

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of ALFRED

FILED
STATE RECORDS

DEC 06 2021

Local Law No. 1 of the year 2021 DEPARTMENT OF STATE

A local law to Annul the Solar Energy Systems and Facilities Local Law and Amend the Town of Alfred

(Insert Title)

Zoning Law to Provide for Battery Storage System and Solar Energy System

Regulations and for Town Board Review of Special Use Permit Applications.

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of ALFRED

as follows:

See attached

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2021 of the (County)(City)(Town)(Village) of ALFRED was duly passed by the TOWN BOARD on November 11 2021, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 ____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.


Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 11/11/2021

(Seal)



Town of Alfred

Proposed Local Law No. 1 of 2021

**A Local Law to Annul the Solar Energy Systems and Facilities
Local Law and Amend the Town of Alfred Zoning Law to
Provide for Battery Energy Storage System and
Solar Energy System Regulations and for Town Board
Review of Special Use Permit Applications**

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

The Town Board of the Town of Alfred adopts this Local Law pursuant to Article IX of the New York State Constitution, §2(c)(6) and (10), New York Statute of Local Governments, § 10(1) and (7); sections 261-263 of the Town Law and section 10 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community.

- I. The Town of Alfred Solar Energy Systems and Facilities Law, Local Law No. 1 of 2020, is hereby annulled.

- II. Article IX of the Town of Alfred Zoning Law, Local Law No. 3 of 1990 as amended (the "Zoning Law"), titled "Definitions," is amended and the sections of Article IX renumbered to add the following definitions:

Alternative Energy Storage System: An energy storage system that is not a battery energy storage system, consisting of one or more devices controls, power conditioning systems and associated electrical equipment, assembled together, capable of storing energy in order to provide electrical energy at a future time, not to include a stand-alone 12-volt car battery, an electric motor vehicle, or fuel tanks for fueling generators

ANSI: American National Standards Institute

Battery(ies): A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.

Battery Energy Storage Management System: An electronic system that protects battery energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the battery energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

Battery Energy Storage System: A rechargeable energy storage system consisting of one or more devices, including batteries, battery chargers, controls, power conditioning systems and associated electrical equipment, assembled together, capable of storing energy in order to provide electrical energy at a future time, not to include a stand-alone 12-volt car battery or an

electric motor vehicle. A battery energy storage system is classified as a Small or Large battery energy storage system as follows:

- A. Small battery energy storage systems have an aggregate energy capacity less than or equal to 600 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.
- B. Large battery energy storage systems have an aggregate energy capacity greater than 600 kWh or are comprised of more than one storage battery technology in a room or enclosed area.

Battery Energy Storage System, Building-Mounted: A battery energy storage system attached to any part of a building or structure that has an occupancy permit on file with the Town of Alfred and that is either the principal structure or an accessory structure on a recorded parcel.

Battery Energy Storage System, Ground Mounted: A battery energy storage system that is not a building-mounted battery energy storage system.

Battery Energy Storage System Permit: The NYSERDA model battery energy storage system permit, as it may be updated from time to time, which establishes the minimum submittal requirements for electrical and structural plan review that are necessary when permitting small battery energy storage systems.

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.

Cell: The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

Commissioning: A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

Dedicated Use Building: A building that is built for the primary purpose of housing battery energy storage system equipment and is classified as Group F-1 occupancy as defined in the International Building Code, and it complies with the following:

- A. Except as provided in this definition below, the building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
- B. No other occupancy types are permitted in the building.
- C. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
- D. Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:
 - 1. The areas do not occupy more than 10 percent of the building area of the story of the building in which they are located.

2. A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

Eligible for Net Metering. When an applicant and the proposed Solar Energy System is eligible as a customer-generator for net energy metering pursuant to New York Public Service Law §66-j and associated regulations and orders of the New York Public Service Commission.

Energy Code: The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

Farmland of Statewide Importance: Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of 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.

Fire Code: The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

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

Ground-Mounted Solar Energy System: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.

kWh: Abbreviation for kilowatt-hour, which is a measure of the energy capacity of a battery and a battery energy storage system.

MWh: Abbreviation for megawatt-hour, which is equal to 1,000 kWh.

Nameplate Capacity: Starting from the initial installation of the solar energy system, the maximum electrical generating output that the solar energy system is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as specified by the manufacturer of the solar energy system.

Native Perennial Vegetation: Native wildflowers, herbs, 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.

Nationally Recognized Testing Laboratory (NRTL): A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

NEC: National Electric Code.

NFPA: National Fire Protection Association.

Non-Dedicated Use Building: All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

Non-Participating Property: Any property that is not a Participating property.

Non-Participating Residence: Any residence located on Non-Participating Property.

NYS Ag and Markets Solar Energy Project Guidance: The Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands, revised October 18, 2019, published by the New York State Department of Agriculture and Markets, as may be subsequently amended.

Occupied Community Building: Any building in Occupancy Group A, B, E, I, R, as defined in the International Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

Operator: The applicant for the approval of a Solar Energy System or battery energy storage system, the owner, lessee, licensee, or other person authorized to install and operate a Solar Energy System or battery energy storage system on the real property of an Owner, and each Operator's successors, transferees, assignees, and all parties to which the Solar Energy System or battery energy storage system may transfer any or all of its ownership interests or contracts or subcontracts concerning the construction, management, operations and or maintenance in, and responsibilities of the Solar Energy System or battery energy storage system.

Owner: The owner of the real property on which a Solar Energy System or battery energy storage system is located or installed or proposed to be located or installed.

Participating Property: A battery energy storage system or solar energy system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system or solar energy system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

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

Prime Farmland: Land, designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

Roof-Mounted Solar Energy System: A Solar Energy System, located on the roof of any legally permitted building or structure, that produces electricity for onsite or offsite consumption.

