TOWN OF EATON
LOCAL LAW NO. 1 OF 2024

A LOCAL LAW AMENDING CHAPTER 120 OF THE TOWN OF EATON CODE TO REGULATE SOLAR ENERGY SYSTEMS WITHIN THE TOWN OF EATON

Be it enacted by the Town Board of the Town of Eaton as follows:

SECTION 1. AUTHORITY AND PURPOSE.

This local law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law Section 10. The Town Board of the Town of Eaton has recognized a proliferation of commercial solar facilities throughout Central New York in recent years. This proliferation is anticipated to continue and increase as New York State continues to incentivize such projects. The Town therefore desires to address the potential negative impacts of such projects by providing for protections related to agricultural resources, town roadways, decommissioning, and uniform solar guidelines for such uses. These revisions would further provide clarification for the requirements for Payment in Lieu of Tax (PILOT) Agreements and Host Community Benefit Agreements to be associated with such uses and for the purposes and intents described herein.

SECTION 2. AMENDMENT OF THE TOWN OF EATON LAND USE LAW TO ADD A NEW ARTICLE VD, TITLED "SOLAR ENERGY SYSTEMS", TO CHAPTER 120.

The Town Board of the Town of Eaton has recognized a proliferation of commercial solar facilities throughout Central New York in recent years. This proliferation is anticipated to continue and increase as New York State continues to incentivize such projects. The Town therefore desires to address the potential negative impacts of such projects by providing for protections related to agricultural resources, town roadways, decommissioning, and uniform solar guidelines for such uses. These revisions would further provide clarification for the requirements for Payment in Lieu of Tax (PILOT) Agreements and Host Community Benefit Agreements to be associated with such uses and for the purposes and intents described herein. In the furtherance of these objectives, the Town of Eaton Land Use Law is hereby amended to add a new Article VD to read as follows:

"Solar Energy Systems

Section 120-23.19 Purpose and intent.

The Town of Eaton recognizes that solar energy is a clean, readily available and renewable energy source that can reduce fossil fuel emissions. The Town of Eaton has determined that comprehensive regulations regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents, and businesses. This Local Law is intended to promote the effective and efficient use of solar energy systems; establish provisions for the placement, design, construction, operation and removal of such systems in order to uphold the public health, safety and welfare, promote the co-location of solar energy systems within active farming and agricultural lands in a manner that preserves the rural character of the Town of Eaton; to ensure that such systems will not have a significant adverse impact on the aesthetic qualities and maintain the rural character of the Town. The Town, when appropriate, will promote the location of commercial solar projects in multiple locations to further mitigate impacts from such larger projects. Further, the Town of Eaton wishes to enhance agricultural viability within the Town and preserve productive agricultural land resources, mitigate the impacts of solar energy systems

on environmental resources such as prime farmlands, prime soils (including USDA Prime Soils), prime soil lands, Farmland of Statewide Importance, other important agricultural lands, forests, wildlife, and other protected resources. This Local Law also recognizes that such uses in the Town may, in some instances, represent large disturbances of lands, the hosting of complex equipment and the need to assure that such projects and property are removed or disposed of at the time of the discontinuance, while minimizing impacts to local roads and nearby property values and avoiding financial burdens on taxpayers.

Section 120-23.20 Applicability.

This Local Law shall apply to all solar energy systems (including solar heating panels) in the Town of Eaton which are installed or modified after the effective date of this Article. All solar energy systems which are installed or modified after the effective date of this Article shall be in compliance with all of the provisions hereof. Any proposed solar energy system subject to review by the New York State Board on Electric Generation Siting and the Environment pursuant to Article 10 of the New York State Public Service Law, or the Office of Renewable Energy Siting pursuant to Article 94-c of the New York State Executive Law or any subsequent law, shall be subject to all substantive provisions of this Article and any other applicable provisions of the Town of Eaton Land Use Law.

Section 120.23-21 Definitions.

For purposes of this Article and the regulations set forth herein, the meaning of the terms listed shall be as follows:

Alternating Current (AC) - An electric current that reverses direction at regular intervals, having a magnitude that varies continuously in sinusoidal manner.

Atterberg Limits and Field Tests - A basic measure of the critical water contents of a fine-grained soil and its shrinkage limit, plastic limit, and liquid limit. Establishes the moisture contents at which fine-grained clay and silt soils transition between solid, semi-solid, plastic, and liquid states.

Commercial Solar Project - A solar energy system or collection of solar energy systems or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of supplying electricity to a utility grid for wholesale or retail sales of electricity to the general public or utility provider.

Community Solar Project - Proposed commercial solar projects sited in the Town of Eaton that will feature the ability to participate in subscriptions for lower electricity costs to Town residents.

Direct Current - An electric current of constant direction, having a magnitude that does not vary or varies only slightly.

Environmental Monitor (EM) - An individual possessing the skills and knowledge to effectively develop a site for use as a solar PV system and then reclaim the site restoring it, to the greatest extent practical, to its original use.

Farmland of Statewide Importance - Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service's (NRCS) Soil Survey Geographic (SSURGO) Database on Web Soil Survey, and/or pursuant to the New York State classification system for Madison County, that is of statewide importance for the production of food, feed, fiber, forage, and oil seed. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by New York State.

Host Community Agreement - A contract between a developer and a local governing body, whereby the developer agrees to provide the community with certain negotiated benefits and mitigate specified impacts of the solar project.

Important Bird Area ("IBA") - An area determined by the New York Audubon to meet one of three criteria: (1) a place where birds congregate in large numbers at one time; (2) a place for species that are at-risk; and/or (3) a place that supports groups of birds representing certain habitats such as forests, wetlands, grasslands and shrub lands.

Kilowatt (kW) - A unit of electrical power equal to 1,000 watts, which constitutes the basic unit of electrical demand. A watt is a metric measurement of power (not energy) and is the rate (not the duration) at which electricity is used; 1,000 kW is equal to one megawatt (MW).

Megawatt (MW) - A unit of electrical power equal to 1,000 kilowatts, which constitutes a unit of electrical demand.

Native Perennial Vegetation - Native wildflowers 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, Prime Soils, and Prime Soil Lands - Soils and land that are best suited for producing food, feed, forage, fiber, and oilseed crops, and must be available for this use. Such soils have the soil quality, growing season, and moisture supply needed to economically produce a sustained high yield of crop when it is treated and managed according to acceptable farming methods. Prime Farmland may now be in crops, pasture, woodland, or other land, but not in urban and built-up land or water areas. (As referenced by the 2019 Madison County Agriculture and Farmland Protection Plan; lands designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service's (NRCS) Soil Survey Geographic (SSURGO) Database on Web Soil Survey; and Class I and Class II soil classifications found in the Madison County Planning Department Soil Classification Map of Madison County (September 2007)).

