

# Town of Andover – Local Law No. 2-2022

## Local Law for Solar Energy System Facility

### 1. Authority

This Solar Energy Local Law is adopted pursuant to Sections 261-263 of the Town and section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town of Andover to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Town law of New York State, “to make provision for, so far as conditions may permit, the accommodation of Solar Energy Systems and equipment and access to sunlight necessary therefor.”

### 2. Statement of Purpose

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

1. To take advantage of a safe, abundant, renewable and non-polluting energy resource;
2. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
3. To increase employment and business development in the Town of Andover, to the extent reasonably practical, by furthering the installation of Solar Energy Systems;
4. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources.

### 3. Definitions

**ACTIVE AGRICULTURAL LAND:** Land used for a Farm Operation in accordance with Agriculture and Markets Law § 301 – uses of which include production of crops, livestock, and livestock products – within the past five years.

**BATTERY ENERGY STORAGE SYSTEM:** One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time (not to include a stand-alone 12-volt car battery or an electric motor vehicle).

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEM:** A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

**FACILITY AREA:** The cumulative land area occupied during the commercial operation of the solar energy generating facility. This shall include all areas and equipment within the facility’s perimeter boundary – including the solar energy system, onsite interconnection equipment, onsite electrical energy storage equipment, and any other associated equipment – as well as any site improvements beyond the facility’s perimeter boundary such as access roads, permanent parking areas, or other permanent improvements. The facility area shall not include site improvements established for impact mitigation purposes, including but not limited to vegetative buffers and landscaping features.

**FARM OPERATION:** Land and on-farm buildings, equipment, facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise (in accordance with Agriculture & Markets Law § 301[11]).

**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.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System which is secured to the ground via a pole, ballast system, or other mounting system; is detached from any other structure; and which generates electricity for onsite or offsite consumption.

**KILOWATT (kW):** A unit of power equal to 1,000 watts. The nameplate capacity of residential and commercial solar energy systems may be described in terms of kW.

**MEGAWATT (MW):** A unit of power equal to 1,000 kW. The nameplate capacity of larger solar energy systems may be described in terms of MW.

**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 system developed for the NYS Agricultural Assessment Program.

**NAMEPLATE CAPACITY:** A solar energy system's maximum electric power output under optimal operating conditions. Nameplate Capacity may be expressed in terms of Alternating Current (AC) or Direct Current (DC).

**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 NYS Department of Environmental Conservation.

**ON-FARM SOLAR ENERGY SYSTEM:** A Solar Energy System located on a farm which is a "farm operation" (as defined by Article 25-AA of the Agriculture and Markets Law, which may include one or multiple contiguous or non-contiguous parcels) in an agricultural district, which is designed, installed, and operated so that the anticipated annual total amounts of electrical energy generated do not exceed more than 110 percent of the anticipated annual total electrical energy consumed by the farm operation.

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

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

**SOLAR ACCESS:** Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

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

**SOLAR ENERGY SYSTEM:** The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment

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

## 4. Applicability

- A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in Town of Andover after the effective date of this Local Law, excluding general maintenance and repair.
- B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
- C. Modifications to an existing Solar Energy System that increase the Facility Area by more than 5% of the original Facility Area (exclusive of moving any fencing) shall be subject to this Local Law.

## 5. General Requirements

- A. A building permit shall be required for the installation of all Solar Energy System Facilities.
- B. Solar Energy System Facilities are allowed in the Town of Andover only after the owner(s) of the property where such Facility is to be installed, or his or her representative, first obtains a Solar Energy System Facility Permit in accordance with this Local Law.
- C. Issuance of permits and approvals by the Town Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].
- D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Uniform Code"), the NYS Energy Conservation Code ("Energy Code"), and the Town Code.