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

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

Solar Energy System: An energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, solar thermal electric equipment, or various experimental solar technologies. Solar energy systems may consist of freestanding ground- or roof-mounted Solar Energy Equipment, and other accessory structures and buildings, including

light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows:

- A. Tier 1 Solar Energy Systems include the following:
 - 1) Roof-Mounted Solar Energy Systems;
 - 2) Building-Integrated Solar Energy Systems;
 - (3) Ground-Mounted Solar Energy Systems with a total surface area of all solar panels on the lot of up to 4,000 square feet and that generate up to 110% of the electricity consumed on the site over the previous 12 months.
- B. Tier 2 Solar Energy Systems are ground-mounted solar energy systems with a nameplate capacity greater than 25 kW AC and less than or equal to 200 kW AC which are Eligible for Net Metering.
- C. Tier 3 Solar Energy Systems are solar energy systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

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

UL: Underwriters Laboratory, an accredited standards developer in the US.

Uniform Code: The New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

III. The Zoning Law is amended to add a new Section 410 entitled "Battery Energy Storage System Requirements" as follows:

SECTION 410 BATTERY ENERGY STORAGE SYSTEM REQUIREMENTS

410.01 Legislative Purpose and Intent:

The Town of Alfred recognizes that battery energy storage systems are necessary to expand the use of renewable energy and meet the renewable energy goals of the State of New York. The intent of this Section 410 is to establish provisions for the placement, design, construction, operation, monitoring, modification, and removal of battery energy storage systems to uphold the public health, safety and welfare; and to ensure that such systems will not have a significant adverse impact on the aesthetic qualities and character of the Town.

The purpose of this Section is to adequately regulate battery energy storage systems to advance and protect the public health, safety and welfare of the Town of Alfred in accordance with a well-considered plan.

No battery energy storage system shall be installed or operated in the Town of Alfred except in compliance with this Section 410.

410.02 Applicability:

- A. The requirements of this Section 410 shall apply to all battery energy storage systems permitted, installed, or modified in the Town after the effective date of this Section 410, excluding general maintenance and repair.
- B. Battery energy storage systems constructed or installed prior to the effective date of this Section 410 shall not be required to meet the requirements of this Section.
- C. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Section 410.
- D. Alternative energy storage systems shall be subject to the general requirements and to the requirements applicable to large battery storage systems of this Section 410.

410.03 General Requirements:

- A. A building permit and an electrical permit shall be required for installation of all battery energy storage systems.
- B. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Local Laws and Ordinances of the Town.

410.04 Permitting Requirements for Small Battery Energy Storage Systems:

- A. Building-mounted small battery energy storage systems shall be permitted in all areas of the Town, subject to the Uniform Code and the “Battery Energy Storage System Permit,” and are exempt from site plan review.
- B. Ground-mounted small battery energy storage systems are permitted in Agriculture (AG), Industrial (I-1), Light Industrial (LI-1) Districts and are exempt from site plan review.
- C. If permitted within the applicable zoning district, ground-mounted small battery energy storage systems are permitted as accessory structures and are subject to the following requirements:
 - 1. The location of the ground-mounted small battery energy storage system meets all applicable setback requirements of the zone in which they are located.
 - 2. The height of the ground-mounted small battery energy storage system and any mounts shall not exceed fifteen (15) feet.
 - 3. The total surface area of the ground-mounted small battery energy storage system on the lot shall not exceed 5 percent lot coverage.
 - 4. The ground-mounted small battery energy storage system is not the primary use of the property.
 - 5. The ground-mounted small battery energy storage system is located in a side or rear yard.

6. The ground-mounted small battery energy storage system shall comply with the minimum setbacks for accessory structures applicable to the zoning district in which the battery energy storage system is sited.
 7. The ground-mounted small battery energy storage system shall be screened from adjacent residences through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.
- D. Where site plan approval is required elsewhere in the regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of proposed ground-mounted small battery energy storage system.

410.05 Permitting Requirements for Large Battery Energy Storage Systems

- A. Large battery energy storage systems are permitted in Agriculture (AG), Industrial (I-1), and Light Industrial (LI-1) Districts through the issuance of site plan approval and a special use permit from the Town Board, and shall be subject to the Uniform Code and the special use permit and site plan review requirements set forth in this Section 410 and the special use permit requirements of Section 607 this Law. In the event of conflicts between the requirements of Section 607 of this Law and this Section, the provisions of this Section 410 shall apply.
- B. The applicant shall submit nine (9) paper copies and a digital copy of the application and site plan. Applications for the installation of large battery energy storage system shall include the following:
1. The appropriate Environmental Assessment Form required pursuant to SEQRA.
 2. Site plans of the battery energy storage system signed by a licensed Professional Engineer showing the proposed layout of the system.
 3. Property lines and physical features, including roads, for the project site.
 4. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
 5. A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
 6. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed.
 7. Verification that the battery energy storage system will be constructed and operated in compliance with all applicable Federal and State standards.
 8. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.

9. Name, address, phone number, and signature of the project Applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system within the prior three months.
10. Preliminary Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. A final Commissioning Plan shall be submitted prior to the issuance of building permit.
11. Preliminary Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.
12. Preliminary Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code. A final Operation and Maintenance Manual shall be submitted prior to the issuance of building permit.
13. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Town.
14. A study of the noise impacts of the construction and operation of the battery energy storage system demonstrating compliance with the approval standards for noise provided herein. The name(s) of the preparer(s) of the study and qualifications to perform such analyses shall be stated. If the study is prepared by certified member(s) of a relevant professional society or state, the details of such certification(s) shall be stated. Such noise study may demonstrate compliance by utilizing the methodology for solar energy systems and substations provided at 19 NYCRR §900-2.8, as amended.
15. Preliminary Emergency Operations Plan. The emergency operations plan, which shall be developed in consultation with the local fire departments and code enforcement officer, shall include the following information:
 - a. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
 - b. Procedures for inspection and testing of associated alarms, interlocks, and controls.
 - c. Procedures to be followed in response to notifications from the battery energy storage management system, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.

