

**TOWN OF YORK
LOCAL LAW NO. 4 OF THE YEAR 2023**

A Local Law Entitled “Amending Article VI of the Zoning Ordinance of the Town of York.”

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

Article VI of the Zoning Ordinance of the Town of York (as originated by Local Law # 2 of 2018 and later amended by Local Law #6 of 2019) shall be repealed and replaced in its entirety and the new Article VI shall read as follows:

618. Solar Energy Systems

- A. Authority and Legislative Intent. The Town Board of the Town of York states the following as its findings and legislative intent:
- (1) This Local Law is adopted pursuant to New York State Town Law §§261, 263 and 264, which authorize the Town of York to adopt zoning provisions that advance and protect the health, safety, and welfare of the community.
 - (2) The Town Board of the Town of York recognizes that solar energy is a clean, readily available and renewable energy source and the Town of York intends to accommodate the use of solar energy systems.
 - (3) However, the Town Board finds it is necessary to properly site and regulate solar energy systems within the boundaries of the Town of York to protect residential uses, Prime Farmland, Farmland of Statewide Importance, business areas and other land uses, to preserve the natural resources, overall beauty, nature and character of the Town of York, to promote the effective and efficient use of solar energy resources, and to protect the health, safety and general welfare of the citizens of the Town of York.
 - (4) The previously adopted Article VI (as originated by Local Law # 2 of 2018 and later amended by Local Law #6 of 2019) has become insufficient to adequately address the many new aspects of Solar Energy System (as hereinafter defined) development that have arisen since its original adoption. Accordingly, the Town Board finds that the adoption of these updated and enhanced regulations is necessary to properly direct the

location, size and construction of these Solar Energy Systems.

B. Definitions. The following definitions shall apply to this Section 618:

Applicant - The person or entity submitting an application and seeking an approval under this Article; the owner of a Solar Energy System or a proposed Solar Energy System project; the operator of Solar Energy System or a proposed Solar Energy System project; any person acting on behalf of an Applicant, Solar Energy System or proposed Solar Energy System. Whenever the term “applicant” or “owner” or “operator” are used in this Article, said term shall include any person acting as an applicant, owner or operator of such Solar Energy System.

Building-Integrated Solar Energy System - A combination of photovoltaic building components integrated into any building envelope system such as vertical facades, including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

Building-Mounted Solar Energy System - Any Solar Energy System that is affixed to the side(s) or rear of a building or other structure either directly or by means of support structures or other mounting devices, intended to produce energy for onsite consumption or credit for onsite consumption for a building, Single-Family Dwelling, Two-Family Dwelling, Multi-Family Dwelling, business or farm, but not including those mounted to the roof or top surface of a building.

Building-Mounted Solar Energy System - Commercial - Any Solar Energy System that is affixed to the side(s) or rear of a building or other structure either directly or by means of support structures or other mounting devices, intended to produce energy for offsite sale to and consumption by one or more customers.

Decommissioning - The removal and disposal of all Solar Panels, Solar Energy Equipment, structures, equipment and accessories, including subsurface foundations and all other material, concrete, wiring, cabling, or debris, that were installed in connection with a Solar Energy System and the restoration of the parcel of land to the original state prior to construction on which the Solar Energy System is built to either of the following, at the landowner's (either the Initial Landowner or it's heirs, successors or assigns) sole option: (i) the condition such lands were in prior to the development, construction and operation of the Solar Energy System, including but not limited to restoration, regrading, and reseeded, or (ii) the condition designed by landowner (either the Initial Landowner or it's heirs, successors or assigns) and the Town. Details of the expected Decommissioning activities and costs are to be described in the Decommissioning Plan and Decommissioning Agreement as may be required pursuant to this Article.

Decommissioning Agreement - A written Agreement between Applicant, Initial Landowner and Town that sets forth the obligations of the Applicant and/or the Initial Landowner to properly

decommission the Solar Energy System if the use of such system is discontinued, abandoned or becomes inoperable. For purposes of this Article, the term “inoperable” shall mean that such Solar Energy System is operating such that it produces less than 10% of the original nameplate capacity of the Solar Energy System at the time of original construction.