## 6. Residential and/or Commercial Rooftop Solar Collectors

The term "Solar Energy System Facility" shall also not be construed in such a way as to prohibit the installation or mounting of a series of one (1) or more solar collectors upon the roofs of residential and/or commercial structures regardless of whether the said series of one (1) or more solar collectors collectively has a total nameplate generation of a least 200 kilowatts (kW) alternating current (ac) or more when operating at nameplate capacity.

## 7. Permitting Requirements for Solar Energy Systems

All Solar Energy Systems shall be permitted as accessory structures and shall be subject to site plan approval.

A. Application & Site Plan Review Requirements. Applications for Solar Energy Systems, including materials for site plan review, shall be subject to the following guidelines:

1. Reviewed by the Code Enforcement for completeness. Applicants shall be advised within [30] days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
2. Subject to a public hearing to hear all comments for and against the application. This hearing shall be in compliance with all existing public hearing requirements established under Town Law.
3. Upon closing of the public hearing, the Town Board shall take action on the application within 60-days of the public hearing, which can include approval, approval with conditions, or denial. The 60-day period may be extended upon consent by both the Town Board and applicant.
4. Referred to the County Planning Department pursuant to General Municipal Law § 239-m if required.

B. Application Requirements. Applications for Solar Energy Systems shall include the following:

1. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
2. Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
3. Nameplate Capacity of the Solar Energy System (as expressed in MW).
4. Blueprints or drawings drawn to scale sized not less than 22" x 34" of the Solar Energy System Facility signed by a licensed Professional Engineer showing the proposed layout of the system and any potential shading from nearby structures.
5. Property lines and physical features, including roads, for the project site.
6. Map(s) of MSG 1-4 soils and Active Agriculture Lands on the parcel(s) comprising the Facility Area and adjacent parcels.
7. Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
8. An Environmental Assessment Form prepared in accordance with the NY State Environmental Quality Review act.
9. Erosion and sediment control and storm water management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
10. Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
11. A proposal for landscaping and screening including: An assessment of the visual impacts of the Solar Energy System Facility 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 viewshed report, may be required. Plans demonstrating that adequate measures are planned to screen the Solar Energy System Facility from view from roadways and neighboring residential properties. The screening and 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.
12. Demonstration that the Solar Energy System Facility will be constructed and operated in compliance with all applicable Federal, State, and local standards.

13. A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all Battery Energy Storage System components if applicable and should include applicable setback and other bulk and area standards.
14. A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
15. A Property Operation and Maintenance Plan that describes continuing site maintenance, anticipated dual-use, and property upkeep, such as mowing and trimming. The plan should include provisions for emergency inspections and repair after severe weather or natural disasters. The plan shall include list of all chemicals used for maintenance and operation of the Solar Energy System Facility (e.g., pesticides, herbicides, cleaners). This list shall include quantity and frequency of application of each of these chemicals.
16. A detailed preliminary safety plan, developed in consultation with the local fire department and code enforcement officer, specifying the measures that will be used to prevent public access to unsafe areas and to provide for emergency response, including but not limited to the location, height, materials, and colors of fencing and other barriers to access and a safety signage plan that contains the locations, sizes and text of signs that will be used to warn the public away from unsafe areas and that shall include the name and phone number of an official of the owner or operator who can be contacted in the event there is an emergency or any question about safety.
17. Community Engagement Plan detailing the applicant's proposed plans and strategies for ensuring adequate public awareness and encouraging community participation. Applicants are highly encouraged to discuss the contents and details proposed in this plan with the Reviewing Board prior to the submission of a formal application.
18. A Decommissioning Plan signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant. The decommissioning plan shall include and/or address the following:
  - a. Disposal of all solid and hazardous waste in accordance with local, State, and Federal waste disposal regulations.
  - b. Physical removal of all ground-mounted Solar Collectors, structures, equipment, security barriers, feeders and branch circuit wiring from the site.
  - c. The time required to decommission and remove the Solar Energy System and any ancillary structures.
  - d. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
  - e. Stabilization or re-vegetation of the site as necessary to minimize erosion.
  - f. The provision of a decommissioning security which shall adhere to the following requirements:
    1. The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 125% of the cost of removal and site restoration for Solar Energy System and shall be revisited every 5 years and updated as needed to reflect any changes (due to inflation or other cost changes). The decommissioning amount shall be reduced by the amount of the estimated salvage value of the Solar Energy System.
    2. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town of Andover 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.
    3. The owner or operator shall notify the Town Code Enforcement Officer by certified mail of the proposed date of decommissioning and plans for executing the Decommissioning Plan. Prior to removal of the Solar Energy System Facility,

