Town of Bennington Local Law #1 of 2025
A Local Law Establishing Zoning Guidelines for Solar Energy Systems and Amending Article II of the Town of Bennington Zoning Law Providing for the Creation of Zoning Overlay Districts and Solar Overlay Districts

AUTHORITY

This Solar Energy Local Law is adopted pursuant to Municipal Home Rule Law of the State of New York, which authorize the Town of Bennington to adopt zoning provisions that, in accordance with the Town of Bennington Comprehensive Plan, "develop and adopt zoning provisions that advance and protect the health, safety and welfare of the community, and to make provisions for, so far as conditions may permit, the accommodation of alternative/green energy system and equipment thereof, and access to sunlight necessary therefor."

STATEMENT OF PURPOSE

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

1) To take advantage of renewable energy resources by providing an opportunity for the use of alternative energy sources and promote clean energy;

2) To decrease the cost of electricity to the owners of commercial and residential properties and provide citizens with guidance and flexibility in satisfying their energy needs;

3) To maintain the rural character of the Town and protect viable land resources through the development of adequate criteria for the installation and operation of alternative energy systems; the Town of Bennington is relying on future residential growth to sustain the funding of municipal services as we do not have necessary infrastructure such as municipal water, sewer, town-wide broadband, etcetera, in order to support commercial development now and in the future; poor to moderate soils have supported agriculture in the past, but the decline in family farming has resulted in sales of agriculture lands for residential construction, which is the primary contribution to our local tax base; The Town recognizes the importance of green energy and seeks to balance the development of such projects with the availability of land for residential growth; thus, we have developed zoning requirements that provide for a balance of concerns;

4) To increase employment and business development in the region, by furthering the installation of alternative/green energy systems at

a scale and in appropriate locations;

5) To provide substantive standards for use by the State of New York and other permitting agencies for large-scale commercial alternative energy projects within our Town;

6) To create synergy between solar and other stated goals of the community pursuant to its Comprehensive Plan, balancing the potential benefits of solar development within the Town against negative impacts to its citizens, property owners, agricultural resources, the local economy and local ecosystems within the Town.

ARTICLE VI WORD USAGE AND DEFINITIONS, SECTION 2 DEFINITIONS:

ADD THE FOLLOWING DEFINITIONS:

2.43 Abandoned: Any solar energy system which has been determined to be non-operational for a period exceeding 180 days.

2.44 Alternative Energy Systems: Structures, equipment devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on a site and may be attached to or separated from the principal use.

2.45 Applicant: The individual/individuals or entity/entities that apply for any federal, state or local government permit or permission for installation of a solar energy system.

2.46 Arborist: An International Society of Arborists (ISA) certified professional with knowledge of arboriculture.

2.47 Array: Any number of electrically connected photovoltaic (PV) modules providing a single electrical output.

2.48 Berm: A berm is a narrow shelf, path, or ledge typically found at the top or bottom of a slope. It can also refer to a mound or wall of earth or sand. Berms can serve various purposes, such as separating areas, providing good drainage, or acting as a fortification line.

2.49 Building-Integrated Photovoltaic (BIPV) Solar Energy System: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as but not limited to, vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

2.50 Building mounted system: A solar energy system that is affixed to the side(s) of a building or other structure, either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building. Said system is designed and intended to generate electricity solely for use on the subject

lot, potentially for multiple tenants, through a distribution system that is not available to the public.

2.51 Cell: The smallest basic solar electric (PV) device that can generate electricity when exposed to radiant energy (visible sunlight).

2.52 Community Solar Project: Solar energy systems that are connected in parallel with a utility distribution system, and with a Facility Area less than or equal to 30 acres, and a nameplate capacity of 5 megawatts AC or less. A Community Solar Project is connected to medium voltage utility distribution systems between 13 kv and 34.5 kv.

2.53 Decommission: The dismantling and removal of all physical aspects of a solar energy system or solar battery storage system, including but not limited to access roads or driveways, fencing, signage, lighting, metal mounting systems, concrete or similar materials used for pads or bases below the grade of the earth, poles and wires. Decommissioning of each specific solar energy project shall be detailed in a Decommissioning Plan as prepared by the applicant and approved by the Town Board as part of the Special Use Permit application.

2.54 Facility Area: The physical area, measured in both square feet and acres, used for any solar energy system, including the area within fencing, roads, visual screening, support facilities, Solar Energy Equipment, and all other components of a solar energy system facility. The facility area shall include, and shall not be limited to, the surface area of any Solar Panel and Solar Energy Equipment. The Facility Area is part of the Project site.

2.55 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.

2.56 Farm Operation: Land and on-farm buildings, equipment, facilities, and practices with contribute to the production, preparation and marketing of crops, livestock, and livestock products as a commercial enterprise (in accordance with Agriculture and Markets Law S301[11]).

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

2.58 Glint: To shine in small bright flashes.

2.59 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.

2.60 Mineral Soils Groups (MSG) 1-4 Agricultural soil classifications as defined by the New York State Department of Agriculture and Markets. These soils are recognized as having the highest value based on soil productivity and capability.

2.61 Module: A module is the smallest protected assembly of interconnected photovoltaic cells.

2.62 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.

2.63 Net Metering Agreement: An agreement with a local electric utility company that allows customers to receive a credit for surplus electricity generated by certain renewable energy systems.

2.64 Non-Operational: A solar energy system that has not produced electrical energy other than for periodic episodes of, including but not limited to, routine maintenance, vandalism, extreme weather event, or Act of God.

2.65 Non-Participating Parcel: A non-participating parcel refers to a lot, plot, parcel, or tract of land where the owner does not have a signed agreement for the placement of a solar energy system, an easement, or a "good neighbor agreement" with a solar energy company

2.66 Participating Host Parcel: A participating host parcel refers to a lot, plot, parcel, or tract of land where the owner has a signed agreement for the placement of a solar energy system with a solar energy company.

2.67 Participating Non-Host Parcel: A participating non-host parcel refers to a lot, plot, parcel, or tract of land where the owner is not the primary site of the solar energy system, but the landowner has a signed agreement or arrangement that allows for the use of the solar energy produced by a system located on a participating host parcel.

2.68 Photovoltaic (PV): Any material or device with the capability to generate electric current or voltage when exposed to electromagnetic radiation (radiant energy), in particular visible light from the sun.

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

2.70 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.

2.71 Project Site: The physical area needed for a solar energy system including any setbacks, buffers, fencing, roads, screening, support facilities and solar energy equipment. The project site includes the facility area.

2.72 Qualified Solar Installer: A person who has skills and knowledge related to the construction and operation of photovoltaic solar equipment and installations and has received safety training on the hazards involved therein. This may include persons who are on the list of eligible photovoltaic installers, as maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP.)

2.73 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.

2.74 Sensitive Visual Receptors: Areas subject to high visibility by a large number of people are considered to be sensitive receptors. Residential viewers typically have extended viewing periods and are generally considered to have high visual sensitivity.

2.75 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.

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

2.77 Solar Energy System: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3 or Tier 4 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

- Roof-Mounted Solar Energy Systems
- Building-Integrated Solar Energy Systems

B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with system capacity up to 1 MW AC and that generate no more than 125% of the electricity consumed on the site over the previous 36 months.

i. Notwithstanding the above, a solar energy system located on a farm operation, as defined in this law or the relevant provision of the New York State Agriculture and Markets Law, and located in a New York State Agricultural District, which primarily serves the needs of such farm operation and produces up to 125% of the farm's needs, or other amount

that may be established by resolution of the Bennington Town Board in accordance with New York State Department of Agriculture and Markets guidance, shall be deemed a Tier 2 solar energy system.

ii. A system that does not exceed the production or output limits and otherwise conforms to the requirements of this definition shall not be excluded from designation as a Tier 2 solar energy system as a result of selling or otherwise receiving credits or benefits for excess energy provided to the distribution grid.

C. Tier 3 Solar Energy Systems are systems that are not included in the definitions for Tier 1, Tier 2 or Tier 4 Solar Energy Systems. Tier 3 includes but is not limited to Community Solar Projects, and is limited to less than 25 MW AC generating capacity.

D. Tier 4 Solar Energy Systems: These include any Solar Energy System with a 25 MW/AC or greater generating capacity. Tier 4 shall include all proposed solar energy systems subject to state level siting procedures administered by the Office of Renewable Energy Siting, Department of Public Service, or other such agencies as may be so designated by the State of New York.

2.78 Solar Energy System Overlay District: A district that encompasses part or parts of one or more underlying districts and that establishes requirements for Solar Energy Systems.

2.79 Solar Panel: A photovoltaic device capable of collecting and converting solar energy into electricity.

2.80 Storage Battery: A device that stores energy and makes it available in an electrical form. This will fall under New York State fire code.

2.81 Tracking Systems: A number of photovoltaic modules mounted such that they track the movement of the sun across the sky to maximize energy production, either with a single-axis or dual-axis mechanism.

ARTICLE II REGUALTIONS, SECTION 1 APPLICATION OF REGULATIONS:

APPLICABILITY

ADD THE FOLLOWING:

1.9 The requirements of this Local Law shall apply to all Solar Energy Systems that receive a Special Use Permit, or are installed, or modified in the Town of Bennington after the effective date of this Local Law, excluding general maintenance and repair.

1.10 Solar Energy Systems that have received a Special Use Permit or are constructed or installed, prior to the effective date of this Local Law shall not be required to meet the

requirements of this Local Law. Permits previously granted that have expired shall be required to comply with the requirements of this Local Law.

1.11 Modifications to an existing Solar Energy System that increase the Solar Energy System area shall be subject to review this Local Law.

1.12 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, the NYS Energy Conservation Code, and the Town of Bennington Zoning Law.

1.13 Any proposed Solar Energy System subject to review by the Office of Renewable Energy Siting pursuant to Article 94-c of the Executive Law, shall be subject to all substantive provisions of the Section and any other applicable laws, codes, and regulations of the Town of Bennington, New York, and any other applicable New York State or Federal laws.

1.14 Nothing contained in this Local Law shall be construed to prohibit collective solar installations or the sale of excess power through net billing or net metering arrangements in accordance with New York State Public Service Law Section 66-j or similar New York State or federal laws and regulations.

