Draft Local Law No. 3 of 2024 - Revision 1

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Solar Law for the Town of Lyme

~~June 10~~October ____, 2025

Be it hereby enacted by the Town Board of the Town of Lyme, in the County of Jefferson, New York, as follows:

§ 1. TITLE

This Local Law shall be referred to as "Solar Law for the Town of Lyme" and shall repeal and replace Local Law No. 3 of 2024.

§ 2. PURPOSE AND INTENT

The purpose of the Solar Law for the Town of Lyme shall be to provide substantive and procedural standards for the siting, development, operation, and decommissioning of Solar Energy Facilities in the Town of Lyme.

Through this law, the Town of Lyme intends to minimize the potential adverse impacts of Solar Energy Facilities to public health, safety, ground water, water supply, the environment, and the Town's community character and history.

This Solar Law is intended to provide a regulatory scheme for the designation of properties suitable for the location, construction, and operation of Solar Facilities and associated Battery Energy Storage Systems; while also setting substantive standards for mitigating or avoiding the impacts of the same on environmental resources such as agricultural lands, forests, wildlife, and other protected and endangered resources, specifically federal and New York State threatened and endangered species.

Furthermore, the Town of Lyme Solar Law includes the following objectives:

1. To create synergy between solar energy system development while protecting the historic and rural character of the Town.
2. Maintaining its growing desirability as a vacation and resort destination.
3. Maintain the rural character of the town.
4. Retaining farm production, particularly agricultural land use and farming operations.

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5. To protect environmental resources such as agricultural lands, forests, wildlife and their habitats, waterways, regulated wetlands, unique views and other protected resources from the potential for adverse impacts from Solar Energy Systems; Maintain open spaces, natural and unique habitats, regulated wetlands, alvars and watersheds.
7. To encourage a sense of pride in the community and allow local residents, farms, businesses, while taking advantage of the potential financial benefits of appropriately sited solar energy systems in the Town of Lyme.

The Town further finds that appropriate siting of Solar Energy Facilities, in a manner compatible with the Town's Comprehensive Plan objectives and vision of preserving its natural, historical, and cultural assets, along with sustaining its valuable economic and natural resources, particularly agricultural land use, open spaces, natural habitats, regulated wetlands, and watersheds, is effectuated through this law.

§ 3. AUTHORITY

The Town Board of the Town of Lyme enacts this Solar Law for the Town of Lyme under the authority granted by:

a. Article IX of the New York State Constitution, §§ 1(a), 2 (c), and 3(c).
b. The supersession authority granted by New York Municipal Home Rule Law, § 10, Subdivision (1)(ii)(d)(3).
c. New York Statute of Local Governments, § 10 (1) , (5), (6) and (7).
d. New York Municipal Home Rule Law, § 10 (1)(i) and (ii) New York Town Law § 130.
e. New York Real Property Tax Law § 487.

§ 4. DEFINITIONS

For the purpose of this amendment to Town Zoning, the following terms shall have the meanings indicated:

AGRICULTURAL OR FARM OPERATIONS – Agricultural or Farm Operations consist of the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including commercial horse boarding

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operations and "timber processing". Such farm operations may consist of one or more parcels of owned or rented land. The land parcels may be contiguous or noncontiguous to each other.

AGRICULTURAL DISTRICT – Enacted in 1971, an agricultural district is defined within New York State's Agriculture Districts Law (ADL) as a geographic area which consists predominantly of viable agricultural land. Agricultural operations within the district are the priority land use and afforded benefits and protections to promote the continuation of farming and the preservation of agricultural land. In practice, districts may include land that
is actively farmed, idle, forested, as well as residential and commercial.

APPLICANT – An applicant is the individual, landowner, project developer, facilities operator, facilities owner, business entity, organization, or New York State agency that seeks to secure a permit under this Local Law or seeks a permit, contract, or other any other approval t from the Office of Renewable Energy Siting (ORES), New York State Board on Electric Generation Siting, Public Service Commission, and/orthe Environment, New York State Energy Research & Development (NYSERDA), or any other New York State agency or siting authority which may be established in the future.

BATTERY ENERGY STORAGE SYSTEM (BESS) – One or more devices, such as a battery, often being lithium-ion batteries, or series of batteries or battery cells, assembled together, capable of storing energy to supply electrical energy at a future time, not to include a stand-alone 12-volt vehicle battery or batteries, or an electric motor vehicle or an electric motor vehicle's charging station. A battery energy storage system is typically classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

- Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 100kWh.
- Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 100kWh.

BATTERY STORAGE ENERGY ENCLOSURE(S) (BSEE) – An enclosure that contains a series of lithium-ion batteries, along with integrated controls designed to store energy as part of a modular system. Typical BESS configurations rely on multiple enclosures to meet either Tier 1 or 2 storage capabilities.

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM – A combination of
photovoltaic building components integrated into any building envelope system such as

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vertical facades including glass and other facade material, semitransparent skylight systems,
roofing materials and shading over windows that does not alter the relief of the roof.

CEA – Critical Environmental Areas (CEAs) are areas in New York State which have been designated by a local or state government or agency to recognize a specific geographical area with one or
more of the following characteristics:

- A feature that is a benefit or threat to human health;
- An exceptional or unique natural setting;
- An exceptional or unique social, historic, archaeological, recreational, or educational
  value; or
- An inherent ecological, geological, or hydrological sensitivity to change that may be adversely affected by any physical disturbance.

A CEA designation serves to alert project developers to the agency's concern for the resources or dangers contained within the CEA. Once a CEA has been designated, potential
impacts on the characteristics of that CEA become relevant areas of concern that warrant specific, articulated consideration in determining the significance of any Type I or Unlisted actions that may affect the CEA.

CAPACITY – The total rated peak power output in kilowatts or megawatts of all solar panels in a project as measured under Standard Test Conditions (STD).

CLEAR CUTTING – The removal of 75 percent, or greater, of trees more than three inches in diameter at breast height (dbh) in a forest or forestland, as defined in this law.

FACILITY OR FACILITIES OPERATOR – The person, entity, or organization responsible for the installation, operation, maintenance, replacement and/or modification of the Solar Energy Facility.

FACILITY OR FACILITIES OWNER– The agency, business, entity, or organization that owns the Solar Energy Facility.

FARMLAND OF STATEWIDE IMPORTANCE: Land, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of

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statewide 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.

FOREST/FORESTLAND – Forest or forestland is land that has at least 10% canopy cover of trees of any size, or that formerly has had such tree cover and is currently not developed or maintained for non-forest use (USDA), in a ten (10) acre area or less. Individual parcels, leased or purchased, shall be defined as forest or forest land. The aggregate cannot be used to determine if the proposed site meets this requirement.

FREE-STANDING/GROUND-MOUNTED SOLAR ENERGY FACILITY – A Solar Energy Facility that is anchored to the ground and attached to a pole or other mounting system,
detached from any other structure for the primary purpose of producing electricity.

GLARE – The effect produced by brightness or by reflections of light with intensity sufficient as determined in a reasonable manner to cause annoyance, discomfort or loss of visual performance and visibility.

