

**Local Law No. 1 of 2025  
for Solar Energy Systems in the Town of Erin**

**1. Authority**

This Solar Energy Local Law is adopted pursuant to sections 261-263 of the Town Law and section 20 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, and, in accordance with the Town law of New York State, “to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.”

**2. Statement of Purpose**

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

- 1) To take advantage of a safe, abundant, renewable and non-polluting energy resource;
- 2) To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
- 3) To increase employment and business development in the Town, to the extent reasonably practical, by furthering the installation of Solar Energy Systems;
- 4) To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources, and;
- 5) To maintain the rural character of the Town of Erin and to integrate solar energy usage in the Town in such a way as to minimize the visual impact on the community along with meeting the needs of the Town as set forth in the Comprehensive Plan.

**3. Definitions**

**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.

**FARMLAND OF STATEWIDE IMPORTANCE:** Land, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of state wide importance for the production of food, feed, fiber, forage, and oilseed crops as

determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

**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, which generates electricity for onsite or offsite consumption.

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

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

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

**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.

**QUALIFIED SOLAR INSTALLER:** A person who has the skills and knowledge related to the construction and operation of solar energy systems. Persons who are on the list of eligible photovoltaic installers maintained by NYSERDA, or who are certified by NABCEP, shall be deemed to be qualified. Persons who are not on either of these lists may be deemed qualified if the Town Code Officer determines that they have adequate training and experience to perform the installation safely.

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

A. Tier 1 Solar Energy Systems include the following:

- a. Roof-Mounted Solar Energy Systems
- b. Building-Integrated Solar Energy Systems
- c. Ground-Mounted Solar Energy Systems with a nameplate capacity of up to 25 kW AC
- d. On-Farm Solar Energy Systems
- e. Permits for all Tier 1 Solar Energy Systems are issued by the Town Code Officer

B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with system capacity up to 1Mw AC and that generate no more than 110% of the electricity consumed on the site over the previous 12 months. Tier 2 Solar Energy Systems are ground-mounted Solar energy Systems that are affixed to the ground either directly or by mounting devices and are not attached or affixed to a building or structure. All applications for Tier 2 Solar Energy Systems are reviewed and subject to site plan approval and requirements set forth in this Local Law.

C. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems. All applications for Tier 3 Solar Energy Systems require final approval by the Town Board after receipt of the Planning Board's advisory report.

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

**STORAGE BATTERY:** A device that stores energy and makes it available in an electrical form.

#### **4. Applicability**

A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town after the effective date of this Local Law, excluding general maintenance and repair.

B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.

C. Modifications to an existing Solar Energy System that increase the 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 Local Law.

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”), the NYS Energy Conservation Code (“Energy Code”), the Department of Environmental Conservation regulations, and the Erin Town Code, including all local laws and ordinances.

## **5. General Requirements**

A. A Building permit shall be required for installation of all Solar Energy Systems, listing owner and operator.

B. All Solar Energy Systems require installation by a qualified solar installer as approved by the Town Code Officer. Prior to the issuance of the building permit or final approval, construction and/or site plan documents must be signed and stamped by a NYS Licensed Professional Engineer.

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

D. Prior to operation, electrical connections must be inspected by an appropriate licensed electrical inspection person or agency, as determined by the Town. An electrical inspector must supply written verification that all electrical connections pass inspection.

E. Connection to the public utility grid must be inspected by the appropriate public utility and proof of inspection shall be provided to the Town.

F. Solar Energy Systems must not present any unreasonable safety risk, including but not limited to weight load, resistance and ingress and egress in the event of fire or other emergency.

G. Energy Systems shall comply with all relevant and applicable provisions of the New York State Uniform Fire Prevention and Building Code Standards.

H. If storage batteries are included as part of the Solar Energy System, they must be placed in a secure container or enclosure under the requirements of the New York State Uniform Fire Prevention and Building Code when in use, and when no longer in use, shall be disposed of in accordance with the laws and regulations of the Town and other applicable law and regulations.

I. All utility services and electrical wiring/lines shall be placed underground and otherwise be placed within the walls or unobstructive conduit. Conduits or feeds which are laid on the roof shall be camouflaged to blend in with the roof and reduce statically objectionable impacts.

J. If Solar Energy Systems, except for Tier 3 Systems which have separate regulations under this law, cease to perform its originally intended function for more than 12 consecutive months, the property owner shall completely remove the system, mounts and all associated equipment and components by no later than 90 days after written notice from the Town. The zoning enforcement officer shall have the right, at any reasonable time after notice, to enter in company of the owner or his agent to ensure that the Solar Energy System remains operational.