1.15 Any applications, including applications for variances, pending for a Solar Energy System on the effective date of this Law shall be subject to the provisions contained herein.

ARTICLE V ADMINISTRATION AND ENFORCEMENT, SECTION 2 BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY:

GENERAL REQUIREMENTS

ADD THE FOLLOWING:

2.4 A Zoning and a Building permit shall be required for installation of all Solar Energy Systems.

2.5 All applications for a Solar Energy System shall be initially submitted to and reviewed by the Town Zoning Enforcement Officer for completeness.

2.6 Local land use boards are encouraged to condition their approval of proposed developments on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain economically feasible over time.

2.7 Issuance of permits and approvals by the Town shall include review pursuant to the State Environmental Quality Review Act, ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (SEQRA.)

2.8 Siting of solar installations shall conform to the goals and intentions of the Town of

Bennington Comprehensive Plan.

2.9 Compliance with the New York State Building Code:

A. Building permit applications shall be accompanied by standard drawings of structural components of the solar energy system, including support structures, base and footings. Drawings shall be stamped, and any necessary calculations shall be certified, in writing, by a licensed New York State professional engineer or architect to indicate that the system complies with the current New York State Building Code.

B. Where the installation or structural components vary from the standard design or specifications, proposed modifications shall be certified by a licensed New York State professional engineer for compliance with the seismic and structural design provisions of the New York State Building Code.

2.10 Compliance with Electrical Code:

A. Building permit applications shall be accompanied by a line drawing identifying the electrical components of the solar energy system to be installed in sufficient detail to allow for a determination that the manner of installation conforms to the Electrical Code. The application shall include a statement from a New York State licensed professional engineer or architect indicating that the electrical system conforms to sound engineering practices and complies with the National Electrical Code (NEC.) This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawing and diagrams.

B. 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 licensed professional engineer for compliance with the requirements of the NEC and sound engineering practices.

2.11 Design and Installation Criteria and Standards

A. When solar storage batteries are included as a part of any Solar Energy System, they shall be placed in secure containers or enclosures that meet the requirements of the New York State Uniform Fire Prevention and Building Code when in use. When no longer used, solar storage batteries must be disposed of in accordance with all applicable laws of New York State and Wyoming County regulations.

B. The power supply cutoff device for any Type 1 or 2 roof- or building-mounted System shall be located on the outside of the structures that support such systems, in close proximity to where the power supply enters the facility, along with twenty-four-hour emergency contact information, where it can be easily accessed by emergency personnel.

C. All interconnecting cables between the Solar Energy System and accessory or servicing structures shall be installed underground or within the structure they are mounted upon.

D. The System must be designed and constructed to comply with the most recent fire code, as amended and adopted by the State of New York.

E. All Solar Energy Systems shall be installed by a qualified solar installer, as defined by this Law.

2.12 Maintenance and Repair Records

A. A Solar Energy System shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. "Operational Condition" includes meeting all approval requirements and conditions.

B. The Solar Energy System shall be kept free from hazards, including, but not limited to, faulty wiring, loose fastenings, and creation of an unsafe condition or detriment to public health, safety or general welfare.

C. The inspection of Solar Energy Systems shall comply with all requirements of the New York State Fire and Building Codes.

2.13 Abatement and Removal

A. If a Solar Energy System poses a safety hazard, as determined by the Town of Bennington Code Enforcement Officer, the owner or operator shall take immediate action to remedy the hazard. The Code Enforcement Officer shall have the authority to cause the abatement of any hazardous situation. If the Town determines that the Solar Energy System poses a safety hazard, a notice of violation shall be issued and the Solar Energy System shall be made non-operational until such hazard has been remedied to the satisfaction of the Wyoming County Fire and Building Codes Department.

B. If the use of an approved Solar Energy System is discontinued, the owner or operator shall notify the Wyoming County Fire and Building Codes Department within thirty (30) days of such discontinuance. If the Solar Energy System is to be retained and reused, the owner or operator shall further inform the Town of this in writing, at such time and obtain any necessary approvals within one year. Otherwise, the Solar Energy System shall be deemed automatically abandoned.

C. If the Solar Energy System has been non-operational or abandoned for a period of six months or more, the system shall be removed within twelve (12) months from the date of written notice from the Town of Bennington to the property owner or operator of the system.

2.14 The design, construction, operation and maintenance of any solar energy system shall

prevent the misdirection and/or reflection, glare or glint of solar rays onto neighboring properties, businesses, public roads, public parks and other public facilities in excess of that which already exists.

2.15 All wiring must be designed and installed to comply with the National Electrical Code (NEC.)

2.16 All Solar Energy Systems existing on the effective date of this chapter shall be allowed to continue usage as they presently exist. Routine maintenance (including replacements with a new system of like construction and size) shall be permitted on such existing systems. New construction, other than routine maintenance, shall comply fully with the requirements of this chapter, except where a Special Use Permit has been issued prior to the effective date of this chapter in which case construction shall comply with the requirements of the local law that was in effect when said Special Use Permit was granted.

2.17 No Solar Energy System shall hereafter be used, erected, moved, reconstructed, changed or otherwise altered except in conformity with this law.

2.18 All Solar Energy Systems shall be fully accessible to all emergency service vehicles and personnel.

2.19 All access roads constructed for the development, operation, or maintenance of a solar energy system shall have a minimum width of twenty-four (24) feet. This requirement applies to both temporary and permanent access roads and is intended to ensure adequate access for emergency services and maintenance vehicles. Variances from this standard may only be granted upon written approval by the local fire department and planning board, based on site-specific conditions.

2.20 All Solar Energy Systems shall adhere to all applicable federal, state, county and Town of Bennington laws, requirements and regulations, including building, plumbing, electrical and fire codes.

2.21 The Wyoming County Building and Fire Codes Office shall notify the applicable local fire company upon the approval of any solar installations building permit, regardless of which Tier level is being installed, as well as any permit conditions that pertain to emergency response, service and training.

ARTICLE II REGULATIONS, SECTION 2 DISTRICTS:

ADD THE FOLLOWING:

2.7 SOLAR ENERGY SYSTEM OVERLAY DISTRICT.

A. Parcels in the Solar Energy System Overlay (SESO) District shall be restricted to parcels included in Agricultural/Residential (A/R) and Manufacturing (M) Districts.

B. Initial requests for SESO Districts shall be submitted with applications for a Special Use Permit for a Solar Energy System. No SESO District may be created without specific requests for Special Use Permits for individual Solar Energy Systems.

C. Once a SESO District has been created, new Solar Energy Systems, or accessory structures or facilities may be added in that District by grant of a Special Use Permit pursuant to the requirements of this local law.

ARTICLE II REGULATIONS, SECTION 2.1 AGRICULTURAL-RESIDENTAL:

2.1.2 PERMITTED ACCESSORY USES

ADD THE FOLLOWING:

L. PERMITTING REQUIREMENTS FOR TIER 1 AND TIER 2 SOLAR ENERGY SYSTEMS.

1. Tier 1 and 2 Solar Energy Systems shall be permitted in all zoning districts within the Town of Bennington. Tier 1 Systems shall be exempt from site plan review and approval subject to the following condition:

a. Tier 1 Roof-mounted Solar Energy Systems

i. Design requirements:

AA. Solar Panels shall not be located closer that three (3) feet to any roof edge or building wall, and in no instance shall any part of the system extend beyond the roof line or parapet wall.

BB. Solar Panels on pitched roofs shall be mounted with a minimum distance of two (2) inches and maximum depth of eight (8) inches between the roof surface and the highest edge of the system.

CC. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

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

EE. A minimum three (3) foot center walkway between arrays is required for safety access.

FF. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than twenty-four (24) inches above the flat surface of the roof, whichever is higher.

GG. All solar panels shall have anti-reflective coating(s).

ii. Height: When affixed to a pitched or peaked roof, a Solar Energy System should generally follow the slope of the roof. The highest part of a roof-mounted System shall not be more than three (3) feet higher than the finished roof to which it is attached.

b. Tier 1 Building -Integrated Solar Energy Systems:
Tier 1 Building Integrated Solar Energy Systems are permitted in all zoning districts as accessory structures and shall require Town Planning Board site plan review subject to the following conditions:

i. Solar Panels shall be integrated into the design of the building and shall not obstruct any window, door, or other architectural feature of the building.

ii. Solar Panels shall not extend more than three (3) feet from the building façade to which it is affixed. A Panel shall not be located closer than three (3) feet to any roof edge or building wall, and in no instance shall any part of the system extend beyond the roof line or parapet wall.

iii. Height: The maximum height of a building-integrated solar energy system shall be eighteen (18) feet, as measured from the lowest point from where the system is affixed to the vertical façade of a building.

iv. System shall be shown on the plans submitted for the building permit application for the building containing the system.

c. Tier 2 Ground-mounted Solar Energy Systems are subject to site plan review and compliance with the following conditions:

d.

i. All structures and devices used to support solar energy systems shall be non-reflective and painted a subtle or earth tone color.

ii. Views of the Tier 2 solar energy system shall be minimized from adjacent properties.

iii. The system shall be located in a manner to reasonably avoid

and minimize blockage of view from surrounding properties and shading of adjacent properties.

iv. Panels shall not be oriented such that they are directed at any adjacent residential dwelling.

v. Setbacks: Tier 2 Systems shall be subject to the setback requirements specified for accessory structures in the underlying zoning district. All ground-mounted systems shall be installed in rear yards in R-1 Residential and B Business zoning districts. Ground-mounted systems shall be installed in A/R Agriculture Residential, M Manufacturing and S Seasonal zoning districts in rear or side yard. Any System installed in side yards shall not extend beyond the front line of the property dwelling. Systems shall not unreasonably encroach upon neighboring parcels through introduction of shade, nuisance noise, or other nuisance conditions.

vi. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district. Lot coverage by ground mounted solar energy systems shall be limited by the panel area required to produce no more than 125% of the on-site energy usage.

2. Decommissioning and removal of Tier 1 and Tier 2 solar energy systems shall be undertaken within six (6) months of cessation of energy production. All equipment shall be removed from the site and disposed of or recycled pursuant to the laws and regulations of the State of New York and the County of Wyoming. Decommissioning and removal are to be done at the expense of the owner/operator.