Solar Panel - A device which converts solar energy into electricity and/or heat.

Unified Solar Permit - The standardized permit and permit process used for streamline processing of small-scale solar installations of 25 kW or less.

Section 120.23-22 Building-integrated solar energy systems

A. Districts where allowed. Building-integrated solar energy systems shall be permitted in all zoning districts within the Town subject to the submission of, application for, and review and issuance of an applicable building permit.

B. Building-integrated solar energy systems shall be subject to the applicable requirements set forth **in Section 1201.4** and all requirements of Section **1201.6**.

Section 120.23-23 Rooftop-mounted solar energy systems.

A. Districts where allowed. Rooftop-mounted solar energy systems shall be permitted in all zoning districts within the Town subject to the following requirements:

(1) A building permit shall be required for installation of all rooftop-mounted solar energy systems.

(2) Rooftop-mounted solar energy systems shall not exceed the maximum allowed height of the principal use in the zoning district in which the system is located and shall specifically prohibit solar racking systems extending from the roof surface more than 12 inches when measured from average grade of roof surface at maximum height.

(3) To ensure firefighter and other emergency responder safety, except in the case of accessory buildings under 1,000 square feet in area, there shall be a perimeter area around the edge of the roof and structurally supported pathways to provide space on the roof for walking around all rooftop-mounted solar energy systems. Additionally, installations shall provide for adequate access and spacing in order to:

(a) Ensure access to the roof.
(b) Provide pathways to specific areas of the roof.
(c) Provide smoke ventilation opportunity areas.
(d) Provide emergency egress from the roof.
(e) Exceptions to these requirements may be requested where access, pathway or ventilation requirements are reduced due to:

[1] Unique site specific limitations;
[2] Alternative access opportunities (such as from adjoining roofs);
[3] Ground level access to the roof area in question;
[4] Other adequate ventilation opportunities when approved by the Codes Officer;
[5] Adequate ventilation opportunities afforded by panels setback from other rooftop equipment (for example: shading or structural constraints may leave significant areas open for ventilation near HVAC equipment);
[6] Automatic ventilation devices; or
[7] New technology, methods or other innovations that ensure adequate emergency responder access, pathways, and ventilation opportunities.

(f) In the event any of the standards in this Subsection (A)(3) are more stringent than the New York State Uniform Fire Prevention and Building Code, they shall be deemed to be installation guidelines only and the standards of the Code shall apply.

B. Rooftop-mounted solar energy systems shall be subject to the general requirements set forth at Section 1201.6.

C. On structures having significant historical or architectural features as defined by the U.S. Department of Interior, all installations will conform to the Secretary of the Interior's Standards for Rehabilitation of historical structures. Locational placement of such panels shall be made such that there is no direct adverse effect or visual impact on any significant architectural features. Destruction or alteration of historic or architecturally significant features or materials that characterize the structure shall be prohibited.

D. Rooftop-mounted solar energy systems which are not eligible for the unified solar permit provisions set forth at §1201.4(E) shall otherwise be subject to and comply with the requirements set forth therein in addition to the requirements specified in §1201.4(A) and (B).

E. Unified Solar Permit for eligible rooftop-mounted solar energy systems. The Town of Eaton has adopted the New York State Unified Solar Permit model process for streamlining the issuance of permits for the installation of certain rooftop mounted solar energy systems of 25 kW or less. The following shall be observed:

(1) Provided the rooftop-mounted solar energy system meets the requirements for a Unified Solar Permit, an applicant shall only be subject to and comply with the requirements specified in this §1201.4(D). An applicant must submit the unified solar permit application to the Code Enforcement Officer as follows:

(a) Unified Solar Permit eligibility checklist.

(b) A site plan showing the location of major components of the solar energy system and other equipment on the roof or legal accessory structure. This plan should represent relative locations of components at the site, including, but not limited to, location of arrays, existing electrical service locations, utility meters, inverter locations, system orientation and tilt angles. This plan should show access and pathways that are compliant with the New York State Uniform Fire Prevention and Building Code, if applicable.

(c) One-line or three-line electrical diagram. The electrical diagram required by NYSERDA for an incentive application and/or utilities for an interconnection agreement may also be provided here.

(d) Specification sheets for all manufactured components. If these sheets are available electronically, a web address will be accepted in place of an attachment, at the discretion of the Town.

(e) All diagrams and plans must be prepared by a professional engineer or registered architect as required by New York State law and include the following:

[1] Project address, section, block and lot number of the property;

[2] Owner's name, address, and telephone number;

[3] Name, address, and telephone number of the person preparing the plans; and

[4] System capacity in kW-DC.

(2) Permit review and inspection timeline. Unified Solar Permit determinations shall be issued within 14 days upon receipt of a complete and accurate application. The Code Enforcement Officer shall provide feedback within seven (7) days of receiving an incomplete or inaccurate application. If an inspection is required, a single inspection should be sufficient and shall be provided within seven (7) days of an inspection request.

Section 120.23-24 Ground-mounted solar energy systems.

A. Except as otherwise permitted under the provisions of this Article, ground-mounted solar energy systems are permitted as accessory structures that directly support the energy needs of the principal structure or principal use of the premises subject to the granting of site plan approval by the Planning Board and the subsequent issuance of a building permit. Ground-mounted solar energy systems shall be permitted in all zoning districts within the Town except the Residential District No. 2 (RD-2) subject to the following requirements:

(1) Notwithstanding any other provision of this Article, ground-mounted solar energy systems are prohibited in all front yards and all side yards.

(2) Setbacks. Further setbacks, area and yard requirements and bulk restrictions may be required by the Planning Board in addition to those set forth in §1201.5(A)(3) above to protect the public's safety, health, and welfare.

(3) The height of the solar collector/panel and any mounts shall not exceed 12 feet when oriented at maximum tilt measured from the ground (average grade) and including any base.

(4) As part of site plan approval, a ground-mounted solar energy system shall be screened when possible and practicable from adjoining lots and street rights-of-way through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and the surrounding area. The proposed screening shall not interfere with the normal operation of the solar collectors/panels.

(5) Neither the ground-mounted solar energy system nor any component thereof shall be sited within any required buffer area.

(6) The total surface area of all ground-mounted solar energy system components shall not exceed the area of the ground covered by the building structure of the largest building on the lot measured from the exterior walls, excluding patios, decks, balconies, screened and open porches, and attached garages.

(7) The criteria for site plan as set forth in the Land Use Law shall be demonstrated for each application.