K. Design, construction, operation and maintenance of the Solar Energy System shall prevent direction, misdirection and or reflection of solar arrays and/or glare into neighboring properties, public roads, public parks and public buildings.

L. Prior to the time of the issuance of a solar building permit, the applicant/owner shall demonstrate to the Code Enforcement Officer a reliable and safe master method for the deenergizing of the Solar Energy System in the event of an emergency.

## **6. Permitting Requirements for Tier 1 Solar Energy Systems**

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning code or other land use regulation, subject to the following conditions for each type of Solar Energy Systems:

### **A. Roof-Mounted Solar Energy Systems**

1) Roof-Mounted Solar Energy Systems shall incorporate the following design requirements:

- a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface 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.
- e. Solar Energy Systems, to the extent possible, shall have neutral paint colors to achieve harmony with the surrounding area.

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

3) Height: All Roof-Mounted Solar Energy Systems shall comply with the height limitations in Appendix 1.

## 7. Permitting Requirements for Tier 2 Solar Energy Systems

All Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be subject to site plan review under the local zoning code or other land use regulations and subject to the following conditions:

- A. A solar/building permit and Special Use Permit from the Planning Board shall be required for the installation of all ground-mounted Solar Energy Systems.
- B. Application and site plan review requirements, including materials for site plan review, shall include the following:
  - 1) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of the building permit.
  - 2) Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
  - 3) Plans and drawings of the proposed installation signed, marked and/or stamped by a professional engineer showing the proposed layout of the entire solar farm along with a description of all components whether on-site or off-site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Town Board and shall not commence until the issuance of site plan approval.
  - 4) Nameplate Capacity of the Solar Energy System expressed in kW or MW.
  - 5) Zoning district designation for the parcel(s) of land comprising the Facility Area.
  - 6) Property lines and physical features, including roads, for the project site.
  - 7) Property lines and physical dimensions of the proposed site, including contours at 5-foot intervals and the location of approximate dimensions and types of all existing structure(s) and uses on the site.
  - 8) Location of all existing above-ground utility lines showing the connection of the system to the utility line within 1,200 linear feet of the site.
  - 9) Where applicable, the location of all transmission facilities proposed for the installation. All transmission lines and wiring associated with a project shall be buried underground and include necessary encasements in accordance with the National Electric Code and Town requirements. The Town Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant demonstrating that underground transmission lines are not

- feasible or practical. The applicant is required to show the locations of all proposed overhead electric utility/transmission lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the public utility company's requirements for interconnection. Any connection to the public utility grid must be inspected by the appropriate public utility.
- 10) Location of all service structures proposed as part of the installation and primary equipment sheds.
  - 11) Soil types at the proposed site.
  - 12) A berm, landscape screen, or any other combination acceptable to the Town capable of screening the site shall be provided along any property line as may be required by the Planning Board during review.
  - 13) Photographic simulation that shall include showing the proposed solar farm along with elevation views and dimensions and manufacturer's specifications and photos of the proposed Solar Energy Systems, solar collectors, solar panels, and all other components comprising the project.
  - 14) Prior to the issuance of a Solar/Building Permit, certification from a professional engineer registered in New York State indicating that the building or structure to which a solar panel or Solar Energy System is affixed is capable of handling the loading requirements of the solar panel or Solar Energy System and various components.
  - 15) Documentation of access to the project sites, including location of all access roads, gates, parking areas.
  - 16) Documentation of utility notification, including an electric service order number.
    - (a) The manufacturer's or installer's identification and appropriate warning signage shall be posted at the site and be clearly visible.
  - 17) Solar Energy Systems shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the electric systems. Materials used for marking shall be weather resistant. The marking shall be placed adjacent to the main service disconnect location clearly visible from the location where the lever is operated.
  - 18) The design, construction, operation and maintenance of the Solar Energy System shall prevent the direction, misdirection and/or reflection of solar rays and/or glare onto neighboring properties, public roads, public parks and public buildings.
  - 19) Detailed safety plans shall be provided 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 location, height, materials, and color of fencing and other barriers to access the safety signage plan that contain the location, sizes, and text of signs that will be used to warn the public away from the 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.