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. Generally, this land includes areas of soils that nearly meet the requirements for Prime Farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some areas may produce as high a yield as Prime Farmland if conditions are favorable. Farmland of statewide importance may include tracts of land that have been designated for agriculture by State law.

A map showing Farmland of Statewide Importance within the Town of York is available at the Town Clerk’s office and is made a part of these regulations as “Exhibit 1,” which is styled “Town of York – Prime Farmland and Farmland of Statewide Importance.”

The above map shall be subject to periodic update when the data illustrated therein (derived from the U.S. Department of Agriculture NRCS Soil Survey Geographic Database) is modified or changed from the original source data information.

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 - Any Solar Energy System that is affixed to the ground either directly or by support structures or other mounting devices where such structure and mounting exists solely to support the Solar Energy System.

Initial Land Owner – The record title owner to the real property upon which a Solar Energy Systems is constructed, at the time such Solar Energy System is initially approved.

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 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 uses. It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including

water management. In general, Prime Farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime Farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

A map showing Prime Farmland within the Town of York is available at the Town Clerk's office and is made a part of these regulations as "Exhibit 1," which is styled "Town of York – Prime Farmland Soils Showing an Area of Environmental Importance."

The above map shall be subject to periodic update when the data illustrated therein (derived from the U.S. Department of Agriculture NRCS Soil Survey Geographic Database) is modified or changed from the original source data information.

Roof-Mounted Solar Energy System - A Solar Energy System mounted on the roof of any legally permitted building or structure and wholly contained within the limits of the roof surface, intended to produce energy for onsite consumption or credit for onsite consumption for a building, Single-Family Dwelling, Two-Family Dwelling, Multi-Family Dwelling, business or farm.

Roof-Mounted Solar Energy System - Commercial - A Solar Energy System mounted on the roof of any legally permitted building or structure and wholly contained within the limits of the roof surface, intended to produce energy for offsite sale to and consumption by one or more customers.

Site Plan – The application materials, procedures and processes required by this Article VI and Article XI of the Zoning Ordinance of the Town of York.

Solar Panel - A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Solar Energy Equipment - Electrical energy devices, material, hardware, inverters, or other electrical equipment and conduit, not to include any type of battery energy storage system or similar device, that are used with Solar Panels to produce and distribute electricity.

Solar Energy System - An electrical energy generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

Special Use Permit – The procedures and processes required by this Article VIII., §802. C. and Article IX., §905. D. of the Zoning Ordinance of the Town of York.

Tilt – The vertical angle, where 0° minimum tilt means the panel is laying flat, and 90° maximum tilt means that it is vertical.

Town – The Town of York, Livingston County, New York.

Type 1 Solar Energy System – A Ground-Mounted Solar Energy System intended to produce energy for onsite consumption or credit for onsite consumption for a building, Single-Family Dwelling, Two-Family Dwelling, Multi-Family Dwelling, business or farm. Said system shall be considered an Accessory Use (as defined in Article II., §201 and provided for in Article V., §508) and an Accessory Structure, designed and intended to generate electricity solely for use on the premises, potentially for multiple tenants, through a distribution system that is not available to the public. Such Type 1 Solar Energy Systems may consist of Solar Energy Systems located on multiple sites within the jurisdictional limits of the Town of York, owned by the same person, entity, farm or business, but in no instance shall the aggregate yield on the combined systems equal more than 150% of the electricity consumed by such person, entity, farm or business within the previous 12 months, nor shall the aggregate coverage of the combined Solar Panels and Solar Energy Equipment across all parcels exceed twenty-five (25) acres. Type 1 Solar Energy Systems can be developed, operated and maintained by a third-party by lease agreement or through a power purchase agreement.

Type 2 Solar Energy System – A Ground-Mounted Solar Energy System intended to produce energy for offsite sale to and consumption by one or more customers.