- d. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
 - e. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
 - f. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
 - g. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.
 - h. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.
16. Decommissioning Plan. The applicant shall submit a decommissioning plan, developed in accordance with the Uniform Code, to be implemented upon abandonment or cessation of activity, and/or in conjunction with removal from the facility. The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:
- a. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, and complete physical removal of all battery energy storage system components, structures, foundations, aboveground and below-ground equipment, security barriers, and transmission lines from the site.
 - b. Restoration of the surface grade and soil after removal of equipment.
 - c. Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
 - d. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - e. The anticipated life of the battery energy storage system.
 - f. The estimated decommissioning costs and how said estimate was determined.
 - g. The method by which the decommissioning cost will be kept current.
 - h. The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed.

- i. For battery energy storage systems constructed on Prime Farmland or Farmland of Statewide Importance, the restoration of the farmland pursuant to the decommissioning guidelines of the NYS Ag and Markets Solar Energy Project Guidance.
 - j. A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.
17. Prior to the issuance of the building permit, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect, and final equipment specification sheets, Commissioning Plan, Fire Safety Compliance Plan, Operation and Maintenance Manual, Emergency Operations Plan, and Decommissioning Plan shall be submitted.
- C. Review Procedure. The application shall be reviewed pursuant to the requirements of Section 607 of the Zoning Law. All large battery energy storage system applications shall be referred to the Allegany County Planning Board pursuant to General Municipal Law § 239-m.
- D. Special Use Permit Approval Standards. Approval of the special use permit application requires that the Town Board find that the proposed battery energy storage system meets the standards set forth in Section 607 of the Zoning Law.
- E. Site Plan Approval Standards. Approval of the site plan application requires that the Town Board find that the proposed battery energy storage system protects adjacent land uses, assures that the proposed use is in harmony with local laws of the Town, will not adversely affect the neighborhood, and conforms to the following minimum requirements:
- 1. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
 - 2. Signage. No signage or graphic content may be displayed on the battery energy storage system except the manufacturer's badge, safety information and equipment specification information. A sign not to exceed eight square feet shall be displayed on or near the main access point and shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.
 - 3. As required by the 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. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
5. Vegetation and tree-cutting. Areas within 10 feet on each side of large battery energy storage systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees shall be minimized to the extent possible.
6. Setbacks. Large battery energy storage systems and related structures shall have a minimum setback of 100 feet from adjacent property lines and 100 feet from the right-of-way of any public road unless there exist abutting residential uses, in which case all such components shall be a minimum two hundred fifty (250) feet from any non-participating residence.
7. Height. Large battery energy storage systems shall not exceed fifteen (15) feet in height unless the battery energy storage system is located in a Dedicated Use Building.
8. Fencing Requirements. Large battery energy storage systems, including all mechanical equipment, shall be enclosed by a minimum 7-foot-high fence, or as otherwise required by the National Electric Code (NEC), with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
9. Screening and Visibility. Large battery energy storage systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports. Owners shall implement a vegetation management plan to maintain the landscape screening plantings for the life of the facility.
10. Security. Buildings must be protected from vehicle impact, including but not limited to protection provided by bollards.
11. Noise. Noise levels from noise sources of battery energy storage systems will comply with the noise limits for solar energy facilities contained in the New York Office of Renewable Energy Siting regulations at 19 N.Y.C.R.R. §900-6.5(b) by implementing the designed required by 19 N.Y.C.R.R. §900-2.8 except that the standards applicable to existing non-participating residences shall also be met for existing participating residences.

F. Financial Security.

1. Prior to issuance of a building permit, the owner and/or operator shall provide a form of financial security that is sufficient to cover the implementation of the decommissioning plan.
2. The financial security shall be in the form of a deposit, executions, or filing with the Town Clerk of cash, bond, irrevocable letter of credit, 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 implementation of the decommissioning plan. The amount of the security shall be 125% of the estimated cost of implementing the decommissioning plan with an escalator of 2% annually for the life of the battery energy storage system. The salvage value of the battery energy storage system shall not be accounted for in the estimated cost of implementing the decommissioning plan. The financial security shall be updated every fifth year thereafter specifying changes to the estimated cost of implementing the decommissioning plan

3. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the letter of credit or other security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The letter of credit or other security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
 4. In the event of default or abandonment of the battery energy storage system, the system shall be decommissioned as set forth in the decommissioning plan.
 5. 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 during and relating to the removal of an installation pursuant to 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, then from the security made with the Town for implementing the decommissioning plan; 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 or the security, 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.
- G. Liability Insurance. Prior to issuance of a building permit for a battery energy storage system and continuing after construction until the decommissioning plan has been fully implemented, on an annual basis the owner and/or operator shall provide documentation satisfactory to the Town of the existence of liability insurance coverage with reasonable limits, as set by the Town Board in consultation with the Town's insurance advisor, for property damage, pollution, injury or death resulting from the construction, placement, use, maintenance or operation of a battery energy storage system by the operator and/or owner of the facility.
- H. Ownership Changes. If the owner of the battery energy storage system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the Code Enforcement Officer of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification to the Code Enforcement Officer in writing. The special use permit and all other local approvals for the battery energy storage system

would be void if a new owner or operator fails to provide written notification to the Code Enforcement Officer in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this Section 410.