2.2.1 PRINCIPLE USES PERMITTED

M. By special permit from the Town Board:

5. TIER 3 AND TIER 4 SOLAR ENERGY SYSTEMS

a. Application requirements shall be:

i. Reviewed by the Zoning Enforcement Officer for completeness. Applicants shall be advised within ten business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

ii. Subject to a public hearing to hear all comments for and against the application. The Town Board of the Town of Bennington shall have a notice printed in a newspaper of general circulation in the legal newspaper of this Town at least ten days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within five hundred (500) feet of the property at least ten days prior to such a hearing. Proof of mailing shall be provided to the Town of Bennington Zoning Officer at the public hearing.

iii. Referred to the County Planning Department pursuant to General Municipal Law§ 239-m if required.

iv. Upon closing of the public hearing, the Town Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62- day period may be extended upon consent by both the Town Board and applicant.

b. Compliant with such standards established in Article VIII of this Law including but not limited to lot size and coverage, setback requirements, fencing, and screening.

c. 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.

d. Vehicular Paths: Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

e. Signage:

i. No signage or graphic content shall be displayed on the Solar Energy Systems except the information as required in Article V, Section 3.1.1(H)(5). Said information shall be depicted within an area no more than six (6) square feet.

ii. 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.

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

g. 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.

h. Tree-cutting: Removal of existing trees should be minimized to the extent possible, with oversight authority by the Town of Bennington to ensure congruity with the goals and objectives as duly stated in the Town's Comprehensive Plans.

i. A decommissioning plan signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:

   i. The cost of removing the Solar Energy System.

   ii. The time required to decommission and remove the System and any ancillary structures.

   iii. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.

   iv. Replacing/planting of any vegetation damaged, including trees.

j. Lot coverage: The Tier 3 or 4 Solar Energy Systems shall meet the maximum lot percentage coverage requirements and is defined as the Facility Area plus any access roads.

k. Fencing Requirements: All mechanical equipment, including any structure for storage batteries, shall be enclosed as per the requirements of Article V, Section 3.1.1(H)(7).

l. Screening and Visibility:

   i. Solar Energy Systems with Facility Areas smaller than ten 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.

AA. Visual barriers need to include lined fencing and trees.

BB. Vegetation shall be managed in accordance with a vegetation management plan prepared and implemented pursuant to 6 NYCRR Part 325. The plan shall include a complete list of all chemicals proposed for use in vegetation control. A copy of the plan shall be submitted to the Town annually and maintained on file with the Town.

ii. Solar Energy Systems with Facility Areas larger than ten acres shall be required to:

AA. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital view- shed report, shall be required to be submitted by the applicant.

BB. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.

CC. Buffer Design: All solar energy systems must include a visual buffer that minimizes views of the panels from adjacent properties, roadways, and public areas. The buffer shall consist of:

A1. A minimum width of 50 feet, consisting of a combination of trees and shrubs, with a planted layer that achieves an average height of 75 feet at maturity (see Exhibit A). The buffer is to be placed within the setback requirements and inserted adjacent to the property line or the fence surrounding the

solar array, whichever is best suited for the parcel and terrain.

A2. Vegetation shall be of a variety suitable to the local climate and ecological conditions, with a preference for native species to promote sustainability.

A3. Trees should be native species to provide year-round screening.

A4. Fencing or walls, where required for security, shall be constructed in accordance with the minimum height requirements set forth by the National Electrical Code. In no event shall such fencing or walls exceed the minimum height requirements set forth by the National Electrical Code. All fencing or walls must be made of non-reflective materials.

DD. Cross-Section Illustration: Applicants for solar permits shall submit a visual screening plan, including a cross-section showing the proposed buffer elements and their relationship to the solar panels, surrounding properties, and public view corridors.

EE. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Town of Bennington.

A1. Visual barriers need to include lined fencing and trees.

A2. There needs to be vegetation control as per Article V, Sections 3.3.1(H)(8) and 3.3.1(H)(9).

m. Agricultural Resources: For projects located on agricultural lands, applicants shall refer to the restrictions of Solar Overlay Districts within the Town of Bennington Zoning Law, including, but not limited to:

i. Any Tier 3 Solar Energy System Facility Area located on the areas that consist of soils identified by the State of New York as Prime Farmland or Farmland of Statewide Importance shall not exceed 25% of the area of Prime Farmland or Farmland of Statewide Importance on the parcel(s).

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

iii. Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

n. Ownership Changes: If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the Town of such change within fifteen (15) days of the ownership change. A meeting shall be held within sixty (60) days of such change between representatives of the new owners, the Town and the Town Attorney to ensure continued compliance with all requirements of the Special Permit, including technical and financial obligations of the owner, and that there are no outstanding obligations or violations.

o. Escrow Account: The applicant shall, in good faith, negotiate and execute an escrow account arrangement with the Town, to provide funds for the payment of all legal and engineering fees payable from the Town for services pertaining to the review of all documents related to the solar energy project application. Said escrow agreement shall be executed prior to the issuance of any building permit and shall be effective from the original date of application.

p. Solar Screening Bond

i. Deposit, Execution, or Filing Requirements: The deposit, execution, or filing with the Town of Bennington Clerk of cash, bond, letter of credit, or other form of security reasonably acceptable to the Town of Bennington attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the local or state permit issued for the installation and maintenance of the Solar Energy System, specifically addressing the provision and maintenance of required solar screening as set forth in the applicable permit. This bond shall also ensure the maintenance of visual screening measures required by the Town during the operation of the Solar Energy System. The amount of the bond, security, letter of credit, or cash escrow account shall be 125% of the estimated cost of providing and maintaining the solar screening in accordance with the specifications set by the Town, with an escalator of 3% annually, or by a percentage equal to the annual inflation rate as calculated using the Consumer Price Index published by the Labor Department's Bureau of Labor Statistics for the previous calendar year, whichever is greater, for ten (10) years.

ii. Initial Screening Cost Calculation: The initial calculation for the cost of installation and maintenance of the required screening shall be completed and stamped by a third-party New York State Licensed Professional Engineer or landscape architect with applicable experience, agreeable to both the facility owner and the Town of Bennington. This cost shall include a reasonable percentage for any potential site restoration or landscaping requirements that may be necessary due to the installation and/or operation of the Solar Energy System.

iii. Change in Ownership: The obligation to maintain a solar screening bond or security benefiting the Town of Bennington is a continuing obligation that may not be transferred without the prior written consent of the Town of Bennington. The Town shall not unreasonably withhold such consent.

iv. Default of Screening Obligations: In the event the applicant is in default of its obligations to maintain the required solar screening under any applicable law or permit, and after proper notice and expiration of any cure periods, the cash

deposit, bond, letter of credit, or other security shall be forfeited to the Town of Bennington. The Town shall be entitled to maintain an action on the forfeited bond or security, and the bond or security shall remain in full force and effect until the screening measures are brought into full compliance with the terms of the permit.

v. Completion of Screening Requirements: Screening must be installed and maintained in accordance with the Site Screening Plan or as mutually agreed upon by the Town Board.

vi. Failure to Comply: If the owner/operator fails to comply with the solar screening requirements upon notification of default, the Town of Bennington may, at its discretion, utilize the bond or other security to implement the required screening measures and ensure the site is brought into compliance with the conditions of the permit and applicable regulations.

q. DISCONTINUED USE AND DECOMMISSIONING: Solar Energy Systems that have been abandoned and/or non-operational for a period of six months shall be removed at the Owner and/or Operator's expense, which at the Owner's option may come from any security made with the Town of Bennington.

i. Security.

AA. The deposit, executions, or filing with the Town of Bennington Clerk of cash, bond, letter of credit or other form of security reasonably acceptable to the Town of Bennington attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the local or state permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond, security, letter of credit or cash escrow account shall be 125 % of the cost of removal of the Tier 3 or Tier 4 Solar Energy System and restoration of the property in accordance with any local or state conditions, with an escalator of 3% annually, or by a percentage equal to the annual inflation rate as calculated using the Consumer Price Index published by the Labor Department's Bureau of Labor Statistics for the previous calendar year, whichever is greater for the life of the Solar Energy System,

except in any year where the decommissioning cost is recalculated as set forth below.

BB. The initial decommissioning cost calculation and subsequent updates shall be completed and stamped by a third-party New York State Licensed Professional Engineer with applicable solar facility experience, agreeable to both the facility owner and the Town of Bennington. Such calculation shall also include a reasonable percentage allocated to possible soil remediation as a result of the install and/or operation of the Solar Energy System.

A1. Beginning on the second anniversary of completion of construction, and every fifth year thereafter until decommissioning is completed, a qualified and independent third-party assessor or other consultant agreeable to both the facility owner and the Town will recalculate the projected cost of decommissioning over the next five-year period, and the applicant shall adjust the amount of the letter of credit to match 125% of the recalculated decommissioning cost. The expense of computing each recalculation shall be the responsibility of the owner/operator.

A2. Change in Ownership: The obligation to maintain a decommissioning security letter of credit, bond or cash escrow benefitting the Town of Bennington is a continuing obligation that may not be transferred without written consent of the Town of Bennington, which consent shall not be unreasonably withheld.

A3. In the event the applicant is in default of its obligations to decommission the facility under any applicable law or permit, and, after proper notice and expiration of <u>any cure periods</u>, the cash deposit, bond, letter of credit or security shall be forfeited to the Town of Bennington, 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.