- C. Zoning districts where allowed. Subject to the provisions of this Article, Solar Energy Systems shall be allowed as follows:
- (1) Building Integrated Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.
 - (2) Building-Mounted Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.
 - (3) Rooftop-Mounted Solar Energy Systems are permitted in all zoning districts, subject to the following:
 - a. The placement, construction and major modification of Roof-Mounted Solar Energy Systems shall only be permitted upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.
 - b. Roof-Mounted Solar Energy System Design standards. Roof-Mounted Solar Energy System installations shall comply with the following design

criteria:

- (i) Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof's surface and highest edge of the Solar Energy System at any point. Solar panels not facing the front yard can be mounted at any angle relative to the roof's surface, but shall not exceed a maximum height of 18 inches from the surface of the roof to the highest edge of the Solar Energy System at any point.
 - (ii) No part of a Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, the Code Enforcement Officer may require, at his/her sole discretion, a minimum three (3) foot wide center walkway for safe access purposes.
 - (iii) If feasible, Solar Energy Equipment shall be installed inside walls and attic spaces to reduce their visual impact.
 - (iv) If feasible, Solar Panels affixed to a flat roof shall be placed below the line of sight from a public right-of-way.
- c. Roof-Mounted Solar Energy Systems shall be exempt from Site Plan review under the Zoning Ordinance of the Town of York, but shall not be constructed without a building permit first being issued by the Town Building and Code Department.
- (4) Commercial Building-Mounted Solar Energy Systems are allowed in the following zoning districts: Agricultural District (A), Hamlet Commercial District (HC), Commercial District (C), Light Industrial District (LI), Industrial District (I) and Planned Development District (PD), subject to the requirements of Article IV., §409. Commercial Building-Mounted Solar Energy Systems are subject to the requirements set forth in this Article, including Site Plan approval pursuant to Article XI, and are allowed only after the issuance of a Special Use Permit pursuant to Article VIII., §802. C. and Article IX., §905. D. Applications for the installation of a Commercial Building-Mounted Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town of York Planning Board (for Site Plan and Special Use Permit) for its review and action, which can include approval, approval on conditions, or denial.
- a. Special Use Permit Application Requirements. For a Special Use Permit application, the Applicant shall submit to the Planning Board (in addition

to the Site Plan application), any information required by Article VIII., §804. B. and the following documents and information:

- (i) If the location of the proposed project is to be leased (either building facade or surface and/or real property), proof of legal consent between all parties, specifying the use(s) of the leased area(s) for the duration of the project, including any signed lease agreement, easements and other agreements between the parties. Any lease agreement between the Applicant and an Initial Landowner shall conform to or be amended such that it conforms with the requirements for Applicant and Initial Landowner as set forth in the Decommissioning Agreement referenced in §618. C. (4) a. (ix) (A). below.
- (ii) Plans and drawings for the Commercial Building-Mounted Solar Energy System signed by a Professional Engineer showing the proposed layout of the Solar Energy System along with providing a description of all components, any non-building mounted improvements or infrastructure, any proposed clearing and grading of the lot(s) on which the structure housing a Commercial Building-Mounted Solar Energy System is situate, any anticipated or possible storm water runoff or erosion disturbances resulting from the placement of the Commercial Building-Mounted Solar Energy System, and utility lines (both above and below ground) on the site and adjacent to the site. The applicant shall also provide a structural analysis signed by a Professional Engineer, demonstrating the structural adequacy of the building upon which a Commercial Building-Mounted Solar Energy System is to be placed to support such system in a safe fashion.
- (iii) Submitted plans and drawings shall show all property lot lines and the location and dimensions of all existing Buildings or Structures and uses on any parcel within 500 feet of the outer perimeter of the Commercial Building-Mounted Solar Energy System.
- (iv) Equipment specification sheets shall be provided for all Solar Panels, significant components, mounting systems, inverters or other Solar Energy Equipment that are to be installed.
- (v) A Property Operation and Maintenance Plan which describes all ongoing or periodic maintenance of the Solar Energy System and upkeep of the property that houses such Commercial Building-Mounted Solar Energy System. Such Plan shall provide for biennial preventative maintenance site inspections that will include

a representative from the owner or operator of the Solar Energy System and Code Enforcement Officer (or his/her designated representative). Additionally, the owner or operator shall provide the Code Enforcement Officer with reports of annual safety inspections of the Solar Energy System, as well as quarterly reports of inspection of the security systems relating to such Solar Energy Systems. Said plan shall demonstrate how the Applicant (or the successor owner of the Solar Energy System) shall ensure proper removal and disposal of all Solar Panels and/or Solar Energy Equipment that becomes inoperable or is no longer being utilized and the same shall be disposed of outside the jurisdictional limits of the Town of York, unless there is a properly certified and/or licensed recycling facility within the Town that recycles Solar Panels and Solar Energy Equipment.