a permit for removal activities shall be obtained from the Code Enforcement Officer. Notwithstanding the foregoing, projects regulated under Section 94-c of the Executive Law shall be subject to the decommissioning requirements set forth set forth in 19 NYCRR 900-2.24 and 19 NYCRR 900-6.6. For all other Solar Energy System Facilities subject to regulation under this Local Law, the owner, operator, or his/her successors in interest shall remove the Solar Energy System Facility in conformance to the approved Decommissioning Plan. The owner or operator shall execute the Decommissioning Plan no more than one hundred fifty (150) days after the date of discontinued operations.

4. Absent notice of a proposed date of decommissioning and written notice of extenuating circumstances approved by the Town Board, the Solar Energy System Facility shall be considered abandoned when it fails to operate for more than one (1) year ("Abandonment"). If the owner or operator of the Solar Energy System Facilities fails to execute the Decommissioning Plan in accordance with the requirements of this section within one hundred fifty (150) days of Abandonment or the proposed date of decommissioning, the Town may enter the property and implement the Decommissioning Plan. In the event that the owner or operator is diligently implementing the Decommissioning Plan, the Town Board, at its sole discretion, may extend the time to implement the Decommissioning Plan by up to two consecutive extensions each of six (6) months.

5. Costs of Decommissioning/Removal. The operator of an installation and the owner of the real property on which such installation is located shall be jointly and separately liable for all costs and expenses of the Town incurred in implementing the Decommissioning Plan. Notwithstanding the foregoing, the Town shall first attempt to secure payment for such costs and expenses from the operator of the installation; however, in the event the Town is not made whole following reasonable attempts to collect such costs and expenses from the operator of the installation, the Town reserves all rights to pursue payment for such costs and expenses from the owner of the real property on which the installation in question is located.

C. Approval Requirements: The Town Board may issue a permit for a Solar Energy System only after it has found that all the following standards and conditions have been satisfied:

1. Underground Requirements. All utility lines located outside of the Facility Area 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.
2. Vehicular Paths. Vehicular paths within the Facility Area shall be designed in compliance with Uniform Code requirements to ensure emergency access, while minimizing the extent of impervious materials and soil compaction.
3. Signage.
  - a. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet.
  - 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.
4. Glare. All Solar Panels shall have anti-reflective coating(s).
5. 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.
6. The Solar Energy System Facility shall use architectural features, landscaping, or other screening methods to provide year-round screening that will harmonize with the character of the property and surrounding area, so that the views of the solar array and appurtenant structures, including but not limited to equipment shelters, storage facilities, transformers and substations, are minimized to the extent reasonably practicable from public right of ways and neighboring non- 7 participating residential properties. If the buffer utilizes vegetative screening, it shall contain evergreen trees or bushes planted no more than 8 feet apart, or, alternatively, other noninvasive species as recommended by a landscape architect to provide the appropriate level of year-round screening. To the maximum extent practicable, at the time of planting installed vegetation should be a min-

imum four (4) feet tall and shall adequately screening the Solar Energy System Facility within 5 growing seasons. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening.