A4. In the event of default or abandonment of the Solar Energy System under this section or the conditions of any permit for construction and operation of the solar energy system, or abandonment of the solar energy system, the Town of Bennington may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The system shall be decommissioned as set forth in Article V, Section 3.3.3 (D).

ii. Decommissioning must be completed in accordance with the Site Restoration Plan within twelve (12) months of notification as per Article V, Section 3.3.3 (D) or as mutually agreeable by the Town Board.

iii. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of Bennington 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.

r. SAFETY

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

ii. 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.

iii. 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 Bennington and any applicable federal, state, or county laws or regulations.

iv. The applicant shall provide any necessary training or

specialized equipment to local fire personnel regarding to response to emergencies involving the Solar Energy System or storage batteries, as well as all applicable safety data sheets (SDS) to the satisfaction of the local fire company.

s. PERMIT

i. Upon completion of the review process, the Town Board shall, upon consideration of the standards of this law and the record of the SEQRA review, issue a written decision setting forth the reasons for approval, conditions for approval or disapproval.

ii. If approved, the Town Board will direct the Town Clerk to modify the Official Zoning Map of the Town to reflect the creation of a Solar Energy System Overlay District, and authorize Town staff to issue a Special Use Permit for each Solar Energy System upon satisfaction of all conditions for said Permit, and direct the Wyoming County Building and Fire Codes Department to issue a building permit, upon compliance with the Uniform Fire Prevention and Building Code and other conditions of this law.

iii. The decision of the Town Board shall be filed within five days in the Office of the Town Clerk and a copy mailed to the applicant by First Class Mail.

iv. 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 [18] months after approval, the applicant or the Town of Bennington may extend the time to complete construction for [180] days. If the owner and/or operator fails to perform substantial construction after a total of [24] months, the approvals shall expire.

v. The owner or operator of any Tier 3 facility shall submit a written report to the Bennington Town Board on or before February 1st of each year detailing the total KWH output of the facility for the previous twelve (12) months.

t. ENFORCEMENT

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

u. TOWN MONITOR

i. During the construction and operation of the Project, the Town may elect to engage a third party with a reasonable amount of experience in the construction industry (the "Town Monitor") to represent the Town's interest in ensuring the Project complies with: (i) the Town Permits; (ii) the Town Agreements; and, (iii) the Local Law. The Town Monitor shall also serve as the Town's designated party responsible for performing post-construction environmental monitoring duties for the Project throughout the duration of the solar screening bond. The Town Monitor shall have the right, upon reasonable notice, to access the Project site, to the extent needed. The applicant shall deposit funds, in an amount determined by the Town, sufficient to cover the cost of retaining the Town Monitor prior to the commencement of construction.

ARTICLE II REGULATIONS, SECTION 2.2 RESIDENTIAL DISTRICT:

ADD THE FOLLOWING:

2.2.2 PERMITTED ACCESSORY USES

B. PERMITTING REQUIREMENTS FOR TIER 1 AND TIER 2 SOLAR ENERGY SYSTEMS.

1. Tier 1and 2 Solar Energy Systems shall be permitted in all zoning districts within the Town of Bennington. Tier 1 Systems shall be exempt from site plan review and approval subject to the following condition:

2.

a. Tier 1 Roof-mounted Solar Energy Systems

i. Design requirements:

AA. Solar Panels shall not be located closer that three (3) feet to any roof edge or building wall, and in no instance shall any part of the system extend beyond the roof line or parapet wall.

BB. Solar Panels on pitched roofs shall be mounted with

a minimum distance of two (2) inches and maximum depth of eight (8) inches between the roof surface and the highest edge of the system.

CC. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

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

EE. A minimum three (3) foot center walkway between arrays is required for safety access.

FF. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than twenty-four (24) inches above the flat surface of the roof, whichever is higher.

GG. All solar panels shall have anti-reflective coating(s).

ii. Height: When affixed to a pitched or peaked roof, a Solar Energy System should generally follow the slope of the roof. The highest part of a roof-mounted System shall not be more than three (3) feet higher than the finished roof to which it is attached.

b. Tier 1 Building -Integrated Solar Energy Systems:

Tier 1 Building Integrated Solar Energy Systems are permitted in all zoning districts as accessory structures and shall require Town Planning Board site plan review subject to the following conditions:

i. Solar Panels shall be integrated into the design of the building and shall not obstruct any window, door, or other architectural feature of the building.

ii.. Solar Panels shall not extend more than three (3) feet from the building façade to which it is affixed. A Panel shall not be located closer than three (3) feet to any roof edge or building wall, and in no instance shall any part of the system extend beyond the roof line or parapet wall.

iii. Height: The maximum height of a building-integrated solar energy system shall be eighteen (18) feet, as measured from the lowest point from where the system is affixed to the

vertical façade of a building.

iv. System shall be shown on the plans submitted for the building permit application for the building containing the system.

c. Tier 2 Ground-mounted Solar Energy Systems are subject to site plan review and compliance with the following conditions:

d.

i. All structures and devices used to support solar energy systems shall be non-reflective and painted a subtle or earth tone color.

ii. Views of the Tier 2 solar energy system shall be minimized from adjacent properties.

iii. The system shall be located in a manner to reasonably avoid and minimize blockage of view from surrounding properties and shading of adjacent properties.

iv. Panels shall not be oriented such that they are directed at any adjacent residential dwelling.

v. Setbacks: Tier 2 Systems shall be subject to the setback requirements specified for accessory structures in the underlying zoning district. All ground-mounted systems shall be installed in rear yards in R-1 Residential and B Business zoning districts. Ground-mounted systems shall be installed in A/R Agriculture Residential, M Manufacturing and S Seasonal zoning districts in rear or side yard. Any System installed in side yards shall not extend beyond the front line of the property dwelling. Systems shall not unreasonably encroach upon neighboring parcels through introduction of shade, nuisance noise, or other nuisance conditions.

vi. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district. Lot coverage by ground mounted solar energy systems shall be limited by the panel area required to produce no more than 125% of the on-site energy usage.

2. Decommissioning and removal of Tier 1 and Tier 2 solar energy systems shall be undertaken within six (6) months of cessation of energy production. All equipment shall be removed from the site and disposed of or recycled pursuant to the laws and regulations of the State of New York and the County of Wyoming. Decommissioning and removal are to be

done at the expense of the owner/operator.

ARTICLE II REGULATIONS, SECTION 2.3 RESIDENTIAL-MULTIPLE DISTRICT:

ADD THE FOLLOWING:

2.3.2 PERMITTED ACCESSORY USES

B. PERMITTING REQUIREMENTS FOR TIER 1 AND TIER 2 SOLAR ENERGY SYSTEMS.

1 Tier 1and 2 Solar Energy Systems shall be permitted in all zoning districts within the Town of Bennington. Tier 1 Systems shall be exempt from site plan review and approval subject to the following condition:

a. Tier 1 Roof-mounted Solar Energy Systems

b.

i. Design requirements:

ii.

AA. Solar Panels shall not be located closer that three (3) feet to any roof edge or building wall, and in no instance shall any part of the system extend beyond the roof line or parapet wall.

BB. Solar Panels on pitched roofs shall be mounted with a minimum distance of two (2) inches and maximum depth of eight (8) inches between the roof surface and the highest edge of the system.

CC. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

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

EE. A minimum three (3) foot center walkway between arrays is required for safety access.

FF. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than twenty-four (24) inches above the flat surface of the roof, whichever is higher.

GG. All solar panels shall have anti-reflective coating(s).

iii. Height: When affixed to a pitched or peaked roof, a Solar

Energy System should generally follow the slope of the roof. The highest part of a roof-mounted System shall not be more than three (3) feet higher than the finished roof to which it is attached.

c. Tier 1 Building -Integrated Solar Energy Systems:

Tier 1 Building Integrated Solar Energy Systems are permitted in all zoning districts as accessory structures and shall require Town Planning Board site plan review subject to the following conditions:

i. Solar Panels shall be integrated into the design of the building and shall not obstruct any window, door, or other architectural feature of the building.

ii. Solar Panels shall not extend more than three (3) feet from the building façade to which it is affixed. A Panel shall not be located closer than three (3) feet to any roof edge or building wall, and in no instance shall any part of the system extend beyond the roof line or parapet wall.

iii. Height: The maximum height of a building-integrated solar energy system shall be eighteen (18) feet, as measured from the lowest point from where the system is affixed to the vertical façade of a building.

iv. System shall be shown on the plans submitted for the building permit application for the building containing the system.

d. Tier 2 Ground-mounted Solar Energy Systems are subject to site plan review and compliance with the following conditions:

i. All structures and devices used to support solar energy systems shall be non-reflective and painted a subtle or earth tone color.

ii. Views of the Tier 2 solar energy system shall be minimized from adjacent properties.

iii. The system shall be located in a manner to reasonably avoid and minimize blockage of view from surrounding properties and shading of adjacent properties.

iv. Panels shall not be oriented such that they are directed at any adjacent residential dwelling.

v. Setbacks: Tier 2 Systems shall be subject to the setback requirements specified for accessory structures in the underlying zoning district. All ground-mounted systems shall be installed in rear yards in R-1 Residential and B Business zoning districts. Ground-mounted systems shall be installed in A/R Agriculture Residential, M Manufacturing and S Seasonal zoning districts in rear or side yard. Any System installed in side yards shall not extend beyond the front line of the property dwelling. Systems shall not unreasonably encroach upon neighboring parcels through introduction of shade, nuisance noise, or other nuisance conditions.

vi. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district. Lot coverage by ground mounted solar energy systems shall be limited by the panel area required to produce no more than 125% of the on-site energy usage.

2. Decommissioning and removal of Tier 1 and Tier 2 solar energy systems shall be undertaken within six (6) months of cessation of energy production. All equipment shall be removed from the site and disposed of or recycled pursuant to the laws and regulations of the State of New York and the County of Wyoming. Decommissioning and removal are to be done at the expense of the owner/operator.

ARTICLE II REGULATIONS, SECTION 2.4 BUSINESS DISTRICT:

ADD THE FOLLOWING:

2.4.2 PERMITTED ACCESSORY USES

C. PERMITTING REQUIREMENTS FOR TIER 1 AND TIER 2 SOLAR ENERGY SYSTEMS.

1. Tier 1and 2 Solar Energy Systems shall be permitted in all zoning districts within the Town of Bennington. Tier 1 Systems shall be exempt from site plan review and approval subject to the following condition:

a. Tier 1 Roof-mounted Solar Energy Systems

i. Design requirements:

AA. Solar Panels shall not be located closer that three (3) feet to any roof edge or building wall, and in no instance shall any part of the system extend beyond

the roof line or parapet wall.

BB. Solar Panels on pitched roofs shall be mounted with a minimum distance of two (2) inches and maximum depth of eight (8) inches between the roof surface and the highest edge of the system.

CC. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

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

EE. A minimum three (3) foot center walkway between arrays is required for safety access.