- (vi) Clearing, grading, storm water and erosion control plan. If deemed desirable by the Planning Board or the Town's professional engineer or consultant, Applicant shall submit an engineered Storm Water and Erosion Control Plan to the Town of York Engineer for its review and approval which shall demonstrate that post development runoff, storm drainage and erosion will not be negatively impacted by placement of the Commercial Building-Mounted Solar Energy System on the site.
- (vii) Parking and Truck Traffic. Applicant shall establish a designated parking area on the site of the Solar Energy System for employees of Applicant (or the successor owner of the Solar Energy System) to park when providing monitoring or maintenance of the Solar Energy System. Additionally, the Plans and Drawings for a Commercial Building-Mounted Solar Energy System shall show adequate staging areas during the construction process to ensure that roadways are not impacted by delivery of materials. The Plans and Drawings shall also show all areas in which stock-piling of materials and equipment will take place during construction. Applicant shall provide data on anticipated truck trips per day, including during peak material delivery periods, which shall also be provided to the New York State Department of Transportation.
- (viii) Any such additional information as may be required by the Town's professional engineer or consultant, Town of York Planning Board, Town Attorney or Code Enforcement Officer.
- (ix) Decommissioning Plan. To ensure the proper removal of a Commercial Building-Mounted Solar Energy System after such

improvements are no longer reasonably operable or have been abandoned, a Decommissioning Plan shall be submitted as part of the application. For purposes of this Article, the term “reasonably operable” shall mean that such Solar Energy System is operating such that it produces at least 10% of the original nameplate capacity of the Solar Energy System at the time of original construction. The Decommissioning Plan shall contain a written and visual record of the original site condition (prior to installation of any Solar Energy Equipment) to facilitate complete remediation upon decommissioning. The Decommissioning Plan must specify that after the Commercial Building-Mounted Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements. The plan shall demonstrate how the removal of all infrastructure of the Commercial Building-Mounted Solar Energy System and all Solar Energy Equipment shall be conducted to return the structure (s) and parcel housing such system to its original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. Cost estimations shall take into account inflation and shall be based on the operating life expectancy of the system.

- (A). Prior to obtaining a building permit and as a condition to issuance of any Special Use Permit, the Applicant and Initial Landowner must enter into a Decommissioning Agreement with the Town that sets forth the obligations of the Applicant and/or the Initial Landowner to properly decommission the Solar Energy System if the use of such system is discontinued, abandoned or becomes inoperable pursuant to §618. E. of this Article. Said Decommissioning Agreement shall require the Applicant to provide an irrevocable financial security bond (or other form of surety acceptable to the Town of York at its discretion) for the removal of the Commercial Building-Mounted Solar Energy System, with the Town of York as the designated assignee/beneficiary, in an amount approved by the Planning Board which is equal to 110% of the estimated removal cost. The bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal. Each year after a Commercial Building-Mounted Solar Energy System has been constructed, and no later than sixty (60) days prior to the

anniversary date of the issuance of the building permit for such system, the then owner/permit holder for the system shall provide the Town of York with written proof that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above. The Decommissioning Agreement shall provide that Initial Landowner (or the successor and/or assigns of Initial Landowner) shall be responsible for all obligations pursuant to the Decommissioning Agreement in the event Applicant (or the successor owner of the Solar Energy System) does not complete all obligations as required by said Decommissioning Agreement. The Decommissioning Agreement shall be recorded at the office of the Livingston County Clerk and shall be indexed as deed restrictions against the property upon which the Solar Energy System is constructed, with the Town as a benefitted party, so as to put all future owners of the subject real property on notice of the obligations contained in the Decommissioning Agreement.

b. Special Use Permit and Site Plan Approval Standards.