410.06 Safety

- A. System Certification. Battery energy storage systems and equipment shall be certified under the applicable electrical, building, and fire prevention codes as required.
- B. Emergency Operations Plan. A copy of the approved Emergency Operations Plan shall be given to the system owner, Allegany County Office of Emergency Management, the local fire department, and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The battery energy storage system owner and/or operator are responsible for ensuring any updates to the approved Emergency Operations Plan are provided to the above holders of the Emergency Operations Plan.
- C. Site Access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the large battery energy storage system is located in an ambulance district, the local ambulance corps.
- D. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

410.07 Permit Time Frame and Abandonment

- A. The special use permit and site plan approval for a battery energy storage system shall be valid for a period of twenty-four (24) months, provided that a building permit is issued for construction and construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 24 months after approval, the Town may extend the time to complete construction for up to two consecutive extensions each of twelve (12) months. If the owner and/or operator fails to perform substantial construction after forty-eight (48) months, the approvals shall expire. If the owner and/or operator fails to perform, the Town may direct the owner and/or operator to implement the decommissioning plan. In such instance, the decommissioning plan must be completed within one-hundred-eighty (180) days of notification by the Town.
- B. Upon cessation of activity of a constructed battery energy storage system for a period of one year, the Town may direct the owner and/or operator of the facility to implement the decommissioning plan. Within one-hundred-eighty (180) days of such notice being served, the owner and/or operator can either restore operation of the approved battery energy storage system or implement the decommissioning plan.
- C. If the owner and/or operator fails to fully implement the decommissioning plan when required, the Town may, at its discretion, provide for the decommissioning of the battery energy storage system and restoration of the site in accordance with the decommissioning plan and may recover all expenses incurred for such activities from the defaulted owner

and/or operator or, at the Town's sole discretion, from any financial security made with the Town as set forth herein.

IV. The Zoning Law is amended to add a new Section 411 entitled "Solar Energy System Requirements" as follows:

SECTION 411 SOLAR ENERGY SYSTEM REQUIREMENTS

411.01 Legislative Purpose and Intent:

These solar energy system requirements are adopted to advance and protect the public health, safety, and welfare of the Town of Alfred by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:

- A. To take advantage of a safe, abundant, renewable and non-polluting energy resource;
- B. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
- C. To increase employment and business development in the Town of Alfred, to the extent reasonably practical, by permitting the installation of Solar Energy Systems;
- D. To mitigate the impacts of Solar Energy Systems on adjacent property owners and environmental resources such as important agricultural lands, forests, wildlife and other protected resources, and;
- E. To create synergy between solar energy systems, vacant land management, and creating a walkable, healthy community, in harmony with the Town of Alfred Comprehensive Plan.

411.02 Applicability:

- A. These requirements shall apply to all Solar Energy Systems permitted, installed, or modified in the Town of Alfred after the effective date of this Section 411, excluding general maintenance and repair.
- B. Solar Energy Systems constructed or installed prior to the effective date of this Section 411 shall not be required to meet the requirements of this Section 411.
- C. Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 5% of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Section 411.
- D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code"), and the Energy Code.

411.03 General Requirements:

- A. A Building permit shall be required for installation of all Solar Energy Systems.
- B. Code Compliance. All Solar Energy System installations must be performed in accordance with all applicable codes, regulations, and industry standards as referenced in the Building Code, Energy Code, the local laws of the Town, and the manufacturer's installation instructions, and industry standards. Prior to operation, the electrical

connections must be inspected by the Code Enforcement Officer or by an appropriate electrical inspector, as determined by the Town. In addition, any connection to the electrical grid must be approved and inspected in accordance with the requirements of the appropriate electric utility.

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

411.04 Permitting Requirements for Tier 1 Solar Energy Systems:

Tier 1 Solar Energy Systems shall be permitted in all zoning districts of the Town, are subject to the following conditions for each type of Solar Energy System, and shall be exempt from site plan review:

A. Roof-Mounted Solar Energy Systems:

- 1. Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:
 - a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface and the highest edge of the system.
 - b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
 - c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
 - d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

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

B. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

C. Tier 1 Ground Mounted Solar Energy Systems shall be permitted in all zoning districts of the Town as accessory structures and shall be exempt from site plan review, subject to the following conditions:

- 1. Glare: All Solar Panels shall have anti-reflective coating(s).
- 2. Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for accessory structures in the applicable zoning district. Tier 2 Solar Energy Systems shall only be installed in the side or rear yards of residential structures.
- 3. Height: Tier 2 Solar Energy Systems shall comply with the height limitations listed below. The height of the systems will be measured from the highest natural grade below each solar panel.

Zoning District	Height Limit

R-1 and B-1 Districts	10'
AG, I-1, and LI-1 Districts	15'

4. Screening and Visibility.

- a. Tier 1 Ground-Mounted Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.
- b. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.

5. Lot Size: Tier 1 Ground-Mounted Solar Energy Systems shall comply with the existing lot size requirement specified for the underlying zoning district.

411.05 Permitting Requirements for Tier 2 Solar Energy Systems:

- A. Tier 2 Solar Energy Systems are permitted in Agriculture (AG), Industrial (I-1), and Light Industrial (LI-1) Districts through the issuance of site plan approval from the Town Board, and shall be subject to the Uniform Code and the site plan review requirements set forth in this Section 411.05.
- B. Site Plan Review Procedure. Applications for the installation of Tier 2 Solar Energy System shall be:
 1. Reviewed by the Code Enforcement Officer for completeness. Applicants shall be advised within thirty (30) days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
 2. The Town may require an applicant to enter into an escrow agreement to pay the technical and legal costs of any application review, including the review of building permit submittals related to the application, and the review required by SEQRA. Payment of said escrow and all application fees shall be made at the time of application submission.
 3. If required by General Municipal Law § 239-m, Tier 2 Solar Energy System applications shall be referred to the Allegany County Planning Board.
 4. The Town Board shall conduct a public hearing on the site plan application within sixty-two days from the day an application is deemed complete.
 5. Public notice of said hearing shall be printed in a newspaper of general circulation in the Town at least five days prior to the date thereof.
 6. The applicant shall, at least 7 days prior to the date of the hearing, give notice in writing by certified mail or by service in person with adequate proof of contact, to all property owners within 200 feet of the boundary of the property to be affected by the application or to all otherwise affected and interested property owners as may be designated by the Town Board.