FF. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than twenty-four (24) inches above the flat surface of the roof, whichever is higher.

GG. All solar panels shall have anti-reflective coating(s).

ii. Height: When affixed to a pitched or peaked roof, a Solar Energy System should generally follow the slope of the roof. The highest part of a roof-mounted System shall not be more than three (3) feet higher than the finished roof to which it is attached.

b. Tier 1 Building -Integrated Solar Energy Systems:

Tier 1 Building Integrated Solar Energy Systems are permitted in all zoning districts as accessory structures and shall require Town Planning Board site plan review subject to the following conditions:

i. Solar Panels shall be integrated into the design of the building and shall not obstruct any window, door, or other architectural feature of the building.

ii. Solar Panels shall not extend more than three (3) feet from the building façade to which it is affixed. A Panel shall not be located closer than three (3) feet to any roof edge or building wall, and in no instance shall any part of the system extend beyond the roof line or parapet wall.

iii. Height: The maximum height of a building-integrated solar energy system shall be eighteen (18) feet, as measured from the lowest point from where the system is affixed to the vertical façade of a building.

iv. System shall be shown on the plans submitted for the building permit application for the building containing the system.

c. Tier 2 Ground-mounted Solar Energy Systems are subject to site plan review and compliance with the following conditions:

d.

i. All structures and devices used to support solar energy systems shall be non-reflective and painted a subtle or earth tone color.

ii. Views of the Tier 2 solar energy system shall be minimized from adjacent properties.

iii. The system shall be located in a manner to reasonably avoid and minimize blockage of view from surrounding properties and shading of adjacent properties.

iv. Panels shall not be oriented such that they are directed at any adjacent residential dwelling.

v. Setbacks: Tier 2 Systems shall be subject to the setback requirements specified for accessory structures in the underlying zoning district. All ground-mounted systems shall be installed in rear yards in R-1 Residential and B Business zoning districts. Ground-mounted systems shall be installed in A/R Agriculture Residential, M Manufacturing and S Seasonal zoning districts in rear or side yard. Any System installed in side yards shall not extend beyond the front line of the property dwelling. Systems shall not unreasonably encroach upon neighboring parcels through introduction of shade, nuisance noise, or other nuisance conditions.

vi. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district. Lot coverage by ground mounted solar energy systems shall be limited by the panel area required to produce no more than 125% of the on-site energy usage.

2. Decommissioning and removal of Tier 1 and Tier 2 solar energy systems

shall be undertaken within six (6) months of cessation of energy production. All equipment shall be removed from the site and disposed of or recycled pursuant to the laws and regulations of the State of New York and the County of Wyoming. Decommissioning and removal are to be done at the expense of the owner/operator.

ARTICLE II REGULATIONS, SECTION 2.5 MANUFACTURING:

ADD THE FOLLOWING:

2.5.7 PERMITTED ACCESSORY USES

A. PERMITTING REQUIREMENTS FOR TIER 1 AND TIER 2 SOLAR ENERGY SYSTEMS.

1. Tier 1 and 2 Solar Energy Systems shall be permitted in all zoning districts within the Town of Bennington. Tier 1 Systems shall be exempt from site plan review and approval subject to the following condition:

a. Tier 1 Roof-mounted Solar Energy Systems

i. Design requirements:

AA. Solar Panels shall not be located closer that three (3) feet to any roof edge or building wall, and in no instance shall any part of the system extend beyond the roof line or parapet wall.

BB. Solar Panels on pitched roofs shall be mounted with a minimum distance of two (2) inches and maximum depth of eight (8) inches between the roof surface and the highest edge of the system.

CC. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

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

EE. A minimum three (3) foot center walkway between arrays is required for safety access.

FF. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than twenty-four (24) inches above the flat surface of the

roof, whichever is higher.

GG. All solar panels shall have anti-reflective coating(s).

iii. Height: When affixed to a pitched or peaked roof, a Solar Energy System should generally follow the slope of the roof. The highest part of a roof-mounted System shall not be more than three (3) feet higher than the finished roof to which it is attached.

e. Tier 1 Building -Integrated Solar Energy Systems:

Tier 1 Building Integrated Solar Energy Systems are permitted in all zoning districts as accessory structures and shall require Town Planning Board site plan review subject to the following conditions:

i. Solar Panels shall be integrated into the design of the building and shall not obstruct any window, door, or other architectural feature of the building.

ii. Solar Panels shall not extend more than three (3) feet from the building façade to which it is affixed. A Panel shall not be located closer than three (3) feet to any roof edge or building wall, and in no instance shall any part of the system extend beyond the roof line or parapet wall.

iii. Height: The maximum height of a building-integrated solar energy system shall be eighteen (18) feet, as measured from the lowest point from where the system is affixed to the vertical façade of a building.

iv. System shall be shown on the plans submitted for the building permit application for the building containing the system.

f. Tier 2 Ground-mounted Solar Energy Systems are subject to site plan review and compliance with the following conditions:

i. All structures and devices used to support solar energy systems shall be non-reflective and painted a subtle or earth tone color.

ii. Views of the Tier 2 solar energy system shall be minimized from adjacent properties.

iii. The system shall be located in a manner to reasonably avoid and minimize blockage of view from surrounding properties

and shading of adjacent properties.

iv. Panels shall not be oriented such that they are directed at any adjacent residential dwelling.

v. Setbacks: Tier 2 Systems shall be subject to the setback requirements specified for accessory structures in the underlying zoning district. All ground-mounted systems shall be installed in rear yards in R-1 Residential and B Business zoning districts. Ground-mounted systems shall be installed in A/R Agriculture Residential, M Manufacturing and S Seasonal zoning districts in rear or side yard. Any System installed in side yards shall not extend beyond the front line of the property dwelling. Systems shall not unreasonably encroach upon neighboring parcels through introduction of shade, nuisance noise, or other nuisance conditions.

vi. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district. Lot coverage by ground mounted solar energy systems shall be limited by the panel area required to produce no more than 125% of the on-site energy usage.

3. Decommissioning and removal of Tier 1 and Tier 2 solar energy systems shall be undertaken within six (6) months of cessation of energy production. All equipment shall be removed from the site and disposed of or recycled pursuant to the laws and regulations of the State of New York and the County of Wyoming. Decommissioning and removal are to be done at the expense of the owner/operator.

2.5.8 PERMITTED SPECIAL USES

A. TIER 3 AND TIER 4 SOLAR ENERGY SYSTESMS

1. Application requirements shall be:

a. Reviewed by the Zoning Enforcement Officer for completeness. Applicants shall be advised within ten business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

b. Subject to a public hearing to hear all comments for and against the application. The Town Board of the Town of Bennington shall have a notice printed in a newspaper of

general circulation in the legal newspaper of this Town at least ten days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within five hundred (500) feet of the property at least ten days prior to such a hearing. Proof of mailing shall be provided to the Town of Bennington Zoning Officer at the public hearing.

c. Referred to the County Planning Department pursuant to General Municipal Law§ 239-m if required.

d. Upon closing of the public hearing, the Town Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62- day period may be extended upon consent by both the Town Board and applicant.

2. Compliant with such standards established in Article VIII of this Law including but not limited to lot size and coverage, setback requirements, fencing, and screening.

3. 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.

4. Vehicular Paths: Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

5. Signage:

a. No signage or graphic content shall be displayed on the Solar Energy Systems except the information as required in Article V, Section 3.3.1(H)(5). Said information shall be depicted within an area no more than six (6) square feet.

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

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

7. 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.

8. Tree-cutting: Removal of existing trees should be minimized to the extent possible, with oversight authority by the Town of Bennington to ensure congruity with the goals and objectives as duly stated in the Town's Comprehensive Plans.

9. A decommissioning plan signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:

    a. The cost of removing the Solar Energy System.

    b. The time required to decommission and remove the System and any ancillary structures.

    c. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.

    d. Replacing/planting of any vegetation damaged, including trees.

10. Lot coverage: The Tier 3 or 4 Solar Energy Systems shall meet the maximum lot percentage coverage requirements and is defined as the Facility Area plus any access roads.

11. Fencing Requirements: All mechanical equipment, including any structure for storage batteries, shall be enclosed as per the requirements of Article V, Section 3.3.1(H)(7).

12. Screening and Visibility:

    a. Solar Energy Systems with Facility Areas smaller than ten 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.

        i. Visual barriers need to include lined fencing and trees.

        ii. Vegetation shall be managed in accordance with a vegetation management plan prepared and implemented pursuant to 6 NYCRR Part 325. The plan shall include a complete list of all chemicals proposed for use in vegetation

control. A copy of the plan shall be submitted to the Town annually and maintained on file with the Town.

b. Solar Energy Systems with Facility Areas larger than ten acres shall be required to:

i. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital view- shed report, shall be required to be submitted by the applicant.

ii. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.

iii. Buffer Design: All solar energy systems must include a visual buffer that minimizes views of the panels from adjacent properties, roadways, and public areas. The buffer shall consist of:

AA. A minimum width of 50 feet, consisting of a combination of trees and shrubs, with a planted layer that achieves an average height of 75 feet at maturity (see Exhibit A). The buffer is to be placed within the setback requirements and inserted adjacent to the property line or the fence surrounding the solar array, whichever is best suited for the parcel and terrain.

BB. Vegetation shall be of a variety suitable to the local climate and ecological conditions, with a preference for native species to promote sustainability.

CC. Trees should be native species to provide year-round screening.

DD. Fencing or walls, where required for security, shall be constructed in accordance with the minimum height requirements set forth by the National Electrical Code. In no event shall such fencing or

walls exceed the minimum height requirements set forth by the National Electrical Code. All fencing or walls must be made of non-reflective materials.

iv. Cross-Section Illustration: Applicants for solar permits shall submit a visual screening plan, including a cross-section showing the proposed buffer elements and their relationship to the solar panels, surrounding properties, and public view corridors.

v. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Town of Bennington.

AA. Visual barriers need to include lined fencing and trees.