- (i) Height. Commercial Building-Mounted Solar Energy Systems shall not be constructed in such a way that any portion of such system is higher than the highest point of the wall upon which it is attached.
- (ii) Distance from Building. Commercial Building-Mounted Solar Energy Systems shall not be constructed in such a way that any portion of the Solar Panels project more than 18 inches from the surface of the wall upon which it is attached.
- (iii) Fencing and Screening. All Solar Energy Equipment shall be securely enclosed or placed about the property so as to prevent unauthorized access. Warning signs with the owner's contact information shall be conspicuously placed and maintained to aid in preventing injury by unauthorized access.
- (iv) Glare. All Solar Panels shall have anti-reflective coatings(s).
- (v) Number of Commercial Building-Mounted Solar Energy Systems allowed per Lot. More than one Commercial Building-Mounted Solar Energy System may be permitted and allowed per Lot or parcel, regardless of Lot size.

- (vi) Any Commercial Building-Mounted Solar Energy System shall be accessible for all emergency service vehicles and personnel to the satisfaction of the Livingston County Office of Emergency Management Services and local fire chief.
- (vii) After completion of a Commercial Building-Mounted Solar Energy System, the Applicant shall provide a post- construction certificate from a Professional Engineer registered in New York State stating that the Solar Energy System complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
- (viii) Compliance with regulatory agencies. The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Commercial Building-Mounted Solar Energy System.
- (ix) Any application under this section shall meet substantive Site Plan requirements in Article XI that, in the judgment of the York Town Planning Board, are applicable to the Solar Energy System being proposed.
- (x) The Planning Board shall be required to hold a public hearing relating to Site Plan for any Commercial Building-Mounted Solar Energy System.
- (xi) Prior to determination or issuance of any permit, all Commercial Building-Mounted Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (16 NYCRR 617).
- (x) Time limit on completion. After receiving Site Plan approval and Special Use Permit approval of a Commercial Building-Mounted Solar Energy System, an Applicant shall obtain a Building Permit within twelve (12) months of such approvals or the approvals shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Commercial Building-Mounted Solar Energy System within twenty-four (24) months of obtaining such approvals or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law.

- (xi) General complaint process. During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a Special Use Permit approval or condition, Site Plan approval or condition or Building Permit. After construction is complete, the permit holder of a Commercial Building-Mounted Solar Energy System shall establish a contact person, including name and telephone number for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements.
- (xii) Inspections. Upon reasonable notice, the Town of York Code Enforcement Officer, or his or her designee, may enter a Lot on which a Commercial Building-Mounted Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Article or any approval given or permit issued pursuant to this Article. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a Commercial Building-Mounted Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of York at any time upon a determination by the Town's Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall be submitted to the Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder and shall be reimbursed to the Town of York within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any Special Use Permit granted. The Town of York reserves the right to levy all such un-reimbursed expenses onto the real property tax bill associated with the real property upon which the Commercial Building-Mounted Solar Energy System is located.
- (xiii) Construction hours. During initial construction or any major replacement of the Solar Panels or Solar Energy Equipment after initial construction, all construction activities shall be limited to Monday through Saturday between the hours of 7:00 a.m. and 7:00 p.m. No construction activities shall take place on Sunday or any Federal holiday.
- (xiv) Until Decommissioning has been fully completed pursuant to this Article, each year, by January 20th, the owner or operator of the Solar Energy System (or its agent) shall provide the Town Building

and Zoning Department with a notarized statement disclosing and certifying the actual produced amount of solar energy for the preceding year and a calculation showing such production as a percentage of the original nameplate capacity of the Solar Energy System. Such information is intended to allow Town officials to confirm that the Solar Energy System is “reasonably operable” or “inoperable” as defined in this Article, and/or whether such systems is exceeding its nameplate capacity.