7. All costs of sending or publishing any notices relating to the application shall be paid by the applicant and shall be paid to the Town prior to the hearing.
 8. Following the public hearing and a determination under SEQRA, the Town Board shall render a decision on the site plan application, which can include approval, approval with conditions, or denial, within sixty-two days.
 9. The decisions of the Town Board on the application shall be filed in the office of the town clerk within five business days after such decisions are rendered, and a copy thereof mailed to the application.
 10. The time within which the Town Board must render their decision may be extended by mutual consent of the applicant and the board.
- C. Permit application requirements. The application for a site plan approval for a Tier 2 Solar Energy System shall include the following information:
1. Property lines and physical features, including roads, for the project site
 2. A landscaping plan consistent with the requirements of Section 411.05(D)(13) showing proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
 3. A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and other current devices.
 4. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
 5. Name, address, 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 any building permit.
 6. Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent, within the prior three months, to the application and the use of their real property for the Solar Energy System.
 7. 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.
 8. The appropriate complete SEQRA Environmental Assessment Form ("EAF") Part 1.
 9. A preliminary decommissioning plan to be implemented upon abandonment or cessation of activity, or in conjunction with removal of the facility, prior to issuance of a building permit. The decommissioning plan must ensure the site will be restored

to a useful, nonhazardous condition without delay, including, but not limited to, the following:

- a. Photo documentation of pre-development conditions and/or a detailed description of pre-development land uses/conditions at the project site.
- b. Removal of aboveground and below-ground equipment, structures and foundations.
- c. Restoration of the surface grade and soil after removal of equipment.
- d. Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
- e. A time frame for the completion of site restoration work.
- f. The estimated cost of implementing the decommissioning plan.
- g. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations. No on-site disposal of such waste shall be permitted.

10. Prior to the issuance of the building permit or final approval by the Town Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect, and final equipment specification sheets, safety plan, and Decommissioning Plan shall be submitted.

D. **Site Plan Design Standards.** Prior to issuance of final site plan approval from the Town Board for a Tier 2 Solar Energy System, the application shall demonstrate that the following design standards have been met:

1. **Underground Requirements.** All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
2. **Vehicular Paths.** Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction and, in consultation with the Fire Department and Code Enforcement Officer, shall be demonstrated to be compliant with access requirements for emergency responders of the Fire Code.
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. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
7. Lot size: The property on which the Tier 2 Solar Energy System shall have a minimum lot size of 10 acres.
8. Setbacks: The Tier 2 Solar Energy Systems shall be setback a minimum of 100 feet from the front, side, and rear property lines. Tier 2 Solar Energy Systems shall be setback a minimum of 250 feet from any non-participating residence. Fencing, access roads, and landscaping may occur within the setback area. The foregoing side and rear setback requirements shall not apply to adjacent participating parcels that share a common boundary line.
9. Height: The maximum height for Tier 2 Solar Energy Systems shall not exceed twenty (20) feet in height above the ground at maximum tilt. The height of the systems will be measured from the highest natural grade below each solar panel.
10. Lot Coverage: Lot coverage of the Solar Energy System, as defined above, shall not exceed the maximum lot coverage requirement of the underlying neighborhood/district schedule
11. The following components of a Tier 2 Solar Energy System shall be considered included in the calculations for lot coverage requirements:
 - a. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
 - b. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
 - c. Paved access roads servicing the Solar Energy System.
12. Fencing Requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access,
13. Screening and Visibility. Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
14. Agricultural Resources. For projects located on agricultural lands, Tier 2 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.

- E. The Tier 2 Solar Energy System approval shall include appropriate conditions to ensure ongoing compliance with the site plan standards, including, but not limited to:
1. Compliance with the approved Landscaping Plan and Vegetation Management Plan.
 2. Prior to the issuance of a building permit, the Operator shall provide a copy of all necessary titles to or leasehold interests in the facility, including ingress and egress access to public streets, and such deeds, easements, leases, licenses, or other real property rights or privileges as are necessary for all interconnections for the facility.
 3. 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.
 4. Solar Energy System construction-related damage. The Operator of any permitted Solar Energy System shall, repair or replace all real or personal property, public or private, damaged as a result of the Solar Energy System construction.
 5. Approval of the site plan by the Fire Department and Code Enforcement Officer for compliance with the site access requirements of the Fire Code.
 6. Site access shall be maintained to a level acceptable to the local Fire Department and emergency medical services. All means of shutting down the Solar Energy System shall be clearly marked.
 7. The Operator shall be responsible for the cost of maintaining the Solar Energy System and any access road(s), unless accepted as a public way.
 8. The Operator shall identify a responsible person with contact information for public inquiries from the commencement of construction of the Solar Energy System until the completion of the decommissioning plan.
 9. Liability Insurance. Prior to issuance of a building permit for a Solar Energy System and continuing after construction until the decommissioning plan has been fully implemented, on an annual basis the owner and/or operator shall provide documentation satisfactory to the Town of the existence of liability insurance coverage with reasonable limits, as set by the Town Board in consultation with the Town's insurance advisor, for property damage, pollution, injury or death resulting from the construction, placement, use, maintenance or operation of the Solar Energy System by the operator and/or operator of the facility.

411.06 Permitting requirements for Tier 3 Solar Energy Systems

- A. Tier 3 Solar Energy Systems are permitted in Agriculture (AG), Industrial (I-1), and Light Industrial (LI-1) Districts through the issuance of site plan approval and a special permit from the Town Board, and shall be subject to the Uniform Code and the special use permit and site plan review requirements set forth in this Section 411 and the special use permit requirements of Section 607 of this law. In the event of conflicts

between the requirements Section 411 and Section 607, the provisions of Section 411 shall apply.

- B. Review Procedure. The application shall be reviewed pursuant to the requirements of Section 607 of this law. All Tier 3 Solar Energy System applications shall be referred to the Allegany County Planning Board pursuant to General Municipal Law § 239-m.
- C. Permit application requirements. The application for a special use permit and site plan approval for a Tier 3 Solar Energy System shall include the following information:
 - 1. Property lines and physical features, including roads, for the project site.
 - 2. A landscaping plan consistent with the requirements of Section 411(D)(13) showing proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
 - 3. A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and other current devices.
 - 4. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
 - 5. Name, address, 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 any building permit.
 - 6. Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent, within the prior three months, to the application and the use of their real property for the Solar Energy System.
 - 7. Documentation, including mapping, demonstrating the location of Prime Farmland or Farmland of Statewide Importance, if any, on the parcel of land comprising the project site.
 - 8. In instances where the Tier 3 Solar Energy System is proposed to be sited on Prime Farmland or Farmland of Statewide Importance, documentation demonstrating compliance with the limitations of Section 411.06(D)(14).
 - 9. Preliminary Property Operation and Maintenance Plan. Such plan shall describe continuing solar energy system maintenance and property upkeep, such as mowing, trimming, grazing, maintenance of landscaping that are part of the approved landscaping plan, and chemical vegetation control. The plan should include provisions for emergency inspections and repair after severe weather or natural disasters.
 - 10. 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.