BB. There needs to be vegetation control as per Article V, Sections 3.3.1(H)(8) and 3.3.1(H)(9)

13. Agricultural Resources: For projects located on agricultural lands, applicants shall refer to the restrictions of Solar Overlay Districts within the Town of Bennington Zoning Law, including, but not limited to:

a. Any Tier 3 Solar Energy System Facility Area located on the areas that consist of soils identified by the State of New York as Prime Farmland or Farmland of Statewide Importance shall not exceed 25% of the area of Prime Farmland or Farmland of Statewide Importance on the parcel(s).

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

c. 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.

14. Ownership Changes: If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the Town of such change within fifteen (15) days of the ownership change. A meeting shall be held within sixty (60) days of such change between representatives of the new owners, the Town and the Town Attorney to ensure continued compliance with all requirements of the Special Permit, including technical and financial obligations of the owner, and that there are no outstanding obligations or violations.

15. Escrow Account: The applicant shall, in good faith, negotiate and execute an escrow account arrangement with the Town, to provide funds for the payment of all legal and engineering fees payable from the Town for services pertaining to the review of all documents related to the solar energy project application. Said escrow agreement shall be executed prior to the issuance of any building permit and shall be effective from the original date of application.

16. Solar Screening Bond

    a. Deposit, Execution, or Filing Requirements: The deposit, execution, or filing with the Town of Bennington Clerk of cash, bond, letter of credit, or other form of security reasonably acceptable to the Town of Bennington attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the local or state permit issued for the installation and maintenance of the Solar Energy System, specifically addressing the provision and maintenance of required solar screening as set forth in the applicable permit. This bond shall also ensure the maintenance of visual screening measures required by the Town during the operation of the Solar Energy System. The amount of the bond, security, letter of credit, or cash escrow account shall be 125% of the estimated cost of providing and maintaining the solar screening in accordance with the specifications set by the Town, with an escalator of 3% annually, or by a percentage equal to the annual inflation rate as calculated using the Consumer Price Index published by the Labor Department's Bureau of Labor Statistics for the previous calendar year, whichever is greater, for ten (10) years.

    b. Initial Screening Cost Calculation: The initial calculation for the cost of installation and maintenance of the required screening shall be completed and stamped by a third-party New York State

Licensed Professional Engineer or landscape architect with applicable experience, agreeable to both the facility owner and the Town of Bennington. This cost shall include a reasonable percentage for any potential site restoration or landscaping requirements that may be necessary due to the installation and/or operation of the Solar Energy System.

c. Change in Ownership: The obligation to maintain a solar screening bond or security benefiting the Town of Bennington is a continuing obligation that may not be transferred without the prior written consent of the Town of Bennington. The Town shall not unreasonably withhold such consent.

d Default of Screening Obligations: In the event the applicant is in default of its obligations to maintain the required solar screening under any applicable law or permit, and after proper notice and expiration of any cure periods, the cash deposit, bond, letter of credit, or other security shall be forfeited to the Town of Bennington. The Town shall be entitled to maintain an action on the forfeited bond or security, and the bond or security shall remain in full force and effect until the screening measures are brought into full compliance with the terms of the permit.

e. Completion of Screening Requirements: Screening must be installed and maintained in accordance with the Site Screening Plan or as mutually agreed upon by the Town Board.

f. Failure to Comply: If the owner/operator fails to comply with the solar screening requirements upon notification of default, the Town of Bennington may, at its discretion, utilize the bond or other security to implement the required screening measures and ensure the site is brought into compliance with the conditions of the permit and applicable regulations.

17. DISCONTINUED USE AND DECOMMISSIONING: Solar Energy Systems that have been abandoned and/or non-operational for a period of six months shall be removed at the Owner and/or Operator's expense, which at the Owner's option may come from any security made with the Town of Bennington.

a. Security.

i. The deposit, executions, or filing with the Town of Bennington Clerk of cash, bond, letter of credit or other form of security reasonably acceptable to the Town of Bennington attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms

and conditions of the local or state permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond, security, letter of credit or cash escrow account shall be 125 % of the cost of removal of the Tier 3 or Tier 4 Solar Energy System and restoration of the property in accordance with any local or state conditions, with an escalator of 3% annually, or by a percentage equal to the annual inflation rate as calculated using the Consumer Price Index published by the Labor Department's Bureau of Labor Statistics for the previous calendar year, whichever is greater for the life of the Solar Energy System, except in any year where the decommissioning cost is recalculated as set forth below.

ii. The initial decommissioning cost calculation and subsequent updates shall be completed and stamped by a third-party New York State Licensed Professional Engineer with applicable solar facility experience, agreeable to both the facility owner and the Town of Bennington. Such calculation shall also include a reasonable percentage allocated to possible soil remediation as a result of the install and/or operation of the Solar Energy System.

AA. Beginning on the second anniversary of completion of construction, and every fifth year thereafter until decommissioning is completed, a qualified and independent third-party assessor or other consultant agreeable to both the facility owner and the Town will recalculate the projected cost of decommissioning over the next five-year period, and the applicant shall adjust the amount of the letter of credit to match 125% of the recalculated decommissioning cost. The expense of computing each recalculation shall be the responsibility of the owner/operator.

BB. Change in Ownership: The obligation to maintain a decommissioning security letter of credit, bond or cash escrow benefitting the Town of Bennington is a continuing obligation that may not be transferred without written consent of the Town of Bennington, which consent shall not be unreasonably withheld.

CC. In the event the applicant is in default of its obligations to decommission the facility under any applicable law or permit, and, after proper notice

and expiration of any cure periods, the cash deposit, bond, letter of credit or security shall be forfeited to the Town of Bennington, 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.

DD. In the event of default or abandonment of the Solar Energy System under this section or the conditions of any permit for construction and operation of the solar energy system, or abandonment of the solar energy system, the Town of Bennington may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The system shall be decommissioned as set forth in Article V, Section 3.3.3 (D).

b. Decommissioning must be completed in accordance with the Site Restoration Plan within twelve (12) months of notification as per Article V, Section 3.3.3 (D) or as mutually agreeable by the Town Board.

c. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of Bennington 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.

18. 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.

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 Bennington and any applicable

federal, state, or county laws or regulations.

d. The applicant shall provide any necessary training or specialized equipment to local fire personnel regarding to response to emergencies involving the Solar Energy System or storage batteries, as well as all applicable safety data sheets (SDS) to the satisfaction of the local fire company.

19. PERMIT

a. Upon completion of the review process, the Town Board shall, upon consideration of the standards of this law and the record of the SEQRA review, issue a written decision setting forth the reasons for approval, conditions for approval or disapproval.

b. If approved, the Town Board will direct the Town Clerk to modify the Official Zoning Map of the Town to reflect the creation of a Solar Energy System Overlay District, and authorize Town staff to issue a Special Use Permit for each Solar Energy System upon satisfaction of all conditions for said Permit, and direct the Wyoming County Building and Fire Codes Department to issue a building permit, upon compliance with the Uniform Fire Prevention and Building Code and other conditions of this law.

c. The decision of the Town Board shall be filed within five days in the Office of the Town Clerk and a copy mailed to the applicant by First Class Mail.

d. 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 [18] months after approval, the applicant or the Town of Bennington may extend the time to complete construction for [180] days. If the owner and/or operator fails to perform substantial construction after a total of [24] months, the approvals shall expire.

e. The owner or operator of any Tier 3 facility shall submit a written report to the Bennington Town Board on or before February 1st of each year detailing the total KWH output of the facility for the previous twelve (12) months.

20. ENFORCEMENT

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

21. TOWN MONITOR

a. During the construction and operation of the Project, the Town may elect to engage a third party with a reasonable amount of experience in the construction industry (the "**Town Monitor**") to represent the Town's interest in ensuring the Project complies with: (i) the Town Permits; (ii) the Town Agreements; and, (iii) the Local Law. The Town Monitor shall also be the Town's designated party to perform post-construction environmental monitoring duties of the Project. The Town Monitor shall have the right, upon reasonable notice, to access the Project site, to the extent needed. The applicant shall deposit funds, in an amount determined by the Town, sufficient to cover the cost of retaining the Town Monitor prior to the commencement of construction.

ARTICLE II REGULATIONS, SECTION 2.6 SEASONAL USE DISTRICT:

ADD THE FOLLOWING:

2.6.2 PERMITTED ACCESSORY USES

F. PERMITTING REQUIREMENTS FOR TIER 1 AND TIER 2 SOLAR ENERGY SYSTEMS.

1. Tier 1and 2 Solar Energy Systems shall be permitted in all zoning districts within the Town of Bennington. Tier 1 Systems shall be exempt from site plan review and approval subject to the following condition:

a. Tier 1 Roof-mounted Solar Energy Systems

i. Design requirements:

AA. Solar Panels shall not be located closer that three (3) feet to any roof edge or building wall, and in no instance shall any part of the system extend beyond the roof line or parapet wall.

BB. Solar Panels on pitched roofs shall be mounted with a minimum distance of two (2) inches and maximum depth of eight (8) inches between the roof surface and the highest edge of the system.

CC. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

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

EE. A minimum three (3) foot center walkway between arrays is required for safety access.

FF. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than twenty-four (24) inches above the flat surface of the roof, whichever is higher.

GG. All solar panels shall have anti-reflective coating(s).

ii. Height: When affixed to a pitched or peaked roof, a Solar Energy System should generally follow the slope of the roof. The highest part of a roof-mounted System shall not be more than three (3) feet higher than the finished roof to which it is attached.

b. Tier 1 Building -Integrated Solar Energy Systems:

c.

