-reflective coating(s). Panels shall be located such that controllable solar glare is not directed onto adjoining properties or public roadways. If the Solar Energy System creates an adverse impact to the public or neighboring properties, the owner of the system will be required to take measures to mitigate the impact. Failure to take appropriate action will be considered a violation of this law and the owner will be subject to the Town of Allegany Zoning Ordinance III Article 10.

- B. Setbacks:** Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts.
- C. Installation Areas:** Solar Panels shall be installed in the rear yard. If a side yard installation is applied for, the property upon which the Solar Energy System is installed must be equal to or larger than two (2) acres. Side yard installations require Site Plan Approval from the Planning Board.
- D. Height:** Tier 2 Solar Energy Systems shall comply with the height limitations in Appendix number 2.
- E. 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.
- F. Lot Size:** Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district. No Solar Energy Systems will be permitted to be located across multiple parcels.

## 8. Permitting requirements for Tier 3 Solar Energy Systems

Tier 3 Solar Energy Systems are permitted through the issuance of a Special Use Permit within the C-1: Local Commercial, C-2: Highway Commercial, I-1: Light Industrial, and A-F: Agricultural-Forestry zoning districts, and subject to Site Plan Application requirements set forth in this Section.

- A. Applications for the installation of Tier 3 Solar Energy System** shall be:
  - 1) Submitted to the Code Enforcement Officer for submission to the Planning Board after review for completeness. Applicants shall be advised within 10 business days of the completeness of their application by the Planning Board.
  - 2) Subject to Town of Allegany Zoning Ordinance Section 9 Application Procedure. No Tier 3 Solar Energy Systems will be permitted to be located across multiple parcels.
  - 3) Include size of solar field in units of MW, fenced in area, number of panels and total square footage of panels.
- 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 Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet.
- 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). Panels shall be located such that no solar glare is directed onto adjoining properties or public roadways. If the Solar Energy System creates an adverse impact to the public or neighboring properties, the owner of the system will be required to take measures to mitigate the impact. Failure to take appropriate action will be considered a violation of this law and the owner will be subject to Town of Allegany Zoning Ordinance III Article 10.

**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 6 inches in diameter should be minimized to the extent possible.

**H. Decommissioning**

- 1) Solar Energy Systems that have been abandoned; or not producing electricity over 40% of name plate capacity; and/or not producing electricity for a period of 12 months, as determined by the Owner/Operator or Zoning Officer, shall be removed at the expense of the Owner/Operator, or any subsequent Owner, which at the Owner's option may come from any security made with the Town of Allegany as set forth in Section 8.H.3 herein. The Owner/Operator may rectify this determination upon adequate proof that the facility is still viable and operational; expenses for such shall be borne by the Owner/Operator. Repairs/modifications to make the system operational or removal of the system shall occur no later than 60 days after the initial determination.
- 2) A decommissioning Plan signed by the Owner/Operator of the Solar Energy System and prepared by an engineer licensed in the State of New York, shall be submitted, addressing the following:
  - a. The anticipated viable life of the Solar Energy System in accordance with industry standards.
  - b. Indicate the removal of all infrastructure and restoration conducted to return the parcel to its original state prior to construction.
  - c. The time required to decommission and remove the Solar Energy System and any ancillary structures, including repair of any damage caused to the property by the installation and removal of the Solar Energy System.

- d. An expected timeline for execution and a cost estimate for decommissioning prepared by a professional engineer or qualified contractor. Cost estimates shall take inflation into consideration and be revised every three (3) years during the operation of the system and include any salvage value, though this shall not be included in the financial surety for decommissioning. Removal of the large-scale Solar Energy System must be completed in accordance with the approved decommissioning plan and the standards provided as follows:
  - i. All structures and foundations associated with the large-scale Solar Energy Systems shall be removed;
  - ii. All disturbed ground surfaces shall be restored to original conditions, including topsoil and seeding as necessary; and
  - iii. All electrical systems shall be properly disconnected, and all buried cables and wiring shall be removed.
- e. Before the Certificate of Compliance is issued, provide evidence that the decommissioning plan was recorded with the Register of Deeds.

### 3) Security.

- a. Amount: The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town of Allegany attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site after removal. The amount of the bond or security shall be 125% of the cost of removal of the Solar Energy System and restorations of the property with an escalator of 2% annually for the viable life of the Solar Energy System. Security shall cover the full decommissioning cost without recoverable costs from salvage value; applicant to include anticipated salvage value, but this shall not be factored into the decommissioning costs. The decommissioning costs generated by the applicant will be reviewed by the Town Engineer to finalize the total costs that need to be covered by the bond. All expenses or costs of establishing or maintaining financial assurance shall be borne solely by the applicant, or its successors or assigns. Any remaining security available after full removal and restoration of the site, to the satisfaction of the Town of Allegany, will be returned to the applicant or any subsequent owner.
- b. Default: 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, 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. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth herein.
- c. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in Sections 8.H.1 & 2 herein.