11. The appropriate complete SEQRA Environmental Assessment Form (“EAF”) Part I.
12. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Town Board or the Town Planning Board.
13. **Transportation Plan.** The application will include a transportation plan, which shall be developed in consultation with the Town Highway Superintendent, the Allegany County Highway Department and the New York State Department of Transportation, as applicable, that will include:
 - a. A construction schedule describing commencement and completion dates, as well as a transportation plan describing routes to be used in delivery of project components, equipment and building materials and those to be used to provide access to the site during construction, as well as the gross weights and heights of vehicles used.
 - b. The traffic routes shall consider the following factors;
 - i. Minimizing traffic impacts from construction and delivery vehicles.
 - ii. Minimizing Solar Energy System related traffic during times of school bus activity.
 - iii. Minimizing wear and tear on local roads.
 - iv. Minimizing impacts on local business operations.
 - c. Such plan should also describe any anticipated improvements to existing roads, bridges or other infrastructure, measures to be taken to document the condition of the proposed construction access routes before, during, and upon completion of construction, as well as the measures which will be taken to restore damaged or disturbed access routes during and following construction.
14. A preliminary decommissioning plan to be implemented upon abandonment or cessation of activity, or in conjunction with removal of the facility, prior to issuance of a building permit. The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:
 - a. Photo documentation of pre-development conditions and/or a detailed description of pre-development land uses/conditions at the project site.
 - b. Removal of aboveground and below-ground equipment, structures and foundations.
 - c. Restoration of the surface grade and soil after removal of equipment.

- d. Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
 - e. A time frame for the completion of site restoration work.
 - f. The estimated cost of implementing the decommissioning plan.
 - g. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations. No on-site disposal of such waste shall be permitted.
 - h. For Solar Energy Systems constructed on Prime Farmland or Farmland of Statewide Importance, the restoration of the farmland pursuant to the decommissioning guidelines of the NYS Ag and Markets Solar Energy Project Guidance.
 - i. The method for ensuring that funds will be available for decommissioning and restoration as set forth in the decommissioning security requirements of Section 411.06(G) of this law.
15. A signed and executed New York State Standardized Interconnection Contract from the utility company acknowledging that it will be connected to the utility grid in order to sell electricity to the public utility.
16. Prior to the issuance of the building permit or final approval by the Town Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect, and final equipment specification sheets, Property Operation and Maintenance Plan, safety plan, and Decommissioning Plan shall be submitted.
- D. Site Plan Design Standards. Prior to issuance of final site plan approval from the Town Board for a Tier 3 Solar Energy System, the application shall demonstrate that the following design standards have been met:
- 1. Underground Requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
 - 2. Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction and, in consultation with the Fire Department and Code Enforcement Officer, shall be demonstrated to be compliant with access requirements for emergency responders of the Fire Code.
 - 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. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
7. Lot size: The property on which the Tier 3 Solar Energy System shall have a minimum lot size of 10 acres.
8. Setbacks: The Tier 3 Solar Energy Systems shall be setback a minimum of 100 feet from the front, side, and rear property lines. Tier 3 Solar Energy Systems shall be setback a minimum of 250 feet from any non-participating residence. Fencing, access roads, and landscaping may occur within the setback area. The foregoing side and rear setback requirements shall not apply to adjacent participating parcels that share a common boundary line.
9. Height: The maximum height for Tier 3 Solar Energy Systems shall not exceed twenty (20) feet in height above the ground at maximum tilt. The height of the systems will be measured from the highest natural grade below each solar panel.
10. Lot Coverage: Lot coverage of the Solar Energy System, as defined above, shall not exceed the maximum lot coverage requirement of the underlying district schedule
11. The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:
 - a. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
 - b. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
 - c. Paved access roads servicing the Solar Energy System.
12. Fencing Requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access,
13. Screening and Visibility.
 - a. Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
 - b. Solar Energy Systems larger than 10 acres shall be required to:

- i. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent 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 to be submitted by the applicant.
- ii. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.
- iii. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscaped screening shall be comprised of a minimum of 1 evergreen tree, at least 6 feet high at time of planting, plus 2 supplemental shrubs at the reasonable discretion of the Town Board, all planted within each 10 linear feet of the Solar Energy System. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. A list of suitable evergreen tree and shrub species should be provided to the Town.

14. Agricultural Resources. For projects located on agricultural lands:

- a. Any Tier 3 Solar Energy System located on the areas that consist of Prime Farmland or Farmland of Statewide Importance shall not exceed 50% of the area of Prime Farmland or Farmland of Statewide Importance on the parcel. Tier 3 Solar Energy Systems on Prime Farmland or Farmland of Statewide Importance shall be required to seed 20% of the total surface area of all solar panels on the lot with native perennial vegetation designed to attract pollinators.
- b. To the maximum extent practicable, Tier 3 Solar Energy Systems located on Prime Farmland and Farmland of Statewide Importance shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.
- c. Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

E. Special Use Permit Approval Standards. Approval of the special use permit application requires that the Town Board find that the proposed Tier 3 Solar Energy System meets the standards set forth in Section 607 of this law.