B. Ground-mounted solar energy systems may be allowed, subject to the issuance of a special use permit by the Planning Board subject to the provision for appropriate screening for such uses, as determined in the sound discretion of the Planning Board.

C. In addition to all other applicable criteria, the following additional criteria shall be applicable to the granting of a special use permit for a ground-mounted solar energy system pursuant to these Subsections B and C:

(a) For all lots, such location shall be in the rear yard of such lot.

(b) To determine the appropriateness of the approval for any such use, the Planning Board shall have the authority to require visual/photo simulations of the proposed ground-

mounted solar energy system facility for projects visible from any public street. Such viewpoint(s) shall be determined in the reasonable discretion of Planning Board.

(c) The Planning Board shall determine appropriate screening of such specially permitted use.

Section 120.23-25 General requirements applicable to all solar energy systems.

A. All solar energy system installations must be performed by a qualified solar installer.

B. Solar energy systems, unless part of a commercial solar project, shall be permitted only to provide power for use by owners, lessees, tenants, residents or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through a net-metering arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute. However, solar energy system applications in a residential setting and serving a residential use on a single parcel or lot shall be limited to 25 kW or 110% of energy consumed on the site in the prior 12 months. Solar energy system applications serving an associated commercial or industrial use shall be limited to no more than 110% of the energy consumed on the site in the prior 12 months unless applicant can demonstrate a need to exceed the threshold.

C. Prior to operation, electrical connections must be inspected by the Town Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town.

D. Any connection to the public utility grid must be inspected by the appropriate public utility and proof of inspection shall be provided to the Town.

E. Solar energy systems shall be maintained in good working order.

F. Solar energy systems shall be permitted only if they are determined by the Planning Board to be consistent in size and use with the character of surrounding neighborhood.

G. Solar energy systems shall be permitted only if they are determined by the Planning Board and/or Code Enforcement Officer not to present any unreasonable safety risks, including but not limited to:

(1) Weight load;

(2) Wind resistance; and

(3) Ingress or egress in the event of fire or other emergency.

H. All solar energy systems described in this Article shall meet and comply with all relevant and applicable provisions of the New York State Uniform Fire Prevention and Building Code Standards. To the extent the provisions of the New York State Uniform Fire Prevention and Building Code are more restrictive than the provisions set forth in this Article, the provisions of the New York State Uniform Fire Prevention and Building Code shall control.

I. The application for any solar energy system shall specifically recite the use or nonuse of solar storage batteries, their placement, capacity, and compliance with all existing New

York State and Federal rules and regulations. If solar storage batteries are included as part of the solar energy system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform 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 and other applicable laws and regulations.

J. All utility services and electrical wiring/lines shall be placed underground and otherwise be placed within the walls or unobtrusive conduit.

K. If a solar energy system ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall completely remove the system, mount and all other associated equipment and components by no later than 90 days after the end of the 12-month period or within ten (10) days of written notice from the Town Code Enforcement Officer.

L. To the extent practicable, solar energy systems shall have neutral, non-reflective paint colors, materials and textures to achieve visual harmony with the surrounding area.

M. The design, construction, operation and maintenance of the solar energy system shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties, public roads, public parks and public buildings. All panels and supporting structures shall use materials and colors that are non-reflective in nature.

N. Marking of equipment.

(1) Solar energy systems and components shall be marked to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. For residential applications, the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover.

(2) In the event any of the standards in this subsection for markings are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code, they shall be deemed to be guidelines only and the standards of the State Code shall apply.

O. Prior to the time of the issuance of a solar building or construction permit, the applicant/owner shall demonstrate to the Town Code Enforcement Officer a reliable and safe master method for the deenergizing of the solar energy system in the event of an emergency.

P. For applications requiring screening, the applicant may be encouraged to incorporate plantings that balance the need for screening against the impacts of shading. Applicant should propose a balanced planting plan to allow for the most protected energy efficiency.

Section 120.23-26 Commercial Solar Projects.

A. Districts where allowed. Subject to the issuance of site plan approval and a special use permit and other requirements as set forth herein, commercial solar projects shall be a permitted use in all areas of the Town outside Residential District No. 2.

Notwithstanding anything in this Article to the contrary, commercial solar projects are permitted upon agricultural lands only when it is demonstrated not to have negative impacts on the soils deemed to be USDA prime soils, prime farmland, prime soils, prime soil lands and lands deemed to be farmlands of Statewide importance, and only upon the issuance of a special use permit.

B. Districts where prohibited. Commercial solar projects are a prohibited use in the Residential District No. 2.

C. Lot area, yard, and other regulations. The following lot area, yard regulations and siting criteria shall apply to commercial solar projects within the Town.

(1) Minimum street frontage: 300 feet.

(2) Minimum lot area: 50 contiguous acres under single ownership and not bisected by a public road).

(3) Minimum front yard setback to fence: 400 feet.

(4) Minimum rear yard setback to fence: 200 feet.

(5) Minimum side yard setback to fence: 200 feet

(6) Commercial solar projects shall be set back at least 1,000 feet from any Important Bird Area as identified by the Audubon New York.

(7) Commercial solar projects that are contiguous to wetland areas shall, at a minimum, conform to the setback requirements mandated by either the New York State Department of Environmental Conservation or the U.S. Army Corps of Engineers. Said setback(s) may be varied based upon information that may be required by the Town Planning Board and supported by appropriate submissions that may require a greater setback. Setbacks will be determined on a case-by-case basis and a proper record supporting any such greater setback requirement shall be established as part of the review process.

(8) Each commercial solar project application shall demonstrate that the facility operator owns or controls sufficient land area to properly operate and maintain the facility.

(9) To prevent the oversaturation of commercial solar projects in one area of the Town of Eaton, no commercial solar project shall be approved if it is within one mile of an already approved commercial solar project unless the reviewing board makes specific findings that it will not have a significant impact on the community character of the area.

(10) In siting consideration of commercial solar projects the applicant shall avoid areas that substantially contribute to and are important to the scenic quality of the landscape.

(11) When applicant is unable to meet siting and/or mitigation requirements, each application shall formally address and assess the availability and feasible use of alternative sites if less objectionable.

D. Permits required. No person, firm or corporation, or other entity being the owner, occupant, or lessee of any land or premises within the Town of Eaton shall use or permit the use of land or premises for the construction or installation of a commercial solar project without obtaining a building permit, a special use permit issued by the Planning Board and a site plan approval issued by the Planning Board as hereinafter provided.