GROUNDWATER – Groundwater is the water present beneath Earth's surface in rock and soil pore spaces and in the fractures of rock formations. Approximately 30 percent of all readily available freshwater in the world is groundwater. A unit of rock or an unconsolidated deposit is called an aquifer when it can yield a usable quantity of water.

HEIGHT – The height of a Solar Energy Facility to its furthest vertical extension above ground level.

HISTORICALLY SIGNIFICANT STRUCTURES & PLACES – A structure, place or setting is presumed to be historically significant to the Town of Lyme if it is located within the Town limits and has been present for a minimum of 50 years. Structures, places or settings that are associated with important historical figures or events may also be historically significant regardless of age. In addition to Town designated historical significances, all structures listed on the New York State or Federal Registers of Historic Places are considered significant.

LANDOWNER – A person who owns land, property, or real property upon which a Solar

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Energy Facility is proposed to be constructed and/or operated, or upon which a Solar Energy
Facility has already been constructed and/or operating.

LARGE SCALE SOLAR ENERGY FACILITY – The term "large scale solar" refers to Tier 2 and 3 Projects as defined under Solar Energy Facility.

MANUFACTURER - any person in business or no longer in business but having a successor in interest who, irrespective of the selling technique used, including by means of distance or remote sale:

a. Manufacturers or has manufactured a photovoltaic module under its own brand names for use or sale in or into this Town.

b. Assembles or has assembled a photovoltaic module that uses parts manufactured by others for use or sale in or into this Town under the assembler's brand names.

c. Resells or has resold in or into this Town under its own brand names a photovoltaic module produced by other suppliers, including retail establishments that sell photovoltaic modules under their own brand names.

d. Manufactures or has manufactured a cobranded photovoltaic module product for use or sale in or into this Town that carries the name of both the manufacturer and a retailer.

e. Imports or has imported a photovoltaic module into the United State that is used or sold in or into this Town. However, if the imported photovoltaic module is manufactured by any person with a presence in the United States meeting the criteria of manufacturer under (a) through (d) of this subsection, that person is the manufacturer.

f. Sells at retail a photovoltaic module acquired from an importer that is the manufacturer and elects to register as the manufacturer for those products, or

g. Elects to assume the responsibility and register in lieu of a manufacturer as defined under (a) through (d) of this subsection.

MINERAL SOIL GROUPS 1-4 (MSG 1-4) – Soils recognized by the New York State (NYS) Department of Agriculture and Markets as having the highest value based on soil productivity and capability, in accordance with the uniform statewide land classification

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system developed for the NYS Agricultural Assessment Program.

NAMEPLATE CAPACITY – Nameplate capacity, also known as the rated capacity, nominal capacity, installed capacity, maximum effect or Gross Capacity, is the intended full-load sustained output of a facility such as a power station, electric generator, a chemical plant, fuel plant, mine, metal refinery, and many others. Nameplate capacity is the theoretical output registered with authorities for classifying the unit.

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

OWNER/OPERATOR – The person, entity, or organization that owns and/or responsible for the installation, operation, maintenance, replacement and/or modification of the Solar Energy Facility.

PHOTOVOLTAIC (PV) SYSTEMS – A Solar Energy Facility that produces electricity by the use of semiconductor devices, called photovoltaic (PV) cells that generate electricity whenever light strikes the PV cells. In this law, the term "Solar Collector" refers to a photovoltaic system for energy production.

PLANNING BOARD – as defined in NY Town Laws Chapter62, Article 16, Section 271; Most commonly, town boards, through local law or ordinance, tasks the planning board with site plan review (see Town Law § 274-a), making determinations on special use permit applications (see Town Law 274-b), and performing subdivision review (see Town Law § 276). The town board may also seek recommendations from the planning board. Under Town Law § 271(13), the planning board may make recommendations to the town board on any subject matter over which the planning board has jurisdiction. The town board may also task the planning board to prepare proposed amendments to the town's comprehensive plan (see Town Law § 272-a); however, as the legislative body of the town, the town board makes the final determination on whether to adopt those proposals.

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

PRIME FARMLAND, PRIME SOILS AND PRIME SOIL LANDS – Agricultural land meeting: (1) the national parameters for land designated "Prime Farmland" as described in

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the US Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey; and (2) "farmland of statewide importance", pursuant to the State of New York classification system for Jefferson
County.

PROJECT BOUNDARY – The external property boundaries of lands owned by or leased by the Solar Energy Facility developers. It is represented on a plot plan view by a continuous line encompassing all Solar Energy Facilities and any other equipment associated with the project.

ROOF-MOUNTED SOLAR ENERGY FACILITY – A solar panel system installed on the roof of any legally permitted building or structure for the purpose of producing electricity for
on and/or off premise use.

SEQRA – The New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

SETBACK – The distance from a front lot, side lot, or rear lot line of a tax map parcel within which a free standing or ground mounted Solar Energy Facilities, including any associated fencing, shall not be installed.

SMALL SCALE SOLAR ENERGY FACILITY – The term "small scale solar" refers to Tier 1 Projects as defined under Solar Energy Facility.

SOLAR ACCESS – Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun to permit the use of active and/or passive Solar Energy Facilities on individual properties.

SOLAR COLLECTOR – A solar photovoltaic cell, panel, or array, or solar hot air or water collector device that relies upon solar radiation as an energy source for the generation of
electricity or transfer of stored heat.

SOLAR ENERGY EQUIPMENT – Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, and converted into another form of energy,

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stored, protected from unnecessary dissipation and distributed.

SOLAR ENERGY FACILITY OR FACILITIES – The components and sub-systems 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, and all related structures, accessory structures, infrastructure, and equipment. A Solar Energy Facility may also be known as a Solar Energy System or Solar Farm. A Solar Energy Facility is classified as Tier 1, Tier 2, or Tier 3 as follows:

- Tier 1 Solar Energy Facilities include the following:
  a. Roof-Mounted Solar Energy Facility.
  b. Building-Integrated Solar Energy Facility.
  c. On-Farm Solar Energy Facility.
  d. Ground-Mounted Solar Energy Facility with a Nameplate Capacity of up to ~~25~~ 50 kW, but not more than ~~2~~4,000 square feet of total panel surface area.
  e. Any Tier 1 Solar Energy Facility shall only ~~G~~generate up to 110% of the electricity consumed on the site over the
  previous 12 months.
- Tier 2 Solar Energy Facility includes the following:
  a. Ground-Mounted Solar Energy Facilities not included under Tier 1 Solar Energy Facilities with a Nameplate Capacity of up to, but not greater than, 19.99 MW, and/or a Facility Area not more than ~~99.99~~50 acres of land in size. Facility Area is defined by the footprint of the project – including perimeter fencing (includes space between solar panels and fencing) access roads, and
  other necessary equipment.
- Tier 3 Solar Energy Facility includes the following:
  a. Tier 3 Solar Energy Facilities are Solar Energy Facilities which are not included under Tier 1 or Tier 2 Solar Energy Facilities. These Solar Energy Facilities include, but are not limited to, Large Scale Energy Systems, Utility Scale, or Major Renewable Energy Facilities.