Tier 1 Building Integrated Solar Energy Systems are permitted in all zoning districts as accessory structures and shall require Town Planning Board site plan review subject to the following conditions:

i. Solar Panels shall be integrated into the design of the building and shall not obstruct any window, door, or other architectural feature of the building.

ii. Solar Panels shall not extend more than three (3) feet from the building façade to which it is affixed. A Panel shall not be located closer than three (3) feet to any roof edge or building wall, and in no instance shall any part of the system extend beyond the roof line or parapet wall.

iii. Height: The maximum height of a building-integrated solar energy system shall be eighteen (18) feet, as measured from the lowest point from where the system is affixed to the vertical façade of a building.

iv. System shall be shown on the plans submitted for the

building permit application for the building containing the system.

d. Tier 2 Ground-mounted Solar Energy Systems are subject to site plan review and compliance with the following conditions:

i. All structures and devices used to support solar energy systems shall be non-reflective and painted a subtle or earth tone color.

ii. Views of the Tier 2 solar energy system shall be minimized from adjacent properties.

iii. The system shall be located in a manner to reasonably avoid and minimize blockage of view from surrounding properties and shading of adjacent properties.

iv. Panels shall not be oriented such that they are directed at any adjacent residential dwelling.

v. Setbacks: Tier 2 Systems shall be subject to the setback requirements specified for accessory structures in the underlying zoning district. All ground-mounted systems shall be installed in rear yards in R-1 Residential and B Business zoning districts. Ground-mounted systems shall be installed in A/R Agriculture Residential, M Manufacturing and S Seasonal zoning districts in rear or side yard. Any System installed in side yards shall not extend beyond the front line of the property dwelling. Systems shall not unreasonably encroach upon neighboring parcels through introduction of shade, nuisance noise, or other nuisance conditions.

vi. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district. Lot coverage by ground mounted solar energy systems shall be limited by the panel area required to produce no more than 125% of the on-site energy usage.

2. Decommissioning and removal of Tier 1 and Tier 2 solar energy systems shall be undertaken within six (6) months of cessation of energy production. All equipment shall be removed from the site and disposed of or recycled pursuant to the laws and regulations of the State of New York and the County of Wyoming. Decommissioning and removal are to be done at the expense of the owner/operator.

ARTICLE V ADMINISTRATION AND ENFORCEMENT, SECTION 3 SITE PLAN REQUIREMENTS:

ADD THE FOLLOWING:

3.3 ADDITIONAL SITE PLAN REQUIREMENTS FOR TIER 3 AND TIER 4 SOLAR ENERGY SYSTEMS

3.3.1 General Requirements: All Tier 3 Solar Energy Systems are permitted in the Solar Overlay District by the issuance of a special use permit by the Bennington Town Board, after reviewing recommendations from the Planning Board and subject to the site plan application requirements, physical limitations on the area and other substantive requirements of the Bennington Town Zoning Law. Tier 4 Solar Energy Systems are subject to state level siting procedures administered by the Office of Renewal Energy Siting, Department of Public Service, or such other agency as may be designated by the State of New York. Tier 3 and Tier 4 Solar Energy Systems are a prohibited use outside of the Solar Overlay District.

A. Tier 3 and Tier 4 Solar Energy Systems are presumed to be Type 1 actions subject to SEQRA review unless exempted by another authority.

B. Lot Coverage: The facility area shall not exceed 33% of the total area of any tax parcel or lot. This coverage may be further reduced by the Town Board if it determines a lower coverage limit is necessary to accommodate environmental, aesthetic, or health and safety concerns.

C. Lot Size: The minimum lot size for Tier 3 and Tier 4 solar energy systems is 50 acres, comprised of a single or contiguous lots.

D. Height: The maximum height of any ground-mounted solar energy system is 20 feet from finish grade.

E. Setbacks for participating host parcels: The minimum setbacks from adjacent property lines are as follows:

1. Public Roadways: The fence enclosing the Facility Area shall be set back a minimum of 300 feet from all public roadways, measured from the centerline of the road.

2. Side and Rear Property Lines: The fence enclosing the Facility Area shall be set back a minimum of 100 feet from all adjacent side and rear property lines, except where the adjacent property is a participating non-host parcel, in which case no setback is required along the shared property line.

3. Setbacks shall be measured from the nearest fence of the Facility Area.

4. No part of any System shall extend into the required setbacks, including

any movement as a result of a tracking system or other adjustment of Solar Energy System related equipment or parts.

F. Setbacks for participating non-host parcels: The minimum setbacks from adjacent property lines are as follows:

1. Public Roadways: The fence enclosing the Facility Area shall be set back a minimum of 300 feet from any public road, measured from the center of the road.

2. Side and Rear Property Lines: The fence enclosing the Facility Area shall be set back a minimum of 100 feet from all adjacent side and rear property lines, except where the adjacent property is a participating host parcel, in which case no setback is required along the shared property line.

3. Setbacks shall be measured from the nearest fence of the Facility Area.

4. No part of any System shall extend into the required setbacks, including any movement as a result of a tracking system or other adjustment of Solar Energy System related equipment or parts.

G. Setbacks for non-participating parcels: The minimum setbacks from adjacent property lines are as follows:

1. Public Roadways: The fence enclosing the Facility Area shall be set back a minimum of 300 feet from any public road, measured from the center of the road.

2. Side and Rear Property Lines: The fence enclosing the Facility Area shall be set back a minimum of 200 feet from all adjacent side and rear property lines.

3. Minimum setback of 500 feet from all property lines bordering any school, public park, or other public place that may be adversely impacted by the solar energy system

4. Setbacks shall be measured from the nearest fence of the Facility Area.

5. No part of any System shall extend into the required setbacks, including any movement as a result of a tracking system or other adjustment of Solar Energy System related equipment or parts.

H. Design requirements:

1. All structures and devices used to support solar energy systems shall be non-reflective and painted a subtle or earth tone color.

2. Panel shall not be oriented such that they are directed at any adjacent residential dwelling.

3. Vehicular paths and emergency access ways within the site shall be designed to minimize the extent of impervious materials and soil compaction. Topsoil in the same location as roads shall be stripped and stockpiled, and roads shall be capable of bearing the weight of emergency vehicles and sufficiently wide to permit access to emergency vehicles such as fire trucks and ambulances so that emergency vehicles may pass each other without leaving the road. Applicants, their successors, and assigns shall be responsible for keeping all access roads clear and passable by emergency equipment at all times. Any road or driveway for ingress or egress existing or to be installed shall be thirty (30) feet as measured from the nearest property line.

4. Signage shall not exceed 6-square-feet per sign and shall be printed on a light reflective surface. No signage other than those required in Article V, Section 3.3.1(H)(5) are permitted.

5. Signage at the meter, facility entrances, and where access road(s) intersect with public roads shall be required that contains the following information:

    a. Disconnect and emergency shut-off information as required by the National Electric Code.

    b. 24-hour emergency contact information.

    c. Owner and operator's name, address and telephone number

    d. Facility addresses and project name.

    e. Manufacturer's badge and safety information

    f. Equipment specification information.

6. Lighting: Lighting of the facility shall be limited to that minimally required for safety and operational purposes and shall be dark-sky compliant, directional and shielded from all neighboring properties and public roads.

7. Fencing: All mechanical equipment shall be enclosed by fencing constructed in accordance with the minimum height requirements of the National Electrical Code. In no event shall the height of such fencing or walls exceed the National Electrical Code minimum. Fencing must be at least five (5) inches above grade and include a self-locking gate. All fencing shall be made of non-reflective materials. The use of opaque

fencing is encouraged to mitigate visual impacts.

8. Screening: The Facility Area must be completely screened from all adjacent property lines. Existing vegetation on-site may be used to satisfy all or a portion of the required screening. If existing vegetation is not present on-site to provide adequate screening, the following must be planted: white pine trees, native maple trees, and dappled willow shrubs. White pine trees must be a minimum of four (4) feet tall at the time of planting and reach a minimum height of seventy-five (75) feet at maturity. Native maple trees must be a minimum of ten (10) feet tall at the time of planting and reach a minimum height of forty-five (45) feet at maturity. Dappled willow shrubs must be a minimum of three (3) feet tall at the time of planting and reach a minimum height of six (6) feet at maturity. Off-site existing vegetation may not be used as a part of screening plan.

9. Landscaping. Landscaping used as screening must be maintained for the life of the project. Native vegetation is strongly encouraged to the extent practicable. Prior notification shall be given to adjacent property owners before changes to the landscape are made.

10. Transmission Lines: All on-site utility and transmission lines shall, to the extent feasible, be placed underground.

11. Deforestation discouraged: Removal of trees and other existing vegetation shall be limited to the extent necessary for the construction and maintenance of the solar energy facility. Removal of existing trees larger than six (6) inches in diameter at breast height (DBH) must be avoided to the maximum extent possible. Mitigation is required for removal of existing trees larger than six (6) inches in diameter. Mitigation may include planting of appropriately sized trees used for screening elsewhere on-site.

12. The burning of brush, vegetation, or any other materials cleared for the development, construction, or maintenance of a solar energy system is strictly prohibited. All such materials must be either removed from the site or chipped on-site by the applicant or their contractor. The applicant shall be responsible for ensuring that all disposal activities comply with applicable local, state, and federal regulations.

13. Soils: Disturbance of Prime Farmland, Prime Farmland If Drained, Farmland of Statewide Importance and MSG 1-4 shall be avoided to the maximum extent practicable.

14. Agricultural Lands: Applicants must adhere to the NYS Department of Agriculture and Markets (NYSAGM) Guidelines for Solar Energy Projects – Construction Mitigation for Agriculture Lands. Applicants are required to implement dual-use solar strategies to the maximum extent

practicable or otherwise offset any loss of agricultural activity. Incorporation of sheep grazing into the vegetation management plan is encouraged.

15. Noise: Once in operation, sound pressure level at the exterior of any residence or non-participating property line, expressed in terms of dBA Leq-8hr, shall not exceed existing background ambient noise, expressed in dBA Leq-8hr as measured by a qualified acoustician, by more than 6dB.

16. Safety information: A safety plan must be submitted that specifies the measures that will be used to prevent public access to unsafe areas, and to provide or emergency response, including but not limited to the location height, materials and colors of fencing and other barriers to public access. A standard red universal fire lock box shall be installed to allow emergency on-site access. Emergency response personnel shall be given the opportunity for a final walk-through prior to issuance of final approval of the construction and the owner/operator shall provide safety training and equipment as required by the local fire company for emergency response.

17. Documentation shall be provided that no element of the System shall reflect glare or glint that could be disruptive to passing aircraft (as defined by the FAA.)

I. Owners and operators shall be required to keep all records of maintenance activities and to notify adjacent property owners prior to such activities. The Town of Bennington Zoning Enforcement Officer shall have the right to request documentation from the owner/operator of a Solar Energy System regarding the system's usage and maintenance at any time.