E. Special use permit.

(1) In addition to other applicable criteria, the following criteria are hereby established for purposes of granting a special use permit for a commercial solar project under this Article:

(a) Scenic viewsheds. A commercial solar project shall not be installed in any location that would materially detract from or block the view(s) of all or a portion of a recognized scenic viewshed, as viewed from any public road, right-of-way or publicly owned land within the Town of Eaton or that extends beyond the border of the Town of Eaton. For purposes of this subsection, consideration shall be given to any relevant portions of the current, amended and/or future Town of Eaton Comprehensive Plan and/or any other prior, current, amended and/or future officially recognized Town planning document or resource.

(b) Emergency shutdown/safety and signage. The applicant shall demonstrate the existence of adequate emergency/safety measures. The applicant shall post an emergency telephone number so that the appropriate entities may be contacted should any solar panel or other component of the commercial solar project need immediate repair or attention. This emergency telephone number should be clearly visible and in a location which is convenient and readily noticeable to someone likely to detect a problem. The manufacturer's or installer's identification and appropriate warning signage shall be posted at the site and be clearly visible.

(c) Security. All commercial solar projects shall be secured to the extent practicable to restrict unauthorized access. *See* §1201.7(F)(1)(q).

(d) Access road. To the greatest extent possible, existing roadways shall be used for access to the site and its improvements. In the case of constructing any roadways necessary to access the commercial solar project, they shall be constructed in a way that allows for the passage of emergency vehicles in the event of an emergency. Each application shall be accompanied by correspondence from the responding fire department and emergency care provider as to the acceptability of the proposed ingress to and egress from the commercial solar project site. Access roads shall be designed to be permeable to encourage proper drainage and reduce runoff.

(e) The development and operation of the commercial solar project shall not have a significant impact on fish, wildlife, animal or plant species or their critical habitats, or other significant habitats identified by the Town of Eaton or federal or state regulatory agencies.

(f) Setbacks. Additional setbacks may be required by the Planning Board from those set forth in §1201.7(C) to provide for the public's safety, health, and welfare.

(g) In the granting of a special use permit, the Planning Board **will** strive to permit the location of commercial solar projects in such a manner so that no one area or neighborhood in the Town shall be over-burdened by the placement of any proposed commercial solar project(s). Screening, including plantings, berms, and other screening methods may be required to mitigate any unavoidable impacts. Such plantings and screening shall be continuously maintained and replaced if dead, dying, or falling into disrepair.

(h) Mitigation. When it is determined that an applicant's proposed mitigation of visual impacts to the site or area is insufficient, the Planning Board may under such circumstances and in the exercise of its reasonable discretion require compensatory offsets to reduce the overall impacts to visual resources from such project. Such offsets may include but are not limited to financial or in-kind donations to a community project such as environmental conservation of a stream or site; restoration of a park, historic structure, or cultural resource; planting of trees along nearby streets; and other similar projects that enhance the community character and are of benefit to the Town of Eaton community at large.

(i) Equipment specification sheets shall be documented and submitted to the Planning Board for all photovoltaic panels, significant components, mounting systems, batteries, and inverters that are to be installed.

(j) Non-invasive, native ground cover, under and between the rows of solar panels, which are suitable for animal grazing and/or pasturing shall be low-maintenance, drought-resistant, non-fertilizer-dependent and shall be pollinator-friendly to provide a habitat for bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

(k) For projects proposed by the applicant to be community solar projects, the reviewing board has the authority to require that the applicant open subscription services to Town residents before offering subscriptions to others.

(2) Waiver. The Planning Board may, upon exercise of its reasonable discretion, waive one or more of the submission requirements imposed herein. Relief from all other requirements must be made by way of an area or use variance from the Planning Board.

F. Site plan review.

(1) The following submission requirements must be observed regarding a site plan approval application for a commercial solar project.

(a) A completed application form as supplied by the Town of Eaton for site plan approval for a commercial solar project.

(b) Proof of ownership of the premises involved or proof that the applicant has written permission of the owner to make such application.

(c) Plans and drawings of the proposed commercial solar project installation signed and stamped by a professional engineer registered in New York State showing the proposed layout of the entire commercial solar project along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved, along with proposed screening and fencing. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of site plan approval and written authorization from the Town's Code Enforcement Officer. The plans and development plan shall be drawn in sufficient detail and shall further describe:

[1] Property lines and physical dimensions of the proposed site, including contours at a minimum of five (5) foot intervals.

[2] Location, approximate dimensions and types of all existing structures and uses on the site.

[3] Location and elevation of the proposed commercial solar project and all components thereof.

[4] Location of all existing aboveground utility lines within 1,200 linear feet of the site.

[5] Where applicable, the location of all transmission facilities proposed for installation. All transmission lines and wiring associated with a commercial solar project shall be buried underground and include necessary encasements in accordance with the National Electric Code and Town requirements. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant demonstrating that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead electric utility/transmission lines (if permitted) and underground electric utility/transmission lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the public utility company's requirements for interconnection. Any connection to the public utility grid must be inspected by the appropriate public utility.

[6] Location of all service structures proposed as part of the installation.

[7] Landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material, and for screening purposes. The plan shall show any trees and/or vegetation which is proposed to be removed for purposes of providing greater solar access.

[8] A berm, landscape screen, or any other combination acceptable to the Town capable of screening the site, shall be provided along any property line.

[9] A Geotechnical Report, which includes a soil analysis, as performed by an independent third party, and which provides measurements of soil samples for permeability, organic content, and nutrient content at the proposed installation site for use as a baseline for comparison at the end of the life of the project. The Planning Board shall require the Geotech information and/or soil analysis at the commencement of the approval process and shall require an updated analysis upon decommissioning of the project, which analysis shall include a comparison of pre- and post-development soil conditions, concerning the chemical and physical properties of the soil.

[10] Submission of a written operation and maintenance plan for the proposed commercial solar project that include measures for maintaining safe access, operational maintenance of the commercial solar project, and general property upkeep, such as mowing and trimming and an agricultural soils preservation plan if applicable. The operation and maintenance plan shall be filed and recorded by the applicant in the Madison County Clerk's Office (indexed to the property) following approval of the site plan by the Planning Board.

[i] For installations on farmland, projects shall comply with the most recently published New York State Department of Agriculture and Markets Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands. Where an agricultural soils preservation plan has been approved as part of a project, it shall be a condition of any such approval that such agricultural component will be maintained as approved.

[ii] Herbicides are prohibited except where the Planning Board finds it impractical to use mechanical means to control vegetation and will not have a deleterious effect on the quality of soils.

(d) Photographic simulations shall be included showing the proposed commercial solar project including elevation views with dimensions in accordance with the manufacturer's specifications and photos of the proposed solar energy system, solar collectors, solar panels and all other components comprising the commercial solar project from all neighboring properties and from other vantage points and at selected hourly increments (including seasons) at full tilt in both directions (shadow study), all as selected by the Planning Board. Such photos will depict before and after simulations showing the extent of mitigation from vantage points selected by the Planning Board.