- F. The Tier 3 Solar Energy System approval shall include appropriate conditions to ensure ongoing compliance with the site plan and special use permit standards, including, but not limited to:
1. Compliance with the approved Landscaping Plan, Vegetation Management Plan, and Operations and Maintenance Plan.
 2. Prior to the issuance of a building permit, the Operator shall provide a copy of all necessary titles to or leasehold interests in the facility, including ingress and egress access to public streets, and such deeds, easements, leases, licenses, or other real property rights or privileges as are necessary for all interconnections for the facility.
 3. 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.
 4. Solar Energy System construction-related damage. The Operator of any permitted Solar Energy System shall, repair or replace all real or personal property, public or private, damaged as a result of the Solar Energy System construction.
 5. Prior to the commencement of construction of the Solar Energy System, an existing condition survey of the approved hauling routes for construction of the Solar Energy System shall be performed. Any road damage during construction that is caused by the Operator or one or more of its subcontractors that is identified by the New York State Department of Transportation ("NYSDOT"), Allegany County Highway, and Town of Alfred Highway (as appropriate) shall be repaired or reconstructed to the satisfaction of NYSDOT, Allegany County Highway, and Town of Alfred Highway Departments (as appropriate) at the Operator's expense, prior to the final inspection. In addition, the Operator shall pay for all costs related to NYSDOT, Allegany County Highway, and Town of Alfred Highway (as appropriate) pre-inspection work prior to receipt of the final inspection.
 6. The Highway Superintendent is authorized to attach appropriate conditions to any permit issued under this law so as to ensure that hauling and road use by the applicant is consistent with the statutory purposes of the New York Vehicle and Traffic Law § 385, New York Vehicle and Traffic Law § 1650 and the applicant's obligation to repair or replace any damage to Town roads established by this law and New York State law
 7. Solar Energy System permit conditions may limit Solar Energy System-related traffic to specified routes and include a plan for disseminating traffic route information to the public.
 8. Road Remediation. The applicant shall be responsible for remediation of damaged roads upon or, if necessary, during the construction of or completion of the installation of Solar Energy System. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by the Town Planning Board, sufficient to compensate the Town for any damage to local roads that is not corrected by the applicant.

9. Approval of the site plan by the Fire Department and Code Enforcement Officer for compliance with the site access requirements of the Fire Code.
10. Site access shall be maintained to a level acceptable to the local Fire Department and emergency medical services. All means of shutting down the Solar Energy System shall be clearly marked.
11. The Operator shall be responsible for the cost of maintaining the Solar Energy System and any access road(s), unless accepted as a public way.
12. The Operator shall identify a responsible person with contact information for public inquiries from the commencement of construction of the Solar Energy System until the completion of the decommissioning plan.
13. **Liability Insurance.** Prior to issuance of a building permit for a Solar Energy System and continuing after construction until the decommissioning plan has been fully implemented, on an annual basis the owner and/or operator shall provide documentation satisfactory to the Town of the existence of liability insurance coverage with reasonable limits, as set by the Town Board in consultation with the Town's insurance advisor, for property damage, pollution, injury or death resulting from the construction, placement, use, maintenance or operation of a Solar Energy System by the operator and/or operator of the facility.

G. Financial Security.

1. Prior to issuance of a building permit, the owner and/or operator shall provide a form of financial security that is sufficient to cover the implementation of the decommissioning plan.
2. The financial security shall be in the form of a 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 implementation of the decommissioning plan. The amount of the bond or security shall be 125% of the estimated cost of implementing the decommissioning plan with an escalator of 2% annually for the life of the Solar Energy System and shall be updated every fifth year thereafter specifying changes to the estimated cost of implementing the decommissioning plan. The salvage value of the Solar Energy System shall not be accounted for in the estimated cost of implementing the decommissioning plan..
3. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

- H. **Ownership Changes.** If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit and site plan approval shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the Town Supervisor

of such change in ownership or operator in writing within 30 days of the ownership change. The special use permit and all other local approvals for the Solar Energy System shall be void if a new owner or operator fails to provide written notification to the Town Supervisor in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under Section 411.

411.07 Permit Time Frame and Abandonment

- A. The special permit and site plan approval for a Solar Energy System shall be valid for a period of 24 months, provided that construction is commenced within that period of time. 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 after approval, the applicant or town may extend the time to complete construction for up to two consecutive extensions each of twelve (12) months.
- B. If the owner and/or operator fails to achieve substantial completion within 48 months, the approvals shall expire. If the owner and/or operator fails to perform, the Town may direct the owner and/or operator to implement the decommissioning plan. In such instance, the decommissioning plan must be completed within one-hundred-eighty (180) days of notification by the Town.
- C. 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 360 days of such notification.
- D. If the owner and/or operator fail to comply with decommissioning plan upon any abandonment, the Town may, at its discretion, utilize the financial security provided as required by Section 411(G) for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

- V. Zoning Law Section 604.02-C, titled "SPECIAL USE PERMITS" is hereby annulled and the Zoning Law is amended to add Section 607, titled "SPECIAL USE PERMITS" stating as follows:

SECTION 607 SPECIAL USE PERMITS

607.01 Special permit uses are uses for which approval of the Town Board is required and for which conformance to additional standards is required, in addition to all other requirements of this Law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific case or use shall be considered as an individual case that requires consideration of the merits and details of each proposed use to assure that such proposed use is in harmony with this Law, the Town's Comprehensive Plan, land use and similar goals and plans from time to time adopted by the Town Board and in effect at the time in question, and that such proposed use will not adversely affect the general character of the surrounding area if the conditions of the special use permit are met.

607.02 All special permit uses shall also require site plan review approval from the Town Board.

607.03 Issuance of permits and approvals by the Town Board or Zoning Board of Appeals shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")]. Unless determined otherwise by 6 NYCRR Part 617, in the instance where both the Town Board and Zoning Board of Appeals have approval authority over an application, the Town Board will be the lead agency for purposes of the SEQRA review.