- 20) Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
- 21) Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
- 22) A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and other current devices. The diagram should describe the location and layout of all Battery Energy Storage System components, if applicable, and should include applicable setbacks and other bulk and area standards.
- 23) A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of the building permit.

C. Standards. Tier 2 Systems shall adhere to the following standards:

- 1) Artificial lighting of solar arms shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
- 2) Noise. All equipment that produces noise shall be placed in the center of the solar array. Further and at the property line of any Solar Energy System, the noise level shall not exceed 40 dB.
- 3) Work hours – 7:00 a.m. – 6:00 p.m. Monday through Friday, no holidays.
- 4) Lot coverage. Tier 2 Solar Energy Systems shall comply with the most restrictive area, yard and total area/lot coverage restrictions based on the specific zoning regulation in the applicable zoning district in which the ground-mounted solar system is constructed.
- 5) Setbacks. Tier 2 Solar Energy Systems shall adhere to the setback regulations specified for the accessory structures within the underlying zoning district. Additional setback requirements may be established by the Planning Board in



order to protect the safety, health and welfare, and aesthetics in conjunction with the goals of the Comprehensive Plan.

- 6) All Tier 2 Solar Energy Systems shall only be installed in side and rear yards. A front yard, for the purposes of this Law, is defined as a line drawn parallel to the highway drawn from the point from a corner of the residence or principal structure on the structure closest to the highway.
- 7) Lot size. Tier 2 Solar Energy Systems shall only be permitted on lots which are 20,000 square feet or larger.
- 8) Height. Tier 2 Solar Energy Systems shall be subject to the height limitations specified in Appendix 1.
- 9) Screening and Visibility.
  - a. All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties and rights of way for the use of agricultural features, earth berms, landscaping, fencing, and/or other screening methods which will harmonize with the character of the property and surrounding area.
  - b. Solar Energy Equipment shall be located in a manner to reasonably avoid and minimize blockage of views from surrounding properties and shading of property to the north.
- 10) Environmental Resources.
  - a. Tree-cutting. Removal of existing trees larger than 6 inches in diameter shall be minimized to the extent possible.
  - b. To the extent practicable, Tier 2 Solar Energy System Owners shall utilize and maintain native perennial vegetation to provide foraging habitat for pollinators in all appropriate areas within the Facility Area.
  - c. Use integrated pest management practices and refrain from pesticide use, including herbicides.
- 11) No Special Use Permit shall be issued by the Town Board unless they determine that the proposed activity will be:
  - a. consistent with and not impede an appropriate goal or objective of the Town Comprehensive Plan.
  - b. consistent with and not impede the lawful use and development of contiguous and neighboring properties and not unreasonably affect their enjoyment and value.

## **8. Permitting requirements for Tier 3 Solar Energy Systems**

Applications for the installation of Tier 3 Solar Energy Systems. Tier 3 Solar Energy Systems require Town Board approval. All Tier 3 Solar Energy Systems are only permitted in AR zoning district subject to requirements of site plan review under local zoning law and other land use regulations and the following conditions:

A. Application for site plan review shall include the following:

- 1) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of the building permit.
- 2) Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
- 3) Plans and drawings of the proposed installation signed, marked and/or stamped by a professional engineer showing the proposed layout of the entire solar farm along with a description of all components whether on-site or off-site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Town Board and shall not commence until the issuance of site plan approval.
- 4) Nameplate Capacity of the Solar Energy System expressed in kW or MW.
- 5) Zoning district designation for the parcel(s) of land comprising the Facility Area.
- 6) Property lines and physical features, including roads, for the project site.
- 7) Property lines and physical dimensions of the proposed site, including contours at 5-foot intervals and the location of approximate dimensions and types of all existing structure(s) and uses on the site.
- 8) Location of all existing above-ground utility lines showing the connection of the system to the utility line within 1,200 linear feet of the site.
- 9) Where applicable, the location of all transmission facilities proposed for the installation. All transmission lines and wiring associated with a project shall be buried underground and include necessary encasements in accordance with the National Electric Code and Town requirements. The Town Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant demonstrating that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead electric utility/transmission lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the public utility company's requirements for interconnection. Any connection to the public utility grid must be inspected by the appropriate public utility.