(e) When applicable, certification from a professional engineer or architect registered in New York State indicating that any building or structure to which a solar panel or solar energy system is affixed is capable of handling the loading requirements of the solar panel or solar energy system and various components.

(f) One or three-line electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices.

(g) Documentation of access to the project site(s), including current and proposed location of all access roads, gates, parking areas, etc.

(h) Access Road Maintenance Agreement.

(i) A plan for clearing and/or grading of the site and a stormwater pollution prevention plan (SWPPP) for the site. The SWPPP shall be filed and recorded in the Madison County Clerk's Office (indexed against the property) by the applicant following Planning Board

approval (prior to commencement of construction) and shall provide for access to the Town of Eaton in the event of a default of the operator's obligations under the SWPPP. The SWPPP shall include a security amount approved by the Town's Consulting Engineer and shall remain in place until decommissioning is complete. The SWPPP shall comply with applicable current New York State Department of Environmental Conservation regulations. The applicant shall be responsible for all reasonable and necessary professional fees and expenses associated with completion of the SWPPP and associated reporting requirements per State and Local regulations.

(j) Documentation of utility notification, including an electric service order number.

(k) NYS Agriculture and Markets findings and report, applicable.

(l) U.S. Army Corps of Engineers wetlands determination, if applicable.

(m) Detail and specifications for all gates and/or fencing.

(n) Sign-off from First Responders/Emergency Medical Service providers.

(o) Sunchart. Where deemed appropriate, the Planning Board may require that the applicant submit a sunchart for the proposed site indicating the sun angle for the southern boundary of the site for a minimum four-hour continuous period during the time of the highest sun angle on December 21, along with the potential for existing buildings, structures, and/or vegetation on the site or on adjacent sites to obstruct the solar skyspace of the proposed commercial solar project. The sunchart shall also indicate the potential for obstructions to the solar skyspace of the proposed commercial solar project under a scenario where an adjacent site is developed as otherwise permitted by applicable provisions of the Town of Eaton Land Use Law with a building/structure built to maximum bulk and height at the minimum setback. Where no standards for setback are established and/or when existing adjacent structures are present, this scenario shall assume a maximum setback of five (5) feet from the property line on the sunchart. [The sunchart shall be kept on file at the Town Code Enforcement Office and determine the minimum setback required for any solar collectors from the south property line as well as the solar skyspace that should be considered when development of neighboring properties occurs.] This section in no way places responsibility on the Town for guaranteeing the solar skyspace of a solar energy system in the event setbacks are waived at the applicant's request.

(p) Solar energy systems shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the electric systems. Materials used for marking shall be weather-resistant. The marking shall be placed adjacent to the main service disconnect location clearly visible from the location where the lever is operated.

(q) The height of the solar panel array shall not exceed 12 feet at its highest tilt measured from the ground and including any base or supporting materials. However, the Planning Board may consider heights in excess of 12 feet in circumstances when active agricultural uses are proposed for the life of the lease, but in no case shall panel height exceed 20 feet.

(r) Color. Neutral paint colors, materials, and textures may be required for commercial solar project components, buildings, and structures to achieve visual harmony with the surrounding area as approved by the Planning Board.

(s) The design, construction, operation and maintenance of the solar energy system shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties, public roads, public parks and public buildings.

(t) Artificial lighting of commercial solar projects shall be limited to lighting required for safety and operational purposes, shall be shielded from all neighboring properties and public roads, downcast and shall meet "dark skies" standards.

(u) Commercial solar projects shall be enclosed by perimeter fencing to restrict unauthorized access, with "HIGH VOLTAGE" placards affixed every 50-feet, and as otherwise approved by the Planning Board. Style and type of fence shall be approved by the Planning Board as part of the site plan. Fence height shall be established at a minimum of seven (7) feet, subject to Planning Board approval. Proposed fencing shall be designed to allow periodic low-level gaps (no greater than 12-inches from ground level) to accommodate wildlife movement for smaller species.

(v) Only signage used to identify the location of the commercial solar project shall be allowed and such signage shall otherwise comply with the Town's sign regulations and requirements.

(w) The area beneath the solar energy systems comprising the commercial solar project shall not be included as impervious surface coverage in calculating whether the lot meets the maximum permitted lot coverage requirements for the applicable zoning district.

(x) All applications shall be accompanied by a full environmental assessment form for purposes of environmental review under the New York State Environmental Quality Review Act (SEQRA), including a visual impact analysis. The following additional material may be required by the Planning Board:

[1] A digital-elevation-model-based project visibility map showing the impact of topography upon visibility of the project from other locations to distances *as* determined by the reviewing board from the center of the project and the base map shall be a published topographic map showing cultural features.

[2] No fewer than four (4) color photos taken from locations, as selected by the Planning Board and computer-enhanced to simulate the appearance of the as-built aboveground commercial solar project components as they would appear from these locations.

(y) Applicant shall submit details of the proposed noise that may be generated by solar inverter fans or other commercial solar project components. The Planning Board may require a noise analysis to determine potential adverse noise impacts. In no instance shall noise exceed 50 dB as measured from the subject parcel's property line.

(2) Site plan review criteria. In addition to the above and subject to the criteria of the Land Use Law generally, no site plan shall be approved unless the Planning Board determines that the proposed commercial solar project complies with the following:

(a) The use is oriented in its location upon the site as to layout, coverage, screening, means of access and aesthetics so that:

[1] The flow control and safety of traffic and human beings shall not be adversely affected to an unreasonable degree;

[2] There is reasonable compatibility in all respects with any structure or use in the surrounding area, actual or permitted, which may be directly substantially affected;

[3] There shall not be any unreasonable detriment to any structure or use, actual or permitted, in the surrounding area;

[4] There is a reasonable provision for open space and yard areas as appropriate to the surrounding area;

[5] The removal of existing trees larger than six (6) inches in diameter has been minimized to the extent possible; and

[6] It has been demonstrated that the establishment of the proposed solar facility will not have negative impacts to surrounding property values as established by competent evidence.