**I. 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.

- 1) **Property lot lines** and the location and dimension of all existing structures, and uses, and natural features on site and off site which are within 500 feet of the solar panels.
- 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 Building Permit.
- 5) **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.
- 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 Building Permit.
- 7) **Zoning district designation** for the parcel(s) of land comprising the project site.
- 8) **Utility interconnection data** and a copy of written notification to the utility of the proposed interconnection, including the CESIR (Coordinated Electric System Interconnection Review) report application submitted to the local utility.
- 9) **Property Operation and Maintenance (O&M) Plan.** Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
  - a. Plan to include responsible entity with such activity, frequency of maintenance, frequency and scope of any replacement of equipment, replacement of any fencing or screening vegetation, a safety plan that includes any special instructions to local fire agencies, and any other such information as required by the Planning Board. Yearly reporting on the operations of the facility shall be provided to the Town Board. Where agricultural dual-use projects are proposed, an O&M Plan shall also include an agricultural monitor to ensure that agricultural uses within the project area are active, maintained, and productive.

- 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, the local ambulance corps.
- c. Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation plan by providing native perennial vegetation and foraging habitat beneficial to game birds, song birds, and pollinators.

**10) Documentation of access to the project site**, including location of all access roads, gates, parking areas, etc.

- a. Location of battery storage (if planned or anticipated in the future phases).
- b. Location of access roads (with details) including gates, parking areas, etc.
- c. Proposed layout of the entire Solar Energy System along with a description of all components (including inverters and transformers), whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved, and utility lines, both above and below ground, on the site and adjacent to the site.

**11) 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.

**12) Glare Study** - A visual assessment study shall be performed on the impacts of the Solar Energy System on neighboring occupied structures (see Section 8.J.6.b.i) below).

**13) SEQRA** - Since a Tier 3 Solar Energy System is considered a Type 1 action, the applicant is required to provide a SEQR Part 1 Form for the Environmental Review.

**14) Prior to the issuance of the Building Permit** for 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.

**15) Fees.** The Town Board of the Town of Allegany is hereby authorized to adopt a fee schedule by resolution for application and permit fees for solar energy systems. Such fee schedule to be adopted by the Town Board resolution, with authority to amend the fee schedule from time to time by the Town Board resolution.

**J. Special Use Permit Standards.**

1) **Lot size**

- a. The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements in Appendix number 1.

2) **Setbacks**

- a. The Tier 3 Solar Energy Systems shall meet the setback requirements (Section 4.03 Schedule B – Town of Allegany Zoning Ordinance)
- b. Residential Building Setbacks: The Solar Energy System (including fencing and any access roads) shall be placed at least 200 feet from any structure which is regularly occupied by humans, including accessory structures, regardless of whether said structure(s) are located on the applicant’s lot or any adjoining lot.
- c. Roadway Setbacks: The Solar Energy System (including fencing and any access roads) shall be placed at least 200 feet from any roadway, right-of-way, school, playground or park.
- d. Where feasible, Solar Energy Systems shall be consolidated into array groupings, rather than situated in a disjointed manner.

**3) Height**

- a. The Tier 3 Solar Energy Systems shall comply with the height limitations in Appendix 2 depending on the underlying zoning district.

**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; per the Highway Superintendent.
- b. Lot coverage of the Solar Energy System, as defined above, shall not exceed the maximum lot coverage requirement of the underlying zoning district.

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

**6) Screening and Visibility**

- a. Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area. A visual impact assessment may be required.
- b. Solar Energy Systems larger than 10 acres shall be required to:

- i. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent occupied structures within a 500 foot radius from the closest Solar Energy System fence. At a minimum, a line-of-sight profile analysis and a digital viewshed report will be required. The visual assessment shall be prepared and certified by a Registered Engineer qualified to make such a report.
- ii. Submit a screening & landscaping plan with a long-term management plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.
- iii. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Town.