- (5) Commercial Roof-Mounted Solar Energy Systems are allowed in the following zoning districts: Agricultural District (A), Hamlet Commercial District (HC), Commercial District (C), Light Industrial District (LI), Industrial District (I) and Planned Development District (PD), subject to the requirements of Article IV., §409. Commercial Roof-Mounted Solar Energy Systems are subject to the requirements set forth in this Article, including Site Plan approval pursuant to Article XI, and are allowed only after the issuance of a Special Use Permit pursuant to Article VIII., §802. C. and Article IX., §905. D. Applications for the installation of a Commercial Roof-Mounted Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town of York Planning Board (for Site Plan and Special Use Permit) for its review and action, which can include approval, approval on conditions, or denial.
 - a. Special Use Permit Application Requirements. For a Special Use Permit application, the Applicant shall submit to the Planning Board (in addition to the Site Plan application), any information required by Article VIII., §804. B. and the following documents and information:
 - (i) If the location of the proposed project is to be leased (either roof surface and/or real property), proof of legal consent between all parties, specifying the use(s) of the leased area(s) for the duration of the project, including any signed lease agreement, easements and other agreements between the parties. Any lease agreement between the Applicant and an Initial Landowner shall conform to or be amended such that it conforms with the requirements for Applicant and Initial Landowner as set forth in the Decommissioning Agreement referenced in §618. C. (5) a. (ix) (A). below.
 - (ii) Plans and drawings for the Commercial Roof-Mounted Solar Energy System signed by a Professional Engineer showing the proposed layout of the Solar Energy System along with providing a description of all components, any non-building mounted

improvements or infrastructure, any proposed clearing and grading of the lot(s) on which the structure housing a Commercial Roof-Mounted Solar Energy System is situate, any anticipated or possible storm water runoff or erosion disturbances resulting from the placement of the Commercial Roof-Mounted Solar Energy System, and utility lines (both above and below ground) on the site and adjacent to the site. The applicant shall also provide a structural analysis signed by a Professional Engineer, demonstrating the structural adequacy of the building and roof upon which a Commercial Roof-Mounted Solar Energy System is to be placed to support such system in a safe fashion.

- (iii) Submitted plans and drawings shall show all property lot lines and the location and dimensions of all existing buildings or structures and uses on any parcel within 500 feet of the outer perimeter of the Commercial Roof-Mounted Solar Energy System.
- (iv) Equipment specification sheets shall be provided for all Solar Panels, significant components, mounting systems, inverters or other Solar Energy Equipment that are to be installed.
- (v) A Property Operation and Maintenance Plan which describes all ongoing or periodic maintenance of the Solar Energy System and upkeep of the property that houses such Commercial Roof-Mounted Solar Energy System. Such Plan shall provide for biennial preventative maintenance site inspections that will include a representative from the owner or operator of the Solar Energy System and Code Enforcement Officer (or his/her designated representative). Additionally, the owner or operator shall provide the Code Enforcement Officer with reports of annual safety inspections of the Solar Energy System, as well as quarterly reports of inspection of the security systems relating to such Solar Energy Systems. Said plan shall demonstrate how the Applicant (or the successor owner of the Solar Energy System) shall ensure proper removal and disposal of all Solar Panels and/or Solar Energy Equipment that becomes inoperable or is no longer being utilized and the same shall be disposed of outside the jurisdictional limits of the Town of York, unless there is a properly certified and/or licensed recycling facility within the Town that recycles Solar Panels and Solar Energy Equipment.
- (vi) Clearing, grading, storm water and erosion control plan. If deemed desirable by the Planning Board or the Town's professional engineer or consultant, Applicant shall submit an engineered Storm

Water and Erosion Control Plan to the Town of York Engineer for its review and approval which shall demonstrate that post development runoff, storm drainage and erosion will not be negatively impacted by placement of the Commercial Roof-Mounted Solar Energy System on the site.