SOLAR ENERGY FACILITY PERMIT – A special use permit issued for a Solar Energy Facility pursuant to this Local Law and the Town of Lyme Zoning Law, as issued by the Town Board of the Town of Lyme.

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SOLAR PANEL – A photovoltaic or solar thermal device used for the direct conversion of solar energy into electricity or for the capture of solar energy as a heat source.

SOLAR-THERMAL SYSTEMS – Solar thermal systems directly heat water or other liquid using sunlight as the heat source. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

STEWARDSHIP ORGANIZATION: a corporation, nonprofit organization or other legal entity designated by a manufacturer or a group of manufacturers to implement a photovoltaic module stewardship program.

STEWARDSHIP PLAN: the plan developed by a manufacturer or its designated stewardship organization for a self-directed stewardship program.

STEWARDSHIP PROGRAM: the activities conducted by a manufacturer or stewardship organization to fulfill the requirements of this Local Law and implement the activities described in its stewardship plan.

STRATEGIC VANTAGE POINT – The location or locations from which to assess the visual impact of a proposed Solar Energy Facility. A vantage point is considered strategic if the public can be expected to congregate there for educational or civic purposes; religious observance; enjoyment of historic or cultural resources; or for recreation whereby the enjoyment of the natural environment is a key aspect of the recreational activity. Strategic Vantage Points include both public and private venues. Some examples include schools, golf courses, churches, public buildings, historically significant structures, parks, trails, roads, highways, hilltops, museums and cemeteries.

STREAMS & PROTECTED STREAMS – Streams and Small Waterbodies, Ponds, and Lakes with a surface of 10 acres or less, located in the course of a stream with a classification of AA, A, B, or with a Classification of C with a Standard of (T) or (TS) are collectively referred to as Protected Streams and are subject to the Stream Protection Provisions of the POW (Protection of waters) Regulations and Permit. See 6NYCRR Part 608, Article 15, Title 5 Environmental Conservation Law.

TOWN – The Town of Lyme, located in Jefferson County, New York.

TOWN BOARD/BOARD – The Town Board of the Town of Lyme.

WATER COURSES – Any natural or artificial, intermittent, seasonal, or permanent, and

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public or private water body or water segment. A water body that is intermittently, seasonally or permanently inundated with water and contains a discernible shoreline and includes ponds, lakes and reservoirs. A watercourse includes rivulets, brooks, creeks, streams, rivers andother waterways flowing in a definite channel with bed and banks and usually in a particular
direction.

WETLANDS – A variety of landscape features that contain or convey water and support unique plants and wildlife. Areas saturated by surface or ground water sufficient to support distinctive vegetation adapted for life in saturated soil conditions. Wetlands serve as natural
habitat for many species of plants and animals and absorb the forces of flood and tidal erosion to prevent loss of upland soil. Wetlands provide a multitude of ecological, economic, and social benefits. They provide habitat for fish, wildlife and plants – many of which have a commercial or recreational value – recharge groundwater, reduce flooding, provide clean drinking water, offer food and fiber, and support cultural and recreational activities. "Regulated wetlands" in the Town of Lyme include wetlands regulated by Federal, New York State, and New York State Department of Environmental Conservation.

WILDLIFE – Wild game, nongame species and all other animal life existing in a wild state, except fish, shellfish and crustacea, including wild birds. Protected wildlife means wild game and nongame species, birds, protected insects, species of special concern and endangered and threatened species of wildlife designated by the department pursuant to § 11-0535 (endangered and threatened species, species of special concern), species listed in § 11-0536 (Sale of certain wild animals or wild animal products prohibited) and species protected pursuant to § 11-0311, Environmental Conservation Law Section 11-6.a-c.

§ 5. PERMITS REQUIRED

a. No Solar Energy Facility (as defined by this law) shall be constructed, reconstructed, modified, or operated in the Town of Lyme except pursuant to and in compliance with a Solar Energy Facility Permit, issued by the town pursuant to this Local Law. Where this law and any other law of the Town of Lyme Zoning Law are inconsistent, the Lyme Solar Local Law shall be controlling.

b. Exemptions – No Solar Energy Facility Permit is required under this Local Law for the following (standard regulations requiring Building Permits for new construction or

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building alterations do, however, apply):

1. A Solar Energy Facility that is portable and not connected to the electrical wiring of a building or to the electrical grid.
2. A Solar Energy Facility that is utilized solely for Agricultural or Farm Operations in an Agricultural District certified pursuant to Article 25-AA of the Agricultural and Markets Law and not integrated to the electrical grid.
3. A building integrated photovoltaic system that is integrated into a building at the time of construction, and for which a Building Permit is applied for and subsequently issued. In this case, no additional Solar Energy Facility Permit is required.

c. Given the amount of land in the Town of Lyme already consumed by approved or operating solar energy facilities, Large Scale Solar Energy Systems including Tier 2 and Tier 3 Solar Energy Facilities are a Prohibited Use in the Town of Lyme. Any Solar Project shall provide a wildlife characterization/habitat assessment report. Table 1 indicates the type of application to be filed with the zoning officer.

Table 1 - Summary of Permitted Solar Energy Systems by Zoning District

Zoning District

Solar Energy System	AR	WF	PPD/FPD
Roof-Mounted Solar Energy System	ZP	ZP	SUP
Ground-Mounted Solar Energy System	ZP	ZP	SUP
Large Scale Solar Energy System	NP	NP	NP

PPD/FPD – Floating Planned Development (Zoning maps and 2017 Lyme Zoning text use the acronyms, PPD and FPD, synonymously.
ZP – Permitted with Zoning Permit
SUP – Special Use Permit with Site Plan Review
NP – Not Permitted

§ 6. APPLICABILITY AND GENERAL REQUIREMENTS

a. This Local Law shall apply to all areas of the Town of Lyme.

b. Solar Energy Facilities are not to be considered Public Utility Use because Solar Energy Facilities do not provide an essential service directly to the public.

c. Solar Energy Facilities are not considered an agricultural use.