- 10) Location of all service structures proposed as part of the installation and primary equipment sheds.
- 11) Soil types at the proposed site.
- 12) A berm, landscape screen, or any other combination capable of screening the site shall be provided along any property line as may be required by the Planning Board during review.
- 13) Photographic simulation that shall include showing the proposed solar farm along with elevation views and dimensions and manufacturer's specifications and photos of the proposed Solar Energy Systems, solar collectors, solar panels, and all other components comprising the project.
- 14) Prior to the issuance of a Solar/Building Permit, certification from a professional engineer registered in New York State indicating that the building or structure to which a solar panel or Solar Energy System is affixed is capable of handling the loading requirements of the solar panel or Solar Energy System and various components.
- 15) Documentation of access to the project sites, including location of all access roads, gates, parking areas.
- 16) Documentation of utility notification, including an electric service order number.
  - a. The manufacturer's or installer's identification and appropriate warning signage shall be posted at the site and be clearly visible.
- 17) Solar Energy Systems shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the electric systems. Materials used for marking shall be weather resistant. The marking shall be placed adjacent to the main service disconnect location clearly visible from the location where the lever is operated.
- 18) The design, construction, operation and maintenance of the Solar Energy System shall prevent the direction, misdirection and/or reflection of solar rays and/or glare onto neighboring properties, public roads, public parks and public buildings.
- 19) Detailed safety plans shall be provided 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 location, height, materials, and color of fencing and other barriers to access the safety signage plan that contain the location, sizes, and text of signs that will be used to warn the public away from the 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.

- 20) Property Operation Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- 21) Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
- 22) Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
- 23) A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and other current devices. The diagram should describe the location and layout of all Battery Energy Storage System components, if applicable, and should include applicable setbacks and other bulk and area standards.
- 24) A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of the building permit.
- 25) Erosion and Sediment Control and Stormwater 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.
- 26) Prior to the issuance of the special use permit, engineering documents shall be signed and sealed by a New York State (NYS) Licensed Professional Engineer.
  - a. The Planning Board shall complete site plan review within 45 days from the receipt of all relevant and required documents from the applicant and for Tier 3 applications, forward its report with any recommendations to the Town Board unless the time is extended by the Town Board.
- 27) A decommissioning plan signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:
  - 1) The cost of removing the Solar Energy System throughout the intended life of the Solar Energy System with cost escalators included. The costs shall also include the restoration of the site.
  - 2) The time required to decommission and remove the Solar Energy System from any ancillary structures.
  - 3) The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
  - 4) The Town, at its option, may obtain its own decommissioning plan, the cost of which shall be paid for by the applicant.

- 5) The decommissioning plan shall be approved by a professional engineer.

B. Permitting Process:

- 1) At least 60 days prior to the submission of an application, the applicant shall conduct a pre-application meeting with Town Code Enforcement Officer to ensure all parties have correct expectations regarding the Town's requirements applicable to the proposed energy system. A written request for this purpose shall be sent to the Town Code Enforcement Officer.
- 2) All applications shall include requirements as set forth in the permitting requirements under the Tier 3 Solar Energy Systems and reviewed by the Code Enforcement Officer for completeness. Applicants shall be advised within 30 days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
- 3) All applications are subject to site plan review by the Planning Board. The Planning Board must provide an advisory report to the Town Board.
- 4) Applications require final approval of the Town Board. Applications shall be subject to a public hearing to hear all comments for and against the application. This hearing shall have a notice published in a newspaper in general circulation in the Town at least 10 days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners and landowners within 1200 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Town Board by the public hearing date.
- 5) Applications shall be referred to the County Planning Department pursuant to General Municipal Law § 239-m and the Town Planning Board for site plan review and advisory report.
- 6) Upon closing of the public hearing, the Town Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Town Board and applicant.

C. Standards for Tier 3 Projects:

- 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 to the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
- 2) Vehicular Paths. Vehicular paths within the Facility Area shall be designated in compliance with the uniform code requirements to ensure emergency access.
- 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) Multiple lots. If a Tier 3 Solar Energy System comprises multiple lots, the lots must be combined as a single lot.
- 8) Lot size. The property on which a Tier 3 Solar Energy System is placed shall meet the lot size requirements of a to 100 acres is required.
- 9) Setbacks. Tier 3 Energy Systems shall comply with the setback requirements of the underlying zoning district for principal structures. Additional setback requirements may be adjusted in order to protect the public safety, health and welfare, and aesthetics related to the goals within the Comprehensive Plan.
  - a. The same setback requirements as set forth herein shall apply to all access roads, gates, and parking areas.
- 10) Height. The Tier 3 Solar Energy Systems shall comply with the height limitation in Appendix 1.  
This height requirement can be waived by the Town Board if the panels are being raised to accommodate continued or new agricultural purposes. The Board likes this option.
- 11) Lot coverage
  - a. The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:
    - I. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.