607.04 In evaluating a request for a special use permit, the Town Board shall require evidence of the satisfaction of each and every one of the following standards by findings entered into the record of the proceedings:

- A. That the special use is specifically authorized by the Law (the decision shall set forth the exact subsection of this Law containing the jurisdictional authorization);
- B. That the special use meets all of the criteria set forth in the subsection of this Law authorizing such special use: and
- C. That the granting of the special use permit will not alter the general character of the surrounding area, or impair the intent or purpose of this Law, or of the Town's Comprehensive Plan, or land use and similar goals and plans from time to time adopted by the Town Board and in effect at the time in question. In so doing, the Town Board shall consider factors such as:
 1. location and size of proposed project;
 2. the nature and intensity of the operations involved;
 3. the size of the site in relation to the size of the proposed project;
 4. the location of the site with respect to the existing or future roads giving access to it with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 5. whether the location, nature and height of buildings, walls and fences will discourage the appropriate development and use of adjacent land and buildings and properties generally in the district or impair the value thereof;
 6. whether the operations in connection with the proposed project will be more objectionable in nature to nearby properties and properties generally in the district by reason of noise, fumes, vibration, flashing lights, increased traffic or any other objectionable reasons, than would be the operations of any use permitted as of right;
 7. the impact on existing and planned capacity of infrastructure systems, including but not limited to roads, water, sewer, energy and drainage;
 8. whether environmentally sensitive features will be protected; and
 9. whether any authorization hereunder shall create fiscal burdens upon the community at large.
- D. No special permit shall be issued for a use on a property where there is a violation of this Law or other Town law or regulation. A special use permit shall authorize only one

particular special use and shall expire if the subject use shall cease for any reason for six months or longer.

- E. All applications for special use permits shall consist of an original and eight copies. The application shall be made to the Town Board and filed with the Town Clerk. The Town Clerk shall forward the application to the Town Supervisor.
- F. The Town Supervisor, after a determination by the Town Board that the application is complete, shall:
 - 1. transmit one copy of the application and supporting documents to the Allegany County Planning Board if required by New York State law or this Law;
 - 2. transmit one copy to each Town Board member.

607.03 The review procedure for special use permits shall be as follows:

- A. The applicant for a special use permit shall submit nine paper copies and a digital copy of the application. The application shall be made to the Town Board and filed with the Town Clerk. The Town Clerk shall forward the application to the Town Supervisor.
- B. The Town may require an applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review of building permit submittals related to the application, and the review required by SEQRA. Payment of said escrow and all application fees shall be made at the time of application submission.
- C. The Town Board will review the application for completeness. An application shall be complete when it addresses all matters for the intended use listed in this Law or necessary for the Town Board to perform its review pursuant to SEQRA.
- D. Applicants shall be advised by the Town Board within 45 days from the submittal of the application of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
- E. Once deemed complete, the application shall be referred to the Allegany County Planning Board pursuant to General Municipal Law § 239-m if required by New York State law or this Law.
- F. The application shall be subject to the following public hearing, notice, and review period requirements:
 - 1. The Town Board shall conduct a public hearing on the site plan and special use permit application within sixty-two days from the day an application is deemed complete.
 - 2. Public notice of said hearing shall be printed in a newspaper of general circulation in the Town at least five days prior to the date thereof.
 - 3. The applicant shall, at least 7 days prior to the date of the hearing, give notice in writing by certified mail or by service in person with adequate proof of contact, to all property owners within 200 feet of the boundary of the property to be affected by the application or to all otherwise affected and interested property owners as may be designated by the Town Board.

4. All costs of sending or publishing any notices relating to the application shall be paid by the applicant and shall be paid to the Town prior to the hearing.
 5. Following the public hearing and a determination under SEQRA, the Town Board shall render a decision on the site plan application and special use permit, which can include approval, approval with conditions, or denial, within sixty-two days.
 6. The decisions of the Town Board on the application shall be filed in the office of the town clerk within five business days after such decisions are rendered, and a copy thereof mailed to the applicant.
 7. The time within which the Town Board must render their decision may be extended by mutual consent of the applicant and the board.
- G. The Town Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the special use. Any such conditions must be met in connection with the issuance of permits by the Town Code Enforcement Officer.
- H. The zoning inspector shall issue the special use permit upon the conditions imposed upon the applicant, if any, and file a copy for date-stamp with the Town Clerk.
- VI. Section 604.03, titled "PROCEDURES FOR THE BOARD OF APPEALS," Section 604.04, titled "NOTICE OF THE BOARD OF APPEALS HEARING," and Section 901, titled DEFINITIONS, are amended to remove references to the approval of special use permits by the Zoning Board of Appeals as follows:

1. Section 604.03-B is revised to state: "Every appeal or application shall cite the section of the law involved and either cite the passage for which an interpretation is sought or give details and reasons for requesting a variance."
2. Section 604.03-C is revised to state: "At least 30 days before the date of a hearing on a variance or other application, the Chairman of the Board of Appeals shall send a copy of the notice of the hearing to the Town board and shall request an opinion on the interpretation, appeal or application.
3. Section 604.03-E is revised to state: "Failure by the Board of Appeals to act on a request for a variance within 90 days of the filing of the application with the town clerk shall constitute approval of the request."
4. Section 604.03-E.2 is revised to state: "If an application is approved by the Board of Appeals, the Chairman of the Board of Appeals shall file a copy of the approval resolution signed by each board member in the manner in which each member voted on the issue and the Board minutes with the Town Clerk for permanent file."
5. Section 604.03-E.3 is annulled.
6. Section 604.03-E.4 is renumbered to be Section 604.03-E.3.
7. Section 604.04-B is revised to state: "The applicant shall, at least 7 days prior to the date of a hearing for a variance, give notice in writing by certified mail or by

service in person with adequate proof of contact, to all property owners within 200 feet of the boundary of the property to be affected by the appeal or to all property owners to be affected and other interested property owners as may be designated by the Board of Appeals.”

8. Section 901.57 is revised to state: “Special Use: A use which because of its unique characteristics is only permitted subject to requirements imposed by this local law to assure that the proposed use is in harmony with this local law and will not adversely affect the neighborhood if such requirements are met.”
9. Section 901.68 is revised to state: “Special Use Permit: A permit for a special use issued by the Zoning Inspector in accordance with procedures established in Section 607.”

VII. 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.

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