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d. Any Solar Energy Facility for which a building permit has been properly issued by the Town and upon which construction commenced prior to the effective date of this Local Law, shall not be required to meet the requirements of this Local Law, provided, however, that:

1. Any pre-existing Solar Energy Facility that has not provided electrical energy to a building, or to the electrical grid for a continuous period of twelve (12) months must meet the requirements of this Local Law prior to recommencing the production of energy.
2. No modification or alteration to an existing Solar Energy Facility shall be allowed except for repair or in-kind replacement of Solar Energy Equipment without full compliance with this local law.
3. The requirements of this Solar Law for the Town of Lyme shall apply to all Solar Energy Facilities proposed, operated, modified, or constructed in the Town of Lyme after the effective date of this Local Law.
4. A new building permit or revision, may be requested by the Code Enforcement Officer or the Town Board if new regulatory requirements mitigate inherent risks due to legacy design and installation.

e. Any proposed Solar Energy Facility subject to review by the New York Board on Electric Generation and Siting and the Environment pursuant to Article 10 of the New York State Public Service Law, or the Office of Renewable Energy Siting pursuant to Section 94-c of the New York State Executive Law, or any other New York State siting authority which may be established in the future shall be subject to all substantive provisions of this law and any other applicable laws, codes, ordinances and regulations of the Town of Lyme, and any other applicable state or federal laws. In the event the prohibition on Tier 2 and Tier 3 Solar Energy Facilities is not applied or otherwise waived by any body charged with review and approval of Solar Energy Facilities, the substantive provisions of this law applicable to Tier 2 and Tier 3 Solar Energy Facilities shall apply.

f. Solar Energy Systems shall be designed by a NYS licensed architect or licensed engineer and installed in conformance with the applicable International Building Code, International Fire Prevention Code and National Fire Protection Association (NFPA) 70Standards.

§ 7. TIER 1 SOLAR ENERGY FACILITY REQUIREMENTS AND REGULATIONS

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a. Tier 1 Solar Energy Facilities shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, although nothing contained in this provision shall be construed to prohibit the sale of excess power through a "net billing" or "net metering" arrangement in accordance with New York Public Service Law 66 or similar State or Federal statute.

b. A Solar Energy Facility meeting the requirements of this section may be installed on any parcel that complies with this law, and all other applicable Zoning and/or other land use regulations. The area beneath ground mounted and freestanding solar collectors shall be included in calculating whether the lot meets maximum permitted lot building coverage and lot surface coverage requirements for the applicable district, notwithstanding that the collectors are not "buildings".

c. Solar Energy Facilities and Solar Energy Equipment shall be installed in accordance with the New York State Uniform Fire Prevention and Building Code.

d. Standards for Roof-Mounted Solar Energy Facilities – Roof-Mounted Solar Energy Facilities for electricity use onsite are permitted in all areas of the Town of Lyme when attached to any lawfully permitted building or structure, regardless of the amount of kilowatts (KW) per hours of energy produced by the photovoltaic system. Roof-Mounted Solar Energy Facility installations shall incorporate aesthetically pleasing designs. Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.

e. Ground-Mounted Tier 1 Solar Energy Facilities shall meet the following height and setback requirements:

1. Maximum Height shall be ten (10) feet.
2. Setback shall be at least thirty (30) feet from any lot line.

f. Solar Energy Facilities Applications for Small Scale Solar Energy Facilities require a building permit to be submitted to the Building Codes Enforcement Officer (CEO). In addition, any Tier 1 Solar Eneryg Facility with a nameplate capacity greater than 25 kw shall require a special use permit.

g. Compliance inspection(s) shall be carried out using inspection methods the Building Codes Enforcement Officer (CEO) deems appropriate.

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§ 8. TIER 2 SPECIFIC SOLAR ENERGY FACILITY REQUIREMENTS AND REGULATIONS

a. Tier 2 Solar Energy Facilities are a prohibited use in all zoning districts in the Town of Lyme.

§ 9. COMMON TIER 2 and TIER 3 SOLAR ENERGY FACILITY REQUIREMENTS AND REGULATIONS

a. Tier 3 Solar Energy Facilities are a prohibited use in all zoning districts in the Town of Lyme. In the event the prohibition on Tier 2 and Tier 3 Solar Energy Facilities contained in this Law is not applied or otherwise waived by any government body charged with review and approval of Solar Energy Facilities within the Town of Lyme, including but not limited to New York State Office of Renewable Energy Siting and Electric Transmission, the substantive provisions for Tier 2 and Tier 3 Solar Energy Facilities otherwise set forth in this Law shall apply.

b. Driven wells, along with the utilization of any open body of water, such as streams, ponds, etc., for the purpose of serving water to Solar Energy Facilities during the construction phase, or for the operation or maintenance of, are prohibited.

c. A Host Community Benefit Agreement between the Town of Lyme and a permit holder, with terms sufficient to mitigate or offset the adverse impacts of Solar Energy Facilities, is required prior to commencement of construction of any Facility with a project nameplate greater than 1 MW AC.

d. Tier 2 and 3 Solar Energy Facilities shall meet the following requirements:

1. Be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Protection and Building Code and National Electric Code and shall adhere to any additional applicable Town of Lyme building, plumbing, electrical, and fire codes. Except for conditions specified in this law, all systems

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shall comply with the provisions of the Town zoning ordinance for the zoning district in which they are located.

2. Maximum Vertical Projection Height of solar panels, equipment, etc., shall be ten (10) feet.

3. Setback of project perimeter screening shall be a minimum of one hundred and seventy-five (175) feet from the center of the approved and accepted Town county or state roadway. If said lot is a corner lot, said requirements apply to each roadway.

4. Setback of project perimeter and its screening shall be at least two hundred and fifty (250) feet from any property/lot line, and five hundred (500) feet from any residence or drilled well.

5. Setback shall be 1,000 feet from New York State designated Critical Environmental Areas (CEA) or other areas designated by the Town Board.

6. Tier 2 Solar Energy Facilities shall not be located within 1,250 feet of, the following areas of sensitivity:

i. One-hundred-year flood hazard zones considered an AE Zone on the FEMA Flood Maps.

ii. Properties included on or considered a Town's Historically Significant Structure, Site or Area, New York State or National Register of Historic Places, or otherwise identified as, or eligible for inclusion as, historically and/or significant resources.

iii. Significant archaeological resources. Such resources shall be protected and preserved, and any mitigation measures proposed as a part of the development of a Solar Energy Facility shall be undertaken in consultation with the NYS Historic Preservation Office and all other pertinent local and state historical preservation authorities.

iv. St. Lawrence Seaway Trail

v. All Town of Lyme Waterfront (WF) designated areas.

7. Transmission poles located in the project area, within the two hundred and fifty (250) feet of all property lines shall not be higher than twenty five (25) feet and shall be free of transformers.

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d. No solar panels shall be placed on slopes of 15 percent or greater, as averaged over 50 horizontal feet. Blasting, cutting and filling is prohibited to alter natural slopes for placement of panel arrays and roads.

e. Forested sites shall not be deforested and sites deforested less than five years before application submittal shall not be used to construct Solar Energy Facilities, unless the Applicant offsets the adverse impact of deforestation through conservation of the same amount of existing similar habitat, or creation of the same amount of new sites to host similar habit ("Conserved Forest Habitat"). The Town may, but is not required to, hold any real property interest created pursuant to this section. Conserved Forest Habitat shall be located within the Town of Lyme.

Brush, hedgerows and isolated trees or stands of trees in otherwise open fields or scrubland may be cut, however clear cutting of trees more than three inches in diameter at breast height (dbh, as defined herein) in an area exceeding quarter (¼) acre (10,890 square feet) is prohibited except as otherwise permissible under this section. This clearing restriction shall not apply to trees cleared for the access road.