7. Because of neighborhood characteristics and topography, the Town Board shall examine the proposed location on a case-by-case basis in order to ensure no detrimental impact to Town residents, businesses, or traffic.
8. Multiple lots. At the discretion of the Town Board where a Solar Energy System's Facility Area comprises multiple lots (regardless of ownership by an individual or multiple participating landowners), the combined lots may be treated as a single lot for the purposes of applying specific standards and requirements.
9. Lot size. The property on which the Solar Energy System is placed shall meet the lot size requirements of a minimum of 2 acres.
10. Setbacks. With the exception of designated, seasonal public roads, all Solar Collectors and structures shall have a minimum one hundred (100) foot setback from the centerline of public roads and twenty (20) foot setbacks from the sides and the back unless there exist abutting non-participating residential uses, in which case all such components shall be a minimum two hundred fifty (250) feet from any non-participating principal residential structures. The foregoing side and back setback requirements shall not apply to adjacent participating parcels that share a common boundary line. For designated, seasonal public roads, all solar collectors and structures shall have a minimum twenty-five (25) foot setback in the front from edge of the right of way of the road.
11. Fencing Requirements. All mechanical equipment, including any structure for Battery Energy Storage System components, shall be enclosed by an 8-foot-high fence with a self-locking gate to prevent unauthorized access.
12. 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 decommissioning plan. A new owner or operator of the Solar Energy System shall notify the code enforcement officer of such change in ownership or operator within 30 days of the ownership change.

#### 13. Environmental Resources

- a. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
  - b. 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 and seed all appropriate areas within the Facility Area. Any project which is designed to incorporate agricultural or farm-related activities or uses within the Facility Area may be excluded from this requirement based on the amount of space actually occupied by the agricultural use(s). This exclusion will only be allowed based on the Town Board determination that these lands are being used for actual agricultural uses.
  - c. Use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.
14. Agricultural Resources. Solar Energy Systems for which the Facility Area includes lands consisting of MSG 1-4 shall adhere to the following requirements:
- a. Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 50% of the area of MSG 1-4 within the Facility Area.
    1. Solar Energy System may exceed the [50%] MSG 1-4 coverage threshold if it incorporates an onsite activity or program which provides for the use of the land as a Farm Operation. Exceedance beyond the 50% threshold will only be allowed based on the Town Boards determination that the land is being used for a Farm Operation.
    2. Subject to discretion of the Town Board if the landowner demonstrates that – notwithstanding the classification as MSG 1-4 – the land cannot be profitably employed due to excessive wetness, rocky conditions or slopes, the land may be excluded from the calculation required by this section.
  - b. To the maximum extent practicable, Solar Energy Systems located on MSG 1-4 shall be constructed, monitored, and decommissioned in accordance with the NYS Department of Agriculture and Markets' "Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands.

- D. Waiver of Requirements. The Town Board may waive, when reasonable, any of the approval requirements contained in Sections C(1) through C(14) of this Local Law in the event that any such requirements are found by the Town Board not to be requi-



site in the interest of the public health, safety, or general welfare, or are inappropriate to a particular Solar Energy System Facility Permit.

E. Conditions to Approval. The Solar Energy System Facility Permit approval shall include appropriate conditions to ensure ongoing compliance with the permit standards, including, but not limited to:

1. The Solar Energy System Facility owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. The owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the Solar Energy System Facility shall be placed in a location approved by the Fire Chief and clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation. A Knox® box shall be required for access by the local fire department.
2. No building permit for a Solar Energy System Facility shall be approved until evidence has been given to the Code Enforcement Officer that the utility company that operates the electrical grid where the installation is to be located has been informed of the Solar Energy System Facility owner's or operator's intent to install an interconnected customer-owned generator.
3. A Solar Energy System Facility owner or operator shall maintain the facility in good condition. Maintenance shall comply with the approved Operations and Maintenance Plan and include, but not be limited to, painting, structural repairs, and integrity of security measures, Site access, including but not limited to snow removal, 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 Solar Energy System Facility and any access road(s), unless accepted as a public way. No vegetation above 24 inches in height inside the solar field.
4. Owners and operators of Solar Energy System Facilities are encouraged to consider secondary use of the real property where such Solar Energy System Facilities are located with respect to grazers and pollinators.
5. Initial and annual site-specific training for the Code Enforcement Officer, Fire Department, Emergency Response, Allegany County Emergency Management System, and Police Department, with expenses for such training covered by the Operator.
6. Releases to soils from damaged solar panels shall be managed as hazardous material spills, including removal of all related soil contamination and confirmatory soil testing.
7. The operator shall identify a responsible person with contact information for public inquiries from the commencement of construction of the Solar Energy System Facility until the completion of the Decommissioning Plan.
8. Prior to obtaining a certificate of completion, the Decommissioning Plan will be updated to reflect as-built conditions and the approved financial security required in Section B be in place.
9. The operator shall notify the Town Code Enforcement Officer at least 24 hours prior to the performance of on-site maintenance of the Solar Energy System Facility.