- 7) **Agricultural Resources.** For projects located on agricultural lands:
  - a. 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.
  - b. The viability and suitability of the site for agricultural production (as defined by NYS Agriculture and Markets) and/or livestock grazing, including, but not limited to, the identification of important farm soils (classified as those within soil groups 1-4) and the extent of agricultural activity taking place on such lands. Tier 3 Solar Energy Systems shall not be installed on more than 25% of these farm soils.
- 8) **Utility interconnection.** Interconnection data and a copy of written notification to the utility of the proposed interconnection, including the CESIR (Coordinated Electric System Interconnection Review) report application submitted to the local utility.
- 9) **Environmental Review.** In addition to the information contained in the Section 8.J.6)b.i., the Town of Allegany Planning Board shall be designated as the lead agency for the SEQRA process.
  - a. Solar Reflection decision tree to determine if mitigation is needed:
    - i. Solar Reflection Significance Test - Residential

- 1 Is the reflection geometrically possible? If Yes, then;
  - 2 Is the solar reflection significantly screened? If No, then;
  - 3 Does the solar reflection last more than 60 minutes in a day? If Yes, then;
  - 4 Does the solar reflection last more than 3 months in a year? If Yes, then;
  - 5 Mitigation shall be implemented.
- ii. Solar Reflection Significance Test - Roads
- 1 Is the solar reflection geometrically possible? If Yes, then;
  - 2 Is the solar reflection significantly screened? If No, then;
  - 3 Is the solar reflection towards a Major National, National or Regional Road? If Yes, then;
  - 4 Does the solar reflection originate in front of the road user? If Yes, then;
  - 5 Mitigation shall be implemented.

## **K. Ownership Changes.**

Transfer of Ownership of property, or new operator, or new design firm, or new contractor during any phase of the project, and if the original project owners had:

- 1) If the original facility operator had:
  - a. Obtained a Special Use Permit,
  - b. Obtained a Conditional Use to operate,
  - c. Obtained a Performance Bond or a Decommissioning Bond,
  - d. Or need for other governmental regulatory agencies approval.
- 2) The new owner shall present proof to the Town Clerk that the required bonds and insurance policies remain in full force and effect. The new owner shall provide a written statement that He/she is aware of the conditions and requirements of the original Special use Permit which continue to govern the operation of the facility.
  - a. The statement shall include:
    - i. New owner/operator/design firm/contractor's name, address, phone numbers, email address.
    - ii. All new company personnel's information that are directly attached to the onsite facility.
- 3) In order to ensure compliance with this provision, the person/company to whom the Special use permit was originally issued, and subsequent owners, shall provide notification to the Town Clerk 30 days prior to the change in ownership.
- 4) When the Code Enforcement Officer is satisfied that all provisions are met, he/she shall issue a new Permit to Construct, or Certificate of Occupancy, or Certificate of Compliance depending on project type and/or status.

- 5) Failure to take appropriate action will be considered a violation of this law and the owner will be subject to the Town of Allegany Ordinance III Article 10 procedures.

## **9. 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 the local ambulance corps.
- C. 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 Allegany and any applicable federal, state, or county laws or regulations.

## **10. 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 applicant or the Town may extend the time to complete construction for 180 days. If the owner and/or operator fail to perform substantial construction after 24 months, the approvals shall expire. (Town of Allegany Zoning Ordinance III Section 9.06(E)(1))
- B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the Solar Energy System to implement the Decommissioning Plan (Section 8.H. of this Law). The Decommissioning Plan must be completed within 360 days of notification.
- C. 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.

## **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, Town of Allegany Zoning Ordinance III Article 10.

## **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 1: LOT SIZE REQUIREMENTS

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

1. Table 1: Lot Size Requirements

Zoning District	Tier 3 Solar Energy Systems
R-1: Single Family Residential	--
C-1: Local Commercial	≥ 5 acres
C-2: Highway Commercial	≥ 5 acres
I-1: Light Industrial	≥ 5 acres
I-2: Heavy Industrial	--
C-F: Community Facilities	--
A-F: Agricultural-Forestry	≥ 5 acres

**Key:**

--: Not Allowed

## APPENDIX 2: HEIGHT REQUIREMENTS

The following table displays height requirements for each type of Solar Energy Systems. The height of systems will be measured from the highest natural grade below each solar panel.

**2. Table 3: Height Requirements**

	<b>Tier 1 Roof-Mounted</b>	<b>Tier 2</b>	<b>Tier 3</b>
<b>Zoning District</b>			
R-1: Single Family Residential	2' above roof	10'	--
C-1: Local Commercial	2' above roof	10'	20'
C-2: Highway Commercial	2' above roof	10'	20'
I-1: Light Industrial	4' above roof	15'	20'
I-2: Heavy Industrial	4' above roof	15'	--
C-F: Community Facilities	4' above roof	15'	--
A-F: Agricultural-Forestry	2' above roof	15'	20'

**Key:**

--: Not Allowed