Any portion of a property that has been clear-cut in excess of the area described in the paragraph above, regardless of the reason for such clear cutting, shall not be included in an application for a solar project for a period of five years following such clear cutting.

f. Site disturbance, including but not limited to, grading, soil removal, excavation and soil compaction in connection with installation of Solar Energy Facilities shall be minimized to the maximum extent practicable.

g. Solar Energy Facilities shall limit the use of agricultural areas within their project limits to no more than 10 percent of soils classified by the NYS Department of Agriculture and Markets' Agricultural Land Classification as mineral soils groups 1 through 4, prime farmland, and prime farmland if drained. All Solar Energy Facilities shall also adhere to the Department of Agriculture and Markets' Guidelines for Construction Mitigation for Agricultural Lands (the "NYAGM Guidelines"). Adherence to the NYAGM guidelines shall not be deemed as avoidance or mitigation of any adverse impact likely to result from the conversion of more than 10 percent of all soils classified by the NYS Department of Agriculture and Markets' Agricultural Land Classification as mineral soils groups 1 through 4, prime farmland, and prime farmland if drained, in any given project.

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h. To offset or mitigate the adverse impact of using high quality soils for a non agricultural purpose, and/or as required by New York Public Service Law Section 138(4), any Solar Energy Facility sited on soils classified by the NYS Department of Agriculture and Markets' Agricultural Land Classification as mineral soils groups 1 through 4, prime farmland, and/or prime farmland if drained, shall (1) prepare and carry out an agricultural co-utilization plan acceptable to the Town; and (2) permanently conserve an equal amount of soils classified as above, located in the Town of Lyme, in a manner acceptable to the Town.

i. Construction working hours shall be limited to Monday through Friday between the hours of 9:00 a.m. EST and 5:00 p.m. EST, except as required for reasons of worker safety, and as approved by the Town Board. The Town Board shall have discretion on whether to allow work on Saturdays. Work shall not be done outside these hours or on Sundays and New York State and Federal holidays, to ensure the quiet rural characteristics of the Town. Construction lighting shall be limited consistent with the requirements above.

j. The Solar Energy Facilities shall comply with New York State stormwater regulations as set forth in GP-0-20-001, as amended. The Stormwater Pollution Prevention Plan shall demonstrate that the Solar Energy Facility will not create adverse drainage, runoff or hydrology conditions that could impact adjoining and other non-participating properties in violation of New York State stormwater requirements.

k. Solar Energy Facility structures and equipment are prohibited on or within 500 feet of cemeteries or burial grounds. The Applicant shall consult with the Town Historian and Town Planning Board to identify any such burial grounds within or adjacent to the project site.

l. The Solar Energy Facilities, including any proposed off-site infrastructure, shall be located and visually screened in a manner to eliminate or otherwise minimize visibility adjacent property lines . Screening may be achieved through a berm structure, fencing, or vegetative screening, in accordance with the guidliens set forth below.

i. If berm structure is required, it shall not exceed 10 feet in height and shall be located in sufficient proximity to any property line to obscure views of solar panels and other facility components. The berm structure must include a mixture of live

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trees, bushes, shrubs or other like vegetation, that shall be maintained by the Applicant for the life of any Solar Energy Facility.

ii. While the deer resistant evergreens shall be the exclusive screening technique, the addition of smaller native trees, native fruit bearing shrubs, as well as native grasses and wildflowers (as identified as native in the NYS Flora Atlas) are to be provided to benefit wildlife and aesthetics.

iii. preferred live landscape screening shall be comprised of two staggered rows of trees planted every 12 to 15 linear feet from each other in each row (rows spaced 12 to 15 linear feet from each other) a minimum of 10 feet high at time of planting, plus supplemental shrubs to create a naturalized hedgerow habitat, planted a minimum of 25 feet outside of the Solar Energy Facility perimeter fence for firefighting purposes. . Trees and shrubs to be included in screening shall be native and non-invasive, and deer resistant species Trees to be included in screening shall be native and non-invasive species of evergreen (e.g. Norway Spruce, White Spruce) and deciduous trees at a ratio of one deciduous tree to every five evergreen trees, a minimum of 10 feet tall.
The Applicant shall guarantee that all plantings that form part of the approved landscape and screening plan will be maintained and replaced if necessary, for life of the project. In no instance should the screening be exclusively landscape screening or fencing.

iv. Existing vegetation may be used to satisfy all or a portion of the required landscape screening, providing it meets the specifications in this document

v. When the site contains or is surrounded by existing forests, a buffer of at least 50 feet of forest on the participating parcel where no trees shall be cut shall be established and maintained as a wild zone for the life of the facility. The exception to this shall be dead or diseased trees, which will be cut and removed to encourage healthy growth of existing trees.

m. Any fencing built with man-made materials should leave an open space between the bottom of the fencing and top of the ground to create an open space large

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enough for wildlife (e.g. rabbits, possums, skunks, raccoons, woodchucks, coyotes, foxes, etc.) to freely pass through. This opening shall be a maximum of twelve (12) inches in height from the ground surface and the bottom of the fence.

n. Warning signs with the owner's contact information shall be placed on each entrance and perimeter of the fencing.

o. Electrical Transmission Lines and collection lines shall be buried at a minimum of forty eight (48) inches to the maximum extent practicable. Transmission lines shall be buried in sand or shall be contained in appropriate conduit as required by the latest version of the National Electrical Code (NEC).

p. A Solar Energy Facility Owner or Operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to painting, structural repairs, erosion control, and upholding the landscaping/screening plan and the integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the facility and any access road(s), unless constructed and accepted as a public way.

q. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for the initial installation shall be re-graded and re-vegetated to the pre existing natural condition after completion of installation. Exempt from these requirements are access routes needed for maintenance and emergency access routes. Emergency access routes shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services.

r. Lighting is discouraged, but if used, shall be of the "full cut-off" variety casting light down and not horizontally, and will be operated in the off state when personnel are not on site.

1. Artificial lighting of Solar Energy Facilities shall be limited to lighting required for safety and operational purposes and shall be cast downward and shielded from all neighboring properties and public roads. Lighting shall be capable of manual or auto-shut off switch rather than motion detection.

s. To protect the Town's water resources, any proposed development in wetlands and water courses and their buffers, Solar Energy Facilities shall meet wetland requirements as provided in Title 6, Parts 663 and 664 of the New York Codes, Rules and Regulations and

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stream requirements as provided in Title 6, Part 608 of the NYCRR and shall meet all Clean Water Act requirements for placement of fill in Waters of the United States.