## **10. 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. Where deemed necessary by the Town Board, the Applicant shall ensure emergency access to the Facility Area for local first responders by installing an emergency lock box or similar device, in a location subject to approval by the Fire Chief of Town of Andover Volunteer Fire Department.

## **11. Permit Timeframe and Abandonment**

- A. The site plan approval for a Solar Energy System shall be valid for a period of 24 months, provided that 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 Town Board within 24 months, the applicant may request to extend the time to complete construction for 12 months. Approval of a request to extend the time to complete construction shall not be unreasonably withheld by the Town of Andover. If the owner and/or operator fails to perform substantial construction within 24 months, the approvals shall expire.
- B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 12 months of notification.

C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

## **12. Enforcement**

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

## **13. 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.

**14.** The invalidity of any clause, sentence, paragraph, or provision of this Local Law shall not invalidate any other clause, sentence, paragraph, or part thereof.

**15.** This Local Law shall take effect upon filing in the office of the New York State Secretary of State.



## Appendix 1: Decommissioning Plan

Date:

Decommissioning Plan for [Solar Project Name], located at: [Solar Project Address]

Prepared and submitted by [Solar Developer Name], the owner of [Solar Farm Name]

As required by Town of Andover [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the "Facility").

System decommissioning shall be required as a result of any of the following conditions:

1. The land lease – if any – ends, unless the project owner has acquired the land.
2. The Solar Energy System ceases to generate electricity on a continuous basis for [12] months.
3. The Solar Energy System is damaged and will not be repaired or replaced by [Solar Developer Owner].

If any of the above conditions are met, and upon notification or instruction by the Town of Andover [Solar Developer Name] shall implement this decommissioning plan. System decommissioning and removal, as well as all necessary site restoration or remediation activities, shall be completed within [12] months.

The owner of the Facility, as provided for in its lease with the landowner, and in accordance with the requirements of the Town of Andover local law, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which shall include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations located less than 36-inches below the soil surface, and/or less than 48-inches below the soil surface in areas consisting of [Mineral Soil Groups (MSG) 1-4 and/or Active Agricultural Lands].
2. For projects located on areas consisting of [MSG 1-4 and/or Active Agricultural Lands], removal of all operator owned equipment, concrete, conduits, structures, fencing, and foundations in accordance with the decommissioning requirements contained in the NYS Department of Agriculture and Markets' "Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands."
3. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state, and federal waste disposal regulations.
4. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

An appendix is included in this plan to provide a project schedule detailing a breakdown of tasks required for the decommissioning removal of the system, including:

1. Time required to decommission and remove the system and any ancillary structures.
2. Time required to repair any damage caused to the property by the installation and removal of the system.

The cost of system decommissioning and removal, as well as all necessary site remediation and restoration activities, is estimated to be \$[XXX] as of the date and time this application is filed. A decommissioning security [has been OR will be] executed in the amount of [125]% of the cost of system decommissioning, removal, and site restoration.

This cost estimate and decommissioning surety will be revisited every [5] years and updated as needed to account for inflation or other cost changes.

The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

Facility Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_