G. Public hearing. No action shall be taken by the Planning Board to issue a special use permit or by the Planning Board to issue site plan approval, nor the Planning Board to grant a use or area variance in relation to an application for a commercial solar project until after public notice and a public hearing. Proper notice of a hearing before a board shall be given by legal notice published in the official newspaper of the Town of Eaton at least five (5) days before the date set for such public hearing(s) and written notice mailed to the applicant or their agent at the address given in the application to be considered. The applicant shall be responsible for notifying, by certified mail, all property owners of record within 500 feet of the outside perimeter of the boundary line of the property involved in the application, as well as other property owners deemed by the Planning Board to be potentially impacted by the project, of the time, date, and place of such public hearing at least 10 days prior to such hearing. Notice shall be deemed to have been given if mailed to the property owner at the tax billing address listed on the property tax records of the Town Assessor or at the property address. At least seven (7) days prior to such hearing, the applicant shall file with the Board their affidavit verifying the mailing of such notices. Failure of the property owners to receive such notice shall not be deemed a jurisdictional defect.

H. Compliance with New York State Uniform Fire Prevention and Building Code.

(1) Building permit applications shall be accompanied by standard drawings of structural components of the commercial solar project and all its components (including but not limited to solar panel, solar collector, solar energy system, etc.). Drawings and any necessary calculations shall be certified, in writing, by a New York State registered professional engineer that the system complies with the New York State Uniform Fire Prevention and Building Code. This certification would normally be supplied by the manufacturer.

(2) Where the structure, components or installation vary from the standard design or specification, the proposed modification shall be certified by a New York State-registered professional engineer for compliance with the structural design provisions of the New York State Uniform Fire Prevention and Building Code.

I. Compliance with state, local and national electric codes.

(1) Building permit applications shall be accompanied by a line drawing identifying the electrical components of the commercial solar project to be installed in sufficient detail to allow for a determination that the manner of installation conforms with the National Electric Code. The application shall include a statement from a New York State-registered professional engineer indicating that the electrical system conforms with good engineering practices and complies with the National Electric Code, as well as applicable state and local electrical codes. This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.

(2) Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a New York State-registered professional engineer for compliance with the requirements of the National Electric Code and good engineering practices.

J. Following construction/installation of the commercial solar project, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust and demonstrating established growth. Every Operations and Maintenance Plan shall include provisions for reseeding and maintaining established growth.

K. Post-construction/installation certification. Following the construction/ installation of the commercial solar project, the applicant shall provide a post- construction/installation certification from a professional engineer registered in New York State that the project complies with any and all applicable codes and industry practices and has been constructed and operating according to the drawings and development plan(s) submitted to the Town.

L. Insurance. The applicant, owner, lessee or assignee shall at all times during construction and operation maintain a current insurance policy which will cover installation and operation of the commercial solar project and shall be increased annually per industry standards. Said policy shall provide a minimum of $5,000,000 property and personal liability coverage. Proof of such policy shall be provided to the Town on an annual basis. Notwithstanding any terms, conditions, or provisions in any other writing between the parties, the applicant shall agree to effectuate the naming of the Town as an additional insured on the applicant's insurance policies, with the exception of workers' compensation and NYS disability insurance. The policy naming the Town as an additional insured shall:

(1) Be an insurance policy from an A.M. Best rated "secured" or better insurer, authorized to conduct business in New York State. A New York State licensed insurer is preferred.

(2) State that the applicant's insurance coverage shall be primary and noncontributory coverage for the Town, its Board, employees, agents, and volunteers.

(3) Additional insured status shall be provided by standard or other endorsements that extend coverage to the Town for both on-going and completed operations. A completed copy of the endorsements shall be attached to the certificate of insurance.

(4) The applicant shall provide a copy of the declaration page of the liability policies with a list of endorsements and forms. If so requested, the applicant will provide a copy of the policy endorsements and forms.

(5) The certificate of insurance shall contain a provision that coverage afforded under the applicable policy shall not be cancelled or terminated until at least 30 days' prior notice has been provided to the Town. In the event of a termination, cancellation, or lapse of the required insurance coverage, the special use permit to operate the solar energy system shall be immediately suspended and operation of the system shall cease. Upon restoration of the required insurance coverage, to the satisfaction of the Town, permission to operate the commercial solar project may be restored.

M. Inspections. The Code Enforcement Officer and/or Town Engineer shall have the right at any reasonable time to enter, in the company of the owner or its agent, the premises on which a commercial solar project is being or is constructed, to inspect all parts of said commercial solar project installation and require that repairs or alterations be made if, in their judgment, there exists a deficiency in the operation or the structural stability of the commercial solar project or any component thereof. If necessary, the Code Enforcement Officer or Town Engineer may order the system secured or to otherwise cease operation. It shall not be required that the owner or agent be present in the event of an emergency situation involving danger to life, limb or property. Weekly status/inspection reports are to be submitted during construction of the project and annual post-installation reviews thereafter.

N. Power to impose conditions. In granting any site plan approval, special use permit or variance for a commercial solar project, the Planning Board may impose reasonable conditions to the extent that such board finds that such conditions are necessary to minimize any adverse effect or impacts of the proposed use on neighboring properties and to protect the general health, safety and welfare of the Town.

O. Decommissioning and removal of commercial solar project facilities. The following shall be the minimum requirements to be addressed for the decommissioning of every commercial solar project:

(1) The submission of an acceptable Decommissioning Plan and Decommissioning Bond/Security subject to review by the Town's consulting attorneys and engineers and approved by the Town of Eaton. For purposes of the Decommissioning Plan and Decommissioning Bond, the following shall constitute "Decommissioning Events" triggering the decommissioning of the site and/or a call on the Decommissioning Bond: (a) if construction and installation of the project improvements are not completed within 18 months of commencement of construction (such time period may be reasonably extended upon notification to the Town and with good cause shown for any delays in completion that are reasonably beyond the applicant's control); (b) if the solar energy facility ceases to be used for its intended purpose for 12 consecutive months (such time period may be reasonably extended upon notification to the Town with good cause shown); (c) at the time of decommissioning, complete removal of the project within 90 days thereafter, except for any portions of the project access roads otherwise requested by the owner to remain to facilitate agricultural access to the property or conduit buried more than four (4) feet below ground; (d) upon the end of the project's operation; (e) if the applicant, or its successors or assigns, seeks dissolution or files for bankruptcy; or (f) failure to have in place or timely replace adequate decommissioning securities. Renewal securities shall be in place no less than 90 days prior to the expiration of any existing securities.

(2) All decommissioning activities shall be completed to the reasonable satisfaction of the Town, and consistent with the Decommissioning Plan.

(3) Such plan shall also include a commitment by the applicant to impose a similar obligation to remove any unused and/or obsolete solar panels upon any person subsequently securing rights to relocate the solar panels.

(4) At a minimum, the applicant shall include the following binding terms in the decommission plan:

(a) Complete removal of above-ground and below-ground equipment, fencing, structures, and foundations.