Solar Energy Facilities shall be sited following all applicable New York State and NWI (National Wetlands Inventory) Federal wetlands laws and regulations, with an additional 300-foot buffer and setback, including a 150-foot non disturbance area within the buffer and setback. A non-disturbance area is an area where natural vegetation must be maintained nearest the wetland and riparian margins.

t. Solar Energy Facility buildings, enclosures and accessory structures shall, to the extent possible, use materials, earth tone colors, and be textured so to blend the facility into the existing environment. Solar panels and equipment shall also be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways, or produce glare that impacts pilot maneuvers in and around the Watertown International Airport, or any other receptors, such as roadway drivers and residents.

u. Solar Energy Facilities and equipment shall be marked in a way to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant and visibly obvious and replaced as necessary to maintain legibility. A map of the facility with all relevant features marked, shall be provided to all local first responders.

v. All solar panels shall have anti-reflective coating(s) not identified as a hazardous material by the U.S. Environmental Protection Agency, unless an Applicant demonstrates the hazardous material is unlikely to cause harm to people, plants or animals when released into the environment. The Applicant shall adhere to all federal and state laws, regulations and guidelines regarding per- and polyfluoroalkyl substances (PFAS) and polytetrafluoroethylene (PTFE) films.

w. Safety Data Sheets (SDS) must be provided to all local area emergency responders for all chemicals or compounds found on site, to include chemicals used for vegetation and pest control. Agricultural laws pertaining to the use of such chemicals, such as requirements to notify neighboring property owners, must be adhered to.

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x. Solar panels and equipment shall be placed in order to:

1. Not restrict solar access on an adjoining property.
2. Be in harmony with the rural and agricultural character, along with the history of the Town of Lyme as emphasized in the Town Comprehensive Plan.
3. Not imperil the public health and safety.
4. Not discourage the development and use of adjacent land and buildings or impair their value.
5. Not lower neighboring property values, due to the degradation of a property's viewshed, as determined by the Town Board.

y. Project area cannot be used for transmission lines from future adjacent project sites.

z. Solar Project Density – To reduce the impact of excessive solar project sitings, the following requirements must be maintained:

1) Tier 2 Solar Energy Facilities
   a) The siting of Tier 2 solar Energy Projects shall not be sited any closer than 5 miles from an existing Tier 2 project lot line.
   b) The siting of Tier 2 solar Energy Projects shall not be sited any closer than 1 mile from an existing Tier 3 project lot line.
   c) Any Tier 2 solar energy facility shall not exceed 50 acres in size, and the cumulative acreage of all Tier 2 solar energy facilities shall not exceed 100 acres.

2) Tier 3 Solar Energy Facilities
   a) The existing project area is determined by the distance between the two furthest parcel lot lines that define an existing Tier 3 Solar Project. This distance, when divided by two (2), is defined as the existing project radius.
   b) The existing project impact area is determined by the project radius,, where the radius is used to draw a circle centered on the geographic center of the project area.

   c) A proposed Tier 3 project area, when determined by (a) and (b) above, shall not be located any closer than one mile from an existing project area.

aa. Owners and/or operators of Tier 2 and Tier 3 Solar Energy Facilities shall provide mandatory annual training for all active, local emergency responders participating in fire-ground operations must be made by the Facilities Operator. Appropriate training must be taught by a New York State certified instructor, and include training covering all aspects of

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potential hazards including those unique to solar panels, such as their resistance to and reaction under heat exposure, inverters, batteries, etc. Said training shall be offered by and paid for by the Facility Operator and shall be offered to all fire departments located within a 20-mile radius of the facility's perimeters. Annual training shall be offered until all equipment has been removed from the site. All appropriate equipment and materials necessary to properly control, suppress and put out fire and smoke output shall be provided by the owner/operator, at their own expense.

9. Decommissioning Agreement Proposal. To ensure the proper removal of Solar Energy Facilities, a proposed Decommissioning Agreement and Decommissioning Security, shall be submitted as part of the application. An executed Decommissioning Agreement between the Applicant and the Town shall be in place prior to commencement of construction.

bb.. Stewardship Plan - The manufacturer of photovoltaic panels or a stewardship organization may be designated to act as an agent on behalf of a manufacturer(s) in operating and implementing the stewardship plan required under this local law. Any stewardship organization that has obtained designation must provide to the Town of Lyme, a list of the manufacturers and brand names that the stewardship organization represents within 60 days of its designation by a manufacturer as its agent, and within sixty days of removal of such designation.

i. Stewardship Plan - The Stewardship Plan must provide for takeback of photovoltaic modules and installation components to minimize the release of hazardous substances into the environment and maximize the recovery of other components, including rare earth elements and commercially valuable materials.

ii. In developing a stewardship plan to ensure the convenient, safe, and environmentally sound takeback and recycling of photovoltaic modules and installation components and materials, a manufacturer or stewardship organization must consult with the Town and other interested stakeholders. This should include, at a minimum, one meeting with the Town prior to submitting the stewardship plan for initial review.

cc. A manufacturer must implement the stewardship plan pursuant to Section 4 of this Law. A manufacturer may periodically amend its stewardship plan in the form and manner prescribed by the Town. The Town shall approve or reject a program plan and program plan amendment.

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dd. Noise limits. Once in operation, the 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. Testing shall be conducted on an annual basis for the entire period of project life.

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

ff. Road Use Assurances – to avoid adverse impacts to town roads, an existing condition survey of the approved hauling routes using town roads shall be undertaken by the Applicant at the Applicant's expense. Any road, road shoulder areas, ditches, culverts, and its adjacent right of ways damaged during construction caused by the operator or its subcontractors on town roads shall be repaired or reconstructed to the satisfaction of the Town of Lyme Superintendent of Roadways and the Town Board at the Facility Operator's expense. Road Use Assurances may be demonstrated through execution by the Town and the Applicant of a mutually agreeable Road Use Agreement, which shall contain provisions for financial security for the benefit of the Town, in a form acceptable to the Town, and sufficient to cover the cost of completely replacing all town roads use by Applicant during construction, operation, or decommissioning of the facility.

gg. Decommissioning Agreement and Decommissioning Security.
Execution of, and compliance with, a Decommissioning Agreementis required.. The Decommissioning Agreement must specify that after the Solar Energy Facility can no longer be used, is deemed abandoned, or obsolete, the Applicant and/or any subsequent

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owner shall remove it. The Decommissioning Agreement shall demonstrate how the removal of all infrastructures and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A Professional Engineer acceptable to the Town shall prepare a cost estimate detailing the projected cost of executing the Decommissioning Agreement. Cost estimations shall not be reduced by any expected salvage value. The plan shall allow for periodic recalculation of the cost of decommissioning, and the cost shall serve as the basis for Decommissioning Security for the benefit of the town, and in the form of a bond. Removal of the Solar Energy Facility must
be completed in accordance with the Decommissioning Agreement. Note that if the Solar Energy Facility is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and exercise recourse through the decommissioning security, or otherwise impose a lien on the property to cover these costs to the municipality.