- II. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
  - III. Paved access roads servicing the Solar Energy System.
  - IV. All area within the fenced-in perimeter.
- b. Lot coverage of the Tier 3 Solar Energy System, as defined above, shall not exceed 75% of the lot.
- 12) Fencing Requirements. All mechanical equipment, including any structure for Battery Energy Storage components, 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 two (2) acres shall have views minimized and blocked to the extent possible from adjacent properties 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 two (2) 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 and 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 from public roadways and adjacent properties.
      - i. The screening and landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, as recommended by standards established by the Town.

14) Environmental Resources

- a. Tree cutting. Removal of existing trees larger than 6 inches in diameter shall be minimized to the extent possible.
  - b. 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 and seed all appropriate areas within the Facility Area. Any project which is designed to incorporate agricultural or farm-related activities or uses within the Facility Area may be excluded from this requirement based upon the space actually occupied by the agricultural uses(s). This exclusion will only be allowed based upon the Town Board's determination that these lands are being used for actual agricultural uses.
  - c. Use integrated pest management practices to refrain from pesticide use, including herbicides.
- 15) Agricultural Resources. Tier 3 Solar Energy Systems for which the Facility Area, including lands, are used for agricultural purposes:
- a. The Town Board for any Tier 3 Solar Energy System located on the areas that consist of Prime Farmland or Farmland of Statewide Importance shall be given special consideration to the removal of such Farmland in granting a Special Use Permit under this Law.
  - b. To the maximum extent practicable, Tier 3 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets. The applicant and/or owner shall provide the Town Board with an official verification determination as to whether the agricultural land is determined to be Prime Farmland or Farmland of Statewide Importance.
  - 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.
- 16) Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the Special Use Permit shall remain in effect, provided that the successor owner or operator assumes in writing the obligations of the Special Use Permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the Town of such change in ownership or operator within 10 days of



the ownership change by certified mail to both the Town Clerk and the Town Supervisor and addressed to the Town of Erin Town Hall.

- 17) Insurance. The applicant and/or owner shall maintain a current insurance policy which will cover the installation and operation of the Tier 3 project at all times in the minimum amount of \$500,000,000 property and personal liability coverage and provide proof of such policy to the Town on an annual basis. The Town will be added as an additional insured.
- 18) Training. Applicant and/or owner shall also provide pertinent information, special equipment, and training to fire personnel for local fire department coverage pertaining to the Solar Energy System along with battery storage.
- 19) Decommissioning, Security, and Abandonment
  - a. Prior to issuance of any permit, the Board must approve the decommissioning plan in the event of default or abandonment of the Solar Energy System.
  - b. Security: The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town Board may also require approval of the Town Attorney , shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the security shall be 125% of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System.
  - c. Solar Energy Systems that have been abandoned and/or not producing electricity for a period of one year at at least 50% of its intended usage shall be removed at the owner's and/or operator's expense, which at the owner's option may come in part or whole from any security made with the Town.
  - d. In the event of default upon performance of such conditions, and the Code Officer determines that the system is not maintained in an operable state of good repair, the Code Officer shall provide notice to the owner/operator to allow a reasonable time to cure. If after proper notice the defects are not cured, and the 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. The Town may also commence legal action against the applicant/owner for any unrecovered losses.
  - e. Any expenses or losses incurred by the Town and not reimbursed by any security in connection with the cost of removal of abandoned equipment or other related items and legal fees and expenses shall be levied and collected in the same manner as provided by the Town for the levy and collection of a

special ad valorem levy (property tax) on the real property on which the solar energy system is located. This assessment shall be assessed on the next assessment against said property, and the same shall be levied and collected in the same manner as the regular Town tax.

## 9. Safety, Removal, and Inspection

### A. Safety.

- 1) Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
- 2) Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal, at a level acceptable to the local fire department and Code Enforcement Officer.
- 3) If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations.
- 4) All Tier 3 Solar Energy Systems shall be enclosed with fencing to prevent unauthorized access. Warning signs with owner's/operator's contact information shall be placed at the entrance and perimeter of fencing.

## 10. Permit Time Frame and Removal

A. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 18 months after issuance. In the event construction is not completed in accordance with the final site plan and Special Permit, as may have been amended and approved, as required by the Town Board, within 18 months after approval, the Town may extend the time to complete construction for 90 days and will take into consideration any extensions required as a result of NYSERDA requirements.