(b) Restoration of the surface grade and soil after removal of equipment to the condition (or better), which existed prior to the installation. This includes adding an adequate layer of topsoil where existing topsoil has been removed or eroded, and reseeding and/or reforestation of areas that were cleared of mature trees (with established growth demonstrated).

(c) Replanting/replacement of trees destroyed or lost in the decommissioning process with a species that will be capable of re-establishment after 25 years from planting (for those trees installed by the developer).

(d) Herbaceous revegetation of restored soil areas with native seed mixes, excluding any invasive species.

(e) Specifically address: the useful lifespan of proposed solar facility and any storage batteries; the current New York State and Federal rules and regulations regarding placement thereof and disposal thereof at the end of their useful lifespan; together with plans for replacement of solar storage batteries. The financial surety required by the Town shall take into account maintenance, replacement, and disposal of solar storage batteries if included in the application for a commercial solar project.

(f) When required by the approving Board, removal of screening vegetation and/or plantings at the end of the useful life of the project.

(g) Such Decommissioning Plan shall be executed by the applicant and the property owner and shall be recorded against the property in the Madison County Clerk's Office.

(5) Bond/security. The applicant shall be required to execute and file with the Town Clerk and file and record with the Madison County Clerk's Office, a bond, or other form of security acceptable to the Town Attorney and Engineer in favor of the Town, in an amount sufficient for the faithful performance of the terms and conditions of the permit issued under this Article, and to provide for expenses associated with the decommissioning removal and restoration (including soil restoration to the Town's satisfaction) of the site subsequent to the removal of the commercial solar project. The bond must be issued by a company which has a "AAA" Standard & Poor's (S&P) and Fitch Ratings bond rating, a Moody's Investors Service's rating of "AAA" and can demonstrate sufficient assets to cover the bond. The amount of the bond or security shall be no less than 150% of the cost of the removal of the solar panels and restoration of the site (as measured from the end of its projected useful life), shall be in writing for an initial minimum non-cancellable term of the projected life of the system plus two (2) years. (In the event the applicant demonstrates that there exists no commercially available bond or other security product in the market for the projected life of the project, the reviewing board may consider a bond or security product with an initial minimum term of five (5) years with automatic renewal in five (5) year increments and shall further be reviewed and adjusted at said five (5) year increments). Such amounts shall account for inflation and prevailing wage costs for decommissioning. In the event of a default upon performance of any such conditions of an approval or a violation of this Article or any of them, the bond or security shall be forfeited to the Town, upon demand. The bond or security shall remain in full force and effect until the complete removal of the solar panels and site restoration is finished. The bond security must be renewed a minimum of six (6) months prior to expiration with proof of renewal in the form of the original security instrument filed with the Town. In addition to the above, the submitted security (cash or bond) shall include monies sufficient to guarantee replacement of all screening plantings and/or other screening elements incorporated into the approved project.

P. Fees. Fees for applications and permits under this section shall be established by resolution of the Town Board of the Town of Eaton. It shall be the applicant's responsibility to reimburse the Town for any and all reasonable and necessary legal, engineering and other professional fees incurred by the Town in reviewing and administering an application and operation of a commercial solar project under this Article.

Q. Waiver. The Planning Board may, under appropriate circumstances, waive one or more of the submission requirements contained herein.

R. Road remediation. The applicant shall be responsible for remediation of any public roads or other public property damaged, during the construction of and/or completion of the installation (or removal) of any commercial solar projects approved pursuant to this Article. The Code Enforcement Officer is hereby authorized and directed to ensure a public improvement (road repairs) bond (subject to the same bond ratings and financial surety requirements as the decommissioning bond described in $1201.7(O)5)) be posted prior to

the issuance of any building permit in an amount sufficient to compensate the Town for any damage to local roads that is not corrected by the applicant. The Highway Superintendent or Town Engineer is authorized to consult with any necessary professional to determine or confirm the bond amount all at the sole cost and expense of the applicant. Applicant shall, upon authorization by the Town Code Enforcement Officer, file and record the original performance bond in the Town Clerk's Office.

S. Agricultural resources. For projects located on agricultural lands:

(1) The Planning Board shall in all instances give special consideration to areas that consist of Prime Farmland, Prime Soils, Prime Soil Lands, and/or Farmland of Statewide Importance and the removal of such lands when reviewing applications and granting special use permits and site plan approvals to commercial solar project applicants under this Law.

(2) To the maximum extent practicable, commercial solar projects approved to be located on Prime Farmland, Prime Soils, Prime Soil Lands, and/or Farmland of Statewide Importance shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.

(3) Commercial solar project applicants 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, pollinators and grazing or pastured animals. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the applicants shall use native plant species and seed mixes.

(4) Where a commercial solar project is to be located on Prime Farmland, Prime Soils, Prime Soil Lands, and/or Farmland of Statewide Importance, the applicant shall retain and designate an environmental monitor to oversee the construction, restoration, and subsequent monitoring of the agricultural lands. The environmental monitor is to be on site whenever construction is occurring on the agricultural land(s) and any construction shall be coordinated with the Town's Code Enforcement Officer and the New York State Department of Agriculture and Markets to develop an appropriate schedule for inspections to assure these lands are being preserved and protected to the greatest extent possible.

(5) Structures for overhead collection lines, interconnect cables and transmission lines installed aboveground (when unavoidable) shall be located outside agricultural field boundaries. When above-ground cables and transmission lines must cross agricultural fields, applicant shall use taller structures that provide longer spanning distances and locate poles on field edges to the greatest extent practicable.

(a) All buried electric cables in cropland, hay land and improved pastures shall have a minimum depth of 48 inches of cover.

(b) The Madison County Planning Department is to be consulted concerning the type of intercept drain lines whenever buried electric cables alter the natural stratification of soil horizons and natural soil drainage patterns.

(6) Access roads are to be located along the edge of agricultural fields, in areas next to hedgerows and field boundaries, and in the nonagricultural portions of the site.

(7) Unless shown to have no negative effects, there shall be no cut and fill so as to reduce the risk of creating drainage problems by locating access roads, which cross agricultural fields, along ridge tops and by following field contours to the greatest extent possible.

(8) The width of access roads across or along agricultural fields is to be no wider than 20 feet so as to minimize the loss of agricultural lands and comply with the New York State Fire Code.

(9) The surface of commercial solar project access roads to be constructed through agricultural fields should be level with the adjacent field surface where possible.

(10) All existing drainage and erosion control structures such as diversions, ditches, and tile lines shall be preserved, and applicants shall take appropriate measures to maintain the design and effectiveness of these structures. Applicants shall repair any structure disturbed during construction to as close to original condition as possible unless such structures are to be eliminated based upon an approved site plan for the commercial solar project.