To protect the Town in the event of abandonment, prior to commencement of construction, the following provisions shall apply to all Tier 2 and Tier 3 Solar Energy Facilities:

1. If requested by the Code Enforcement Officer or Town Board, the Facilities Operator and/or Landowner of the Solar Energy Facility shall provide the requesting body, within forty-five (45) days of a written request, a report certified by a qualified consultant demonstrating that the Solar Energy Facility is operating at a capacity factor of at least twenty percent (20%) of its rated nameplate capacity over the one (1) year period ending the day of the request. Failure to provide a report within 45 days of a written request shall create a presumption that the Solar Energy Facility is not operating at a capacity factor of at least 20% of its rated nameplate capacity. A Solar Energy Facility shall be deemed "abandoned" if the system fails to generate and transmit electricity with a capacity factor of 20% of its rated nameplate capacity over a continuous period of one year.
2. A Solar Energy Facility also shall be deemed abandoned and required to be decommissioned if, construction of the system has not commenced within twelve (12) months of issuance of the first Solar Energy Facility Permit for the project, or been completed within eighteen (18) months after the commencement of construction. The time at which a Solar Energy Facility shall be deemed abandoned may be extended by the Town Board, at its sole discretion, for one additional period of one year, provided the Facilities Operator presents to the Town Board a viable plan outlining the steps and schedules for placing the system in service or back in service, at no less than twenty percent (20%) of its rated nameplate capacity (in kilowatts), within the time period of the extension. The Applicant prior to

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abandonment shall make an application for an extension period to the Town Board. The Town Board, when determining whether to grant an extension, may consider extenuating circumstances as to why the Solar Energy Facility has not been operating, or why construction has not been completed.

3. Decommissioning and Removal – Decommissioning and removal of all ground-mounted Solar Energy Facility shall consist of:

a. Physical removal of all above and below ground equipment, structures and foundations, steel I-beams or other similar pilings, including but not limited to all solar arrays, buildings, security barriers, fences, electric transmission lines and components, roadways and other physical improvements to the Site.

b. Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations. Remediation of the ground surface and soil to permit resumption of farming.

c. Stabilization and re-vegetation of the site with native seed mixes or plant species (excluding invasive species), or common agricultural plantings to minimize erosion.

d. All erected berms shall be removed or evenly spread through the project area.

e. All panels shall be removed and disposed as required by the Stewardship Program.

4. Decommissioning and Removal by Town – If a Solar Energy Facility Owner, Facility Operator, or Landowner fail to decommission and remove an abandoned facility in accordance with the requirements of this Section, the Town may enter upon the property to decommission and remove the system at the expense of the Applicant and Landowner.

5. Removal by Town and Reimbursement of Town Expenses – All costs and expenses incurred by the Town in connection with any proceeding or work performed by the Town or its representatives to decommission and remove a Solar Energy Facility, including legal costs and expenses, shall be reimbursed by the Facility Owner, Facility Operator, or Landowner

6. The decommissioning agreement shall contain a requirement for decommissioning security, for the benefit of the town, in the form of an escrow or letter of credit, an amount sufficient to cover the full cost of the removal and disposal of the Solar Energy Facility and any associated accessory structures, including the Stewardship Program costs. The Facilities Owner and Facilities Operator shall provide an updated Decommissioning Cost Estimate, accounting for anticipated rates of inflation, prepared by a Town designated New York State

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Licensed Engineer every two (2) years, and the surety bond shall be adjusted, if necessary, to reflect the then current decommissioning cost. Such surety bond must be provided pursuant to a Decommissioning Agreement with the Town, approved by the Town Board and Town Attorney as to form, sufficiency, and manner of execution. Decommissioning security must not lapse before decommissioning is complete.

hh. Host Community Agreement and Payment-in-Lieu of Taxes (PILOT) – To offset the adverse impacts of a Tier 2 or Tier 3 Solar Energy Facility, the Applicant shall enter into a Host Community Agreement with the Town of Lyme with terms agreeable to both parties. In addition to any Host Community Benefit Agreement that may be entered into, the Applicant for a Solar Energy Facility may enter into an agreement for a payment in lieu of taxes (PILOT) with the Town Board pursuant to Real Property Tax Law Section 487. This PILOT agreement shall be reviewed and approved by the Town Board. A PILOT agreement executed with the County Industrial Development Agency (IDA), acceptable to the Town Board, in its sole discretion, for the Solar Energy Facility may serve to meet the requirements of this section, at the Town of Lyme's discretion.

§ 10. TIER 3 SPECIFIC SOLAR ENERGY FACILITY REQUIREMENTS AND REGULATIONS

a. The Solar Energy Facilities, including any proposed off-site infrastructure, shall be located and visually screened, in such a way as to minimize or avoid visual impacts as viewed from public locations, public roads and roadways, residences on neighboring or view impacted parcels, or other locations identified by the Town Planning Board and/or Town Board.

§ 11. BATTERY ENERGY STORAGE SYSTEMS

a. Tier 1 Battery Energy Storage Systems (BESS) that are less than 100 kWh shall be permitted in zoning districts where Tier 1 Energy Facilities are allowed, (See Table 1)

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subject to the Uniform Code and the "Battery Energy Storage System Permit," and site plan review.

b. All Tier 2 BESS are a prohibited use in all zoning districts.

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§ 15. SYSTEM OPERATIONS

The following shall apply for all Tier 1, Tier 2, and Tier 3 Solar Energy Facility projects.

a. Safety/Emergency Response – Before any Solar Energy Facility becomes active, the owner/operator of the system shall arrange for an on-site meeting(s) and safety training session(s) and invite fire departments within 15 miles of any property that hosts the Solar Energy Facility (e.g., Lyme, Brownville, Cape Vincent, Clayton, Watertown Fire Districts, to review the components of the system, safety issues and procedures for emergency response. This shall include details on the location of labeled warnings, access to the site, and emergency disconnection of the system, along with providing a training video. In addition, the Town may require the installation of placards that provide mutual aid responders with sufficient information to protect them when responding to calls on site. Training material shall be documented and submitted to the Town of Lyme Clerk for record keeping and to Jefferson County Emergency Management.

b. Ownership Changes – If the owner or operator of the Solar Energy Facility changes or the owner of the property changes, all requirements of this law shall remain in effect. Approval to operate the system shall continue, provided that the successor owner or operator assumes in writing all of the obligations of this law, site plan approval, decommissioning plan, security and any agreements. A new Facilities Owner or Facilities Operator of the Solar Energy Facility shall notify the Town Board of such a change in ownership or operator at least 30 days prior to the ownership change.

c. Annual Report – On a yearly basis, the Facilities Owner shall provide the Town Board a report showing the rated capacity of the system and the amount of electricity that was generated by the system and transmitted to the grid. The report should also include annual water testing results described in this law, along with other potential requests

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from the Town Board. The report shall be submitted no later than 30 days after the end of the calendar year.

d. Vegetation – During and following construction of a Solar Energy Facility, all disturbed areas where soil has been exposed shall be reseeded with native grasses and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust.

e. Professional Services Escrow. Applicants seeking to construct a Tier 2 or Tier 3 Solar Energy Facilities shall be required to make a payment of thirty-five-thousand-dollars ($35,000.00) to the Town, to be held in an escrow controlled by the Town (the "professional services escrow"), for the purposes of paying any professional services fees incurred for review of the application, or construction and compliance monitoring. Whenever the amount of funds in the professional services escrow falls below $10,000, the Applicant shall contribute an additional $10,000.00 to the escrow. Any funds remaining in the professional services escrow upon commencement of commercial operation of the Tier 2 Solar Energy Facilities shall be returned to the Applicant, or its successor or assign.