J. The owner/operator shall be required to fully inspect the system on a quarterly basis at their expense. Inspections shall be conducted by a certified New York State Fire and Building Codes enforcement officer, NYS licensed professional engineer or other professional, mutually agreed upon by the Town and the applicant. A copy of the inspection report shall be provided to the Town of Bennington Zoning Enforcement Officer and Wyoming County Building and Fire Codes Department as part of the renewal of the Special Use Permit.

3.3.2 SKETCH PLAN MEETING

A. The applicant is required to attend a pre-application sketch plan meeting with the Town Board and Planning Board prior to the submission of a formal site plan for a proposed solar energy system. The applicant must provide a conceptual site plan and any relevant supporting documents for review. During the meeting, the applicant will receive feedback on compliance with the Town of Bennington Solar Energy Law, zoning regulations, and environmental considerations, as well as guidance on the necessary components for the site plan application. The

meeting is advisory, and no formal decisions will be made.

3.3.3 ADDITIONAL SITE PLAN APPLICATION REQIUREMENTS

A. Solar Energy Systems requiring site plan review must submit the following information in additional to the requirement set forth in the Town of Bennington Zoning Law:

1. Completed Town of Bennington Solar Application form

2. Completed Full Environmental Assessment form

3. Completed Soil Analysis. The soil analysis shall include, but is not limited to, the following:

   a. Nutrient Content: The soil shall be tested for key nutrients essential for soil health, including but not limited to nitrogen (N), phosphorus (P), potassium (K), calcium (Ca), magnesium (Mg), and sulfur (S).

   b. pH Level: The pH level will be tested at inception to establish a baseline, ensuring that any variations in pH resulting from the installation process are identified and addressed.

   c. Heavy Metal Testing: The soil must be tested for the presence of heavy metals, including but not limited to: - Mercury (Hg) - Lead (Pb) - Aluminum (Al) - Iron (Fe) - Chromium (Cr) - Cadmium (Cd)

4. Narrative description of the proposed project, including identification of all approval sought, existing site conditions and adjacent land uses and owners.

5. A plot plan prepared by a licensed engineer indicating property lines and physical features including roads for the project site, major existing structures including residences, public roads and all adjoining properties within one thousand (1,000) feet of the boundaries of the proposed SESO District, existing above ground utility lines, and the proposed boundaries of the SESO District.

6. Proposed changes to landscape of the site, including grading, vegetation clearing and planting, and screening vegetation or structures

7. Screening and Landscape plan.

8. Lighting Plan

9. Fencing Plan

10. Utility Plan.

11. Current zoning district designation for the parcel(s) of land comprising the project site

12. A three-line electrical diagram detailing the solar energy system layout, solar collector installation, associated components, and electrical interconnection methods, with all National electrical Code (NEC) compliant disconnects and over current devices.

13. Property Operations and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming. The Town encourages the employment of local individuals to complete such work.

14. 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

15. 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 provided to the local fire company and submitted to the Town prior to the issuance of the building permit.

16. 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 the building permit.

17. Name, address, phone number and signature of the project applicant, as well as all the property owner(s), demonstrating their consent to the application and the use of the property for the solar energy system.

18. Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State Licensed Professional Engineer or NYS Registered Architect.

19. Notation or indication of any on-site storage batteries for the project.

20. Complete End of Life Decommissioning and Site Restoration Plan as set forth in Article V, Section 3.3.3 (D).

B. Owners and operators shall be required to keep all records of maintenance activities and to notify adjacent property owners prior to such activities. The Town of Bennington Zoning Enforcement Officer shall have the right to request documentation from the owner/operator of a Solar Energy System regarding the system's usage and maintenance at any time.

C. The owner/operator shall be required to fully inspect the system on a quarterly basis at their expense. Inspections shall be conducted by a certified New York State Fire and Building Codes enforcement officer, NYS licensed professional engineer or other professional, mutually agreed upon by the Town and the applicant. A copy of the inspection report shall be provided to the Town of Bennington Zoning Enforcement Officer and Wyoming County Building and Fire Codes Department as part of the renewal of the Special Use Permit.

D. End of Life - Site Restoration Plan: The applicant shall submit a detailed "End of Life - Site Restoration Plan and Narrative" which would discuss and illustrate the following:

1. The removal of all equipment, fencing, concrete pads, solar panels, transformer/inverter equipment, security barriers and transmission lines from the site that will not be used by other approved uses on the site.

2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

3. Stabilization and/or re-vegetation of the site as necessary to minimize erosion.

4. Disturbed earth shall be graded and reseeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

5. Restoration timeline. Anticipated duration of the solar farm and an estimated length of time required to completely restore the site in full compliance of the Town-approved development plans.

6. Restoration plan set. The application shall include a pre-construction and post-restoration plan set illustrating the locations or all restoration boundaries and the type of restoration being proposed for each area of the site. The narrative should also include the proposed restoration plan (plantings, species, planting sizes at install, etc.). At minimum, the plan shall include plantings, with appropriate native plant species, to return the cleared areas of the solar farm to their original state.

7. Completed Soil Analysis. The soil analysis shall include, but is not limited to, the following:

a. Nutrient Content: The soil shall be tested for key nutrients essential for soil health, including but not limited to nitrogen (N), phosphorus (P), potassium (K), calcium (Ca), magnesium (Mg), and sulfur (S). If nutrient levels fall outside the acceptable pH range of 4.5–8, adjustments will be required to return the soil to baseline levels.

b. pH Level: The soil will be tested after the project is completed and during the decommissioning phase to ensure that any changes in composition or quality are identified, with the soil being returned to baseline levels as necessary.

c. Heavy Metal Testing: The soil must be tested for the presence of heavy metals, including but not limited to: - Mercury (Hg) - Lead (Pb) - Aluminum (Al) - Iron (Fe) - Chromium (Cr) - Cadmium (Cd). If heavy metal levels are found to be outside acceptable ranges, they will be adjusted and returned to baseline levels as necessary.

ARTICLE I SCOPE AND APPLICATION, SECTION 3 INTENT AND INTERPRETATION:

ADD THE FOLLOWING:

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. The Town Board declares that it would have passed this Local Law and each section thereof irrespective of the fact that any one or more of the section, subsection, sentences, clauses, or phrases may be declared unconstitutional, invalid, or preempted. Any holding of invalidity or unenforceability shall be given the narrowest impact permissible and the remainder of this law and amendments made hereto shall not be affected and shall remain in full force and effect.

REPEAL

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed, to include Local Law #2 of the year 2017 Town of Bennington.

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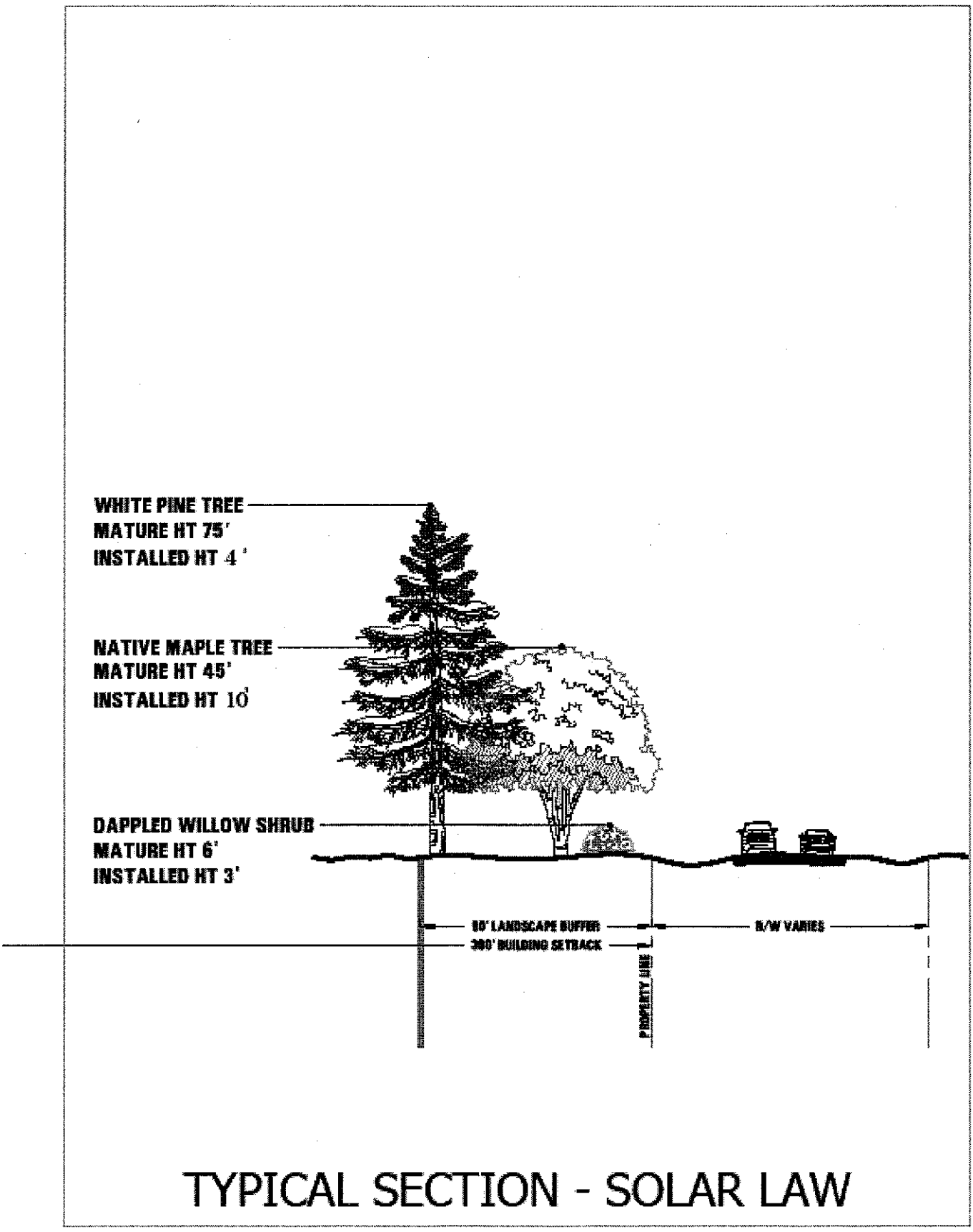
EXHIBIT A



TYPICAL SECTION - SOLAR LAW