(11) Culverts and water bars are to be installed to maintain natural drainage patterns.

(12) All topsoil areas to be used for vehicle and equipment traffic, parking, equipment laydown, and storage areas are to be stripped. All topsoil stripped from work areas (parking areas, electric cable trenches, along access roads) is to be stockpiled separate from other excavated materials (rock and/or subsoil).

(13) Where an open trench is required for cable installation, topsoil stripping from the entire work area may be necessary. As a result, additional workspace may be required as part of site plan approval.

(14) A maximum of 50-feet of temporary workspace is to be provided along open-cut electric cable trenches for proper topsoil segregation. All topsoil will be stockpiled immediately adjacent to the area where stripped/removed and shall be used for restoration on that particular site. No topsoil shall be removed from the site. The site plan shall clearly designate topsoil stockpile areas in the field and on the construction drawings.

(15) All vehicle and equipment traffic and parking to the access road and/or designated work areas, such as laydown areas, are to be limited in size to the greatest extent practical.

(16) No vehicles or equipment are to be allowed outside the work area without prior approval from the Environmental Monitor.

(17) In pasture areas, it is necessary to construct temporary or permanent fences around work areas to prevent livestock access, consistent with any applicable landowner agreements.

(18) Excess concrete used in the construction of the site is not to be buried or left on the surface in active agricultural areas. Concrete trucks will be washed outside of active agricultural areas.

(19) Restoration requirements. Upon the cessation of the solar use, the Town of Eaton shall require reasonable soil restoration to occur on the site. The following minimum requirements are set forth herein. Applicants shall restore all agricultural lands temporarily disturbed by construction and operation of the use in a manner consistent with the most recently published guidelines of the New York State Department of Agriculture and Markets and as follows:

(a) Be decompacted to a depth of 18 inches with a deep ripper or heavy-duty chisel plow. Soil compaction results should be no more than 250 pounds per square inch (PSI) as measured with a soil penetrometer. In areas where the topsoil was stripped, soil decompaction should be conducted prior to topsoil replacement. Following decompaction, removal of all rocks four (4) inches in size or greater from the surface of the subsoil shall occur prior to replacement of topsoil. Topsoil shall be replaced to original depth and original contours reestablished where possible. All rocks shall be removed that are four (4) inches and larger from the surface of the topsoil. Subsoil decompaction and topsoil replacement shall be avoided after October 1 of each year.

(b) Regrade all access roads to allow for farm equipment crossing and to restore original surface drainage patterns, or other drainage pattern incorporated into the approved site design by the Town Board and/or Planning Board, as applicable.

(c) Seed all restored agricultural areas with the seed mix specified by the environmental monitor and this Article, in order to maintain consistency with the surrounding areas.

(d) All damaged subsurface or surface drainage structures are to be repaired to preconstruction conditions, unless said structures are to be removed as part of the site plan approval. All surface or subsurface drainage problems resulting from construction of the solar energy project shall be remedied with the appropriate mitigation measures as determined by the Environmental Monitor.

(e) Postpone any restoration practices until favorable (workable, relatively dry) topsoil/subsoil conditions exist. Restoration is not to be conducted while soils are in a wet or plastic state of consistency. Stockpiled topsoil should not be regraded, and subsoil should not be decompacted until plasticity, as determined by the Atterberg Limits and Field Test, is adequately reduced. No project restoration activities are to occur in agricultural fields between the months of October and May unless favorable soil moisture conditions exist.

(f) Following site restoration, remove all construction debris from the site.

(g) Following site restoration, the project sponsor is to provide a monitoring and remediation period of no less than two (2) years. General conditions to be monitored include topsoil thickness, relative content of rack and large stones, trench settling, crop production, drainage and repair of severed subsurface drain lines, fences, etc.

(h) Mitigate any topsoil deficiency and trench settling with imported topsoil that is consistent with the quality of topsoil on the affected site. All excess rocks and large stones are to be removed from the site.

(i) All concrete piers, footers, or other supports are to be removed to a depth of 48 inches below the soil surface.

(j) Restoration should include complete removal of conduits.

(k) There shall be no mixing of the subsoil with the topsoil and there shall be removal and replacement of soil contaminated with subsoil to restore the rich soil for farming.

T. Payment in Lieu of Tax ("PILOT") Agreement and Host Community Agreement.

(1) In every instance of a commercial solar project application, the Applicant shall be required to propose a PILOT Agreement. The Applicant/ developer shall comply with the notice requirements of NYS Real Property Tax Law Section 487. The Applicant shall contact the Town's legal counsel to negotiate the terms of said Agreement.

(2) In addition to a PILOT Agreement, the Applicant shall propose to the Town, on projects involving rated generating capacities of 1 megawatt and above, a Host Community Agreement benefit package for consideration by the Town Board as part of the approval process. Once the application package materials are deemed complete and while the Planning Board is completing its review, the project/application shall be referred to the Town Board to decide on the completion and terms of a Host Community Agreement. This Agreement shall be in addition to a PILOT Agreement.

U. Reference to Article 94-c.

Any proposed solar energy system subject to review by the New York State Board on Electric Generation Siting and the Environment pursuant to Article 10 of the New York State Public Service Law, or the Office of Renewable Energy Siting pursuant to Article 94-c of the New York State Executive Law, shall be subject to all substantive provisions of this Article and any other applicable provisions of the Town of Eaton Land Use Law.

V. Inspection, Inspection Reimbursement and Review During and After Construction.

Each approved project shall be annually inspected by the Town for compliance with any granted approval and these regulations. The Town shall be reimbursed by the project owner for the cost of reasonable and necessary inspection expenses incurred by the Town's engineering consultant.

W. Compliance with New York State Department of Agriculture and Markets Guidelines and New York State Department of Environmental Conservation Solar Development Guidelines.

Any approved project shall be in compliance with the most recently published New York State Department of Agriculture and Markets Guidelines and New York State Department of Environmental Conservation guidance for solar development."

SECTION 6. VALIDITY & SEVERABILITY.

If a court determines that any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this Local Law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 7. PRE-EMPTION.

To the extent that any provision of this Local Law is inconsistent with the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, the Town Board of the Town of Eaton hereby declares its intent to supersede those sections of the Town Law, including but not limited to, in particular Sections 261-A, 261-B, 261-C, 267, 267- A, 267-B, 268, 271, 274-A, and 274-B pursuant to its home rule powers under Municipal Home Rule Law §10 et seq., of the Consolidated Laws of the State of New York.

SECTION 8. EFFECTIVE DATE.

This Local Law shall be effective upon filing with the office of the Secretary of State.