g. Certification – After completion of a Solar Energy Facility, the Applicant shall provide a post-construction certification from a professional engineer, designated by the Town, registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans. The Applicant shall further provide certification from the utility that the facility has been inspected and connected.

h. Insurance – The holder of a Solar Energy Facility Permit for a Solar Energy Facility shall agree to secure and maintain for the duration of the permit, public liability insurance as follows (unless waived by the Town Board for smaller systems):

1. Commercial general liability covering personal injuries, death and property damage:
$5,000,000 per occurrence, $10,000,000 aggregate, which shall specifically include the Town and its officers, councils, employees, attorneys, agents, committee members and consultants as additional named insured;
2. Umbrella coverage: $10,000,000
3. The insurance policies shall be issued by an agent or representative of an insurance
company licensed to do business in the State and with at least a Best's rating of "A".
4. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least 30 days prior written notice in advance of cancellation.
5. Renewal or replacement policies shall be delivered to the Town at least 15 days

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before the expiration of the insurance that such policies are to renew or replace.

6. No more than 15 days after the grant of the permit and before construction is initiated, the permit holder shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

7. A certificate of insurance (COI) that states it is for information purposes only and does not confer sufficient rights upon the Town shall not be deemed to comply with this law.

8. A copy of the renewed certificate of shall be supplied to the Town of Lyme Board, no less than 15 days before the expiration of the current certificate of insurance.

i. Construction Inspection – The escrow account required herein shall, in part, be used to provide inspection by a Town engineering consultant to assist the Code Enforcement Officer (CEO) during construction of the Solar Energy Facility. Work shall remain accessible and exposed until inspected and accepted by the CEO, in consultation with the engineering consultant and legal counsel. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to how the work fails to comply with the Uniform Code or conditions of the special use permit, or any other applicable laws. Work not in compliance shall remain exposed until brought into compliance, reinspected, and found satisfactory as completed. During construction, the Town Building Inspector/Code Enforcement Officer can issue a stop order at any time for violations of the special use permit.

j. Groundwater Testing – The Facilities Operator shall provide, at Facility Operator's expense, water testing of private wells on and adjoining the property or parcels, which have solar panels installed, and within 1,000 feet of the Solar Energy Facility property line prior to construction of the system to establish baseline testing results, and at one-year intervals during system operation for the first 5 years of operation, then every 5th year thereafter. If the private property owner refuses to grant access to the property and well for collection of the data or if the well cannot be accessed for the collection of data for practical purposes, the operator will not be required to do any pre-construction or post construction testing of the well. Testing will be done for lead, PFAS, common solar panel leachates and other substances that may be determined by the Town Board, depending on the composition of panels in particular projects. In the event groundwater contamination occurs as a result of the Solar Energy Facility, the Facility Operator, at its sole expense, shall either

provide a reliable alternative water source or address the contamination in accordance with all legal requirements. Water testing must also include a water flow measurement, measured by gallons per minute (GPM). In the event of a first responder response to a fire emergency, annual well testing shall occur every year for 5 years.

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k. Maintenance – System equipment, grounds, fencing and buffer areas shall be maintained
in good condition, as determined by the Code Enforcement
Officer, by the operator.

i. Plant growth shall be controlled by mowing only. The use of animal grazing to control plant growth is prohibited.

ii. The use of herbicides to control plant growth is prohibited.

iii. The Town Board shall be provided with the name and contact information of the maintenance contractor for site maintenance.

l. Operational Inspection – Upon 24 hours advance notice to the owner/operator or designated contact person, the Code Enforcement Officer or his
or her designee may enter the Solar Energy Facility to verify compliance with any requirements or conditions. The Solar Energy Facility shall be inspected annually by a New York State licensed professional engineer, under contract with the town and paid for by the operator to ensure that it is operating according to the conditions of the special use permit. Such inspections shall be done annually, and at any other time, upon a determination by the Town Board that damage may have occurred. The engineer shall file an inspection report with the Code Enforcement Officer. All recommendations for maintenance and repair contained in said
report shall be completed by the operator within a written schedule agreed on by the Code Enforcement Officer.

§ 16. CERTIFICATE OF OCCUPANCY

No Solar Energy Facility erected subject to the Uniform Code and this Local Law shall be operated until a Certificate of Occupancy has been issued by the Code Enforcement Officer/Building Inspector after approval of the Town Board.

§ 17. ENFORCEMENT, PENALTIES AND REMEDIES FOR VIOLATIONS

a. The Town Board shall appoint such Town staff or employ outside consultants as necessary to enforce this Local Law.

b. Any person owning, leasing, controlling or managing any building, structure or real property who shall construct or operate a Solar Energy Facility in violation of this Local Law, or is in noncompliance with the terms and conditions of any permit issued pursuant to this Local Law, or any order of the Code Enforcement Officer or Town Board, and any person who shall assist in so doing, shall be guilty of

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an offense and subject to a fine or imprisonment as assessed through legal proceedings, pursuant to New York Town Law § 135, or other appropriate law. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue.

c. The Town may place a lien on the property and institute a civil proceeding to collect civil penalties of an amount to be determined for each violation. Each week said violation continues shall be deemed a separate violation. The Town Board may assess a penalty of up to $5,000 per week per violation.

d. Should the manufacturer or Stewardship Organization not be in compliance with this Law, the Town must send a written warning to a manufacturer that is not participating in a plan. The written warning must inform the manufacturer or stewardship organization that it must submit a plan or participate in a plan within thirty (30) days of the notice. The Town may assess a penalty of up to $100.00 per module per day of violation sold by a manufacturer that occurs in or into the Town of photovoltaic module for which a stewardship plan has not been submitted by the manufacturer or stewardship organization or has not been approved by the Town after the initial written warning. A manufacturer or stewardship organization may appeal a penalty issued under this section to a court of proper jurisdiction in Jefferson County, New York within one hundred eighty days of receipt of the notice. The Town must send a written warning to a distributor, retailer or installer that sells or installs a photovoltaic module made by a manufacturer that is not participating in a plan. The written warning must inform the distributor, retailer, or installer that they may no longer sell or install a photovoltaic module if a stewardship plan for that brand has not been submitted by the manufacturer and approved by the Town within thirty days of the notice.

e. In case of any violation or threatened violation of any of the provisions of this Local Law, including the terms and conditions imposed by any permit issued pursuant to this Local Law, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.

§ 16. SEVERABILITY

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgement of any court of competent jurisdiction to be impaired, illegal, invalid, unenforceable, or unconstitutional, shall not affect the validity or enforceability of any other section,

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subsection, paragraph, sentence, clause provision, or phrase, which shall remain in full force
and effect, and shall be fully severed from this Code, and there shall be automatically added
in lieu thereof a provision as similar in terms and intent to such severed provision as may legal, valuable, and enforceable.

§ 17. EFFECTIVE DATE

This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.