## 11. Enforcement

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements for violations and penalties as set forth in Article III, Section 300 Violations and Penalties of the Town of Erin Comprehensive Zoning Plan/Zoning Law.

## 12. 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.

### 13. Waiver

The Town Board may, under appropriate conditions or circumstances, and in their absolute discretion, waive one or more of the submission requirements contained herein.

### 14. Consultant Fees

Fees for application are those as established by the Erin Town Board, and it shall be the responsibility of the applicant to reimburse the Town for any and all reasonable and necessary legal, engineering, and other professional fees incurred by the Town in reviewing and administering an application for a Solar Energy System under this law. The application fees shall be established upon resolution of the Town and amended as needed from time to time.

The Town Board and/or Planning Board, in the review of any application pending before it, may refer the application to such engineering, planning, legal, fiscal, accounting, technical or environmental consultant employed by the Town as such Board shall deem reasonably necessary to enable it to review the application as required by law and to observe a project following its initial approval, as during or after construction for inspections and administration.

A. The applicant shall reimburse the Town for the cost of such consultant's services, except for the following:

- 1) Review by the Town engineer of the initial design plans for water, sewage, drainage or roads (public or private) submitted by the applicant.
- 2) Attendance by the Town engineer at one or more meetings prior to the submission of an application for the purpose of discussing the project, identifying applicable rules and regulations, and anticipating technical concerns.
- 3) Preparation by the Town attorney of any required public notices regarding said application.
- 4) Review by the Town engineer and attorney of any environmental assessment form and supporting documents in connection with the determination of environmental significance pursuant to the New York State Environment Quality Review Law. An environmental assessment form does not include an environmental impact statement or the process known as scoping.
- 5) Attendance by the Town engineer and attorney at any regular or special public meetings of the Town Planning Board or the Town Zoning Board of Appeals.

6) Consultant's fees incurred in reviewing projects involving Tier 1 or Tier 2 Solar Energy Systems.

B. Charges made by consultants who are not regular employees of the Town shall be in accord with charges usually made for such services in the Chemung County, New York region, or pursuant to an existing contractual agreement between the Town and the consultant.

C. In the event that an application is required to be reviewed by more than one board, then to the extent practicable, both boards shall use the same consultant, who shall to the extent practicable, prepare one report providing data, information and recommendations requested. In all cases, duplication of consultants' reports or services shall be avoided wherever practicable in order to reduce the cost of such consultants' reports or services to the applicant.

D. A building permit or other permits, variances, and approvals being sought shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the Town.

E. The above charges are in addition to any and all other fees required by any other law, rule or regulation.

#### 15. Conflicts

Any and all sections of the Town of Erin Town Code which may conflict with this Local Law are hereby amended and supplemented to conform with the intent and terms of this Law.

#### 16. Effective Date

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

## APPENDIX 1: HEIGHT REQUIREMENTS

The following table displays height requirements for each type of Solar Energy Systems. The height of systems will be measured from the highest natural grade below each solar panel.

**Table 1: Height Requirements**

	<b>Tier 1 Roof-Mounted</b>	<b>Tier 2</b>	<b>Tier 3</b>
<b>Zoning District</b>			
Residential Transition	2' above roof	10'	15'
Commercial	4' above roof	15'	15'
Highway Commercial	4' above roof	15'	15'
Industrial	4' above roof	15'	15'
Agricultural / Residential	2' above roof	15'	15'

**Key:**

--: Not Allowed

**APPENDIX 2: EXAMPLE DECOMMISSIONING PLAN**

Date: [Date]

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

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

As required by [Town/Village/City], [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the "Facility").

Decommissioning will occur as a result of any of the following conditions:

- 1. The land lease, if any, ends.
- 2. The system does not produce power for 6 months.
- 3. The system is damaged and will not be repaired or replaced.
- 4. The system is in violation of fire or building code.
- 5. The system is determined to be a safety hazard.

The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which may include the following:

- 1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 36 inches below the soil surface.
- 2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
- 3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

All said removal and decommissioning shall occur within 6 months of the Facility ceasing to produce power for sale.

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

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

**ATTACH DETAIL PLAN WITH ANTICIPATED COSTS.**

**PLAN MUST BE APPROVED BY LICENSED PROFESSIONAL ENGINEER**

**AS SET FORTH IN SECTION 8(H).**