- (vii) **Parking and Truck Traffic.** Applicant shall a designated parking area on the site of the Solar Energy System for employees of Applicant (or the successor owner of the Solar Energy System) to park when providing monitoring or maintenance of the Solar Energy System. Additionally, the Plans and Drawings for a Commercial Roof-Mounted Solar Energy System shall show adequate staging areas during the construction process to ensure that roadways are not impacted by delivery of materials. The Plans and Drawings shall also show all areas in which stock-piling of materials and equipment will take place during construction. Applicant shall provide data on anticipated truck trips per day, including during peak material delivery periods, which shall also be provided to the New York State Department of Transportation.
- (viii) Any such additional information as may be required by the Town' s professional engineer or consultant, Town of York Planning Board, Town Attorney or Code Enforcement Officer.
- (ix) **Decommissioning Plan.** To ensure the proper removal of a Commercial Roof-Mounted Solar Energy System after such improvements are no longer reasonably operable or have been abandoned, a Decommissioning Plan shall be submitted as part of the application. For purposes of this Article, the term “reasonably operable” shall mean that such Solar Energy System is operating such that it produces at least 10% of the original nameplate capacity of the Solar Energy System at the time of original construction. The Decommissioning Plan shall contain a written and visual record of the original site condition (prior to installation of any Solar Energy Equipment) to facilitate complete remediation upon decommissioning. The Decommissioning Plan must specify that after the Commercial Roof-Mounted Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements. The plan shall demonstrate how the removal of all infrastructure of the Commercial Roof-Mounted Solar Energy System and all Solar Energy Equipment shall be conducted to return the structure (s) and parcel housing such system to its original state prior to construction. The plan shall also include an expected timeline for execution and a

cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. Cost estimations shall take into account inflation and shall be based on the operating life expectancy of the system.

- (A). Prior to obtaining a building permit and as a condition to issuance of any Special Use Permit, the Applicant and Initial Landowner must enter into a Decommissioning Agreement with the Town that sets forth the obligations of the Applicant and/or the Initial Landowner to properly decommission the Solar Energy System if the use of such system is discontinued, abandoned or becomes inoperable pursuant to §618. E. of this Article. Said Decommissioning Agreement shall require the Applicant to provide an irrevocable financial security bond (or other form of surety acceptable to the Town of York at its discretion) for the removal of the Commercial Roof-Mounted Solar Energy System, with York as the designated assignee/beneficiary, in an amount approved by the Planning Board which is equal to 110% of the estimated removal cost. The bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal. Each year after a Commercial Roof-Mounted Solar Energy System has been constructed, and no later than sixty (60) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/permit holder for the Solar Energy System shall provide the Town of York with written proof that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above. The Decommissioning Agreement shall provide that Initial Landowner (or the successor and/or assigns of Initial Landowner) shall be responsible for all obligations pursuant to the Decommissioning Agreement in the event Applicant (or the successor owner of the Solar Energy System) does not complete all obligations as required by said Decommissioning Agreement. The Decommissioning Agreement shall be recorded at the office of the Livingston County Clerk and shall be indexed as deed restrictions against the property upon which the Solar Energy System is constructed, with the Town as a benefitted party, so as to put all future owners of the subject real property on

notice of the obligations contained in the Decommissioning Agreement.

b. Special Use Permit and Site Plan Approval Standards.

- (i) Height and Angle. Commercial Roof-Mounted Solar Energy Systems shall be constructed such that Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof's surface and highest edge of the Solar Energy System at any point. Solar panels not facing the front yard can be mounted at any angle relative to the roof's surface, but no portion of the Solar Energy System shall exceed a maximum height of 18 inches from the surface of the roof to the highest edge of the Solar Energy System at any point.
- (ii) No part of a Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, the Code Enforcement Officer may require, at his/her sole discretion, a minimum three (3) foot wide center walkway for safe access purposes.
- (iii) If feasible, Solar Energy Equipment shall be installed inside walls and attic spaces to reduce their visual impact.
- (iv) Glare. All Solar Panels shall have anti-reflective coatings(s).
- (v) If feasible, Solar Panels affixed to a flat roof shall be placed below the line of sight from a public right-of-way.
- (vi) Fencing and Screening. All Solar Energy Equipment shall be securely enclosed or placed about the property so as to prevent unauthorized access. Warning signs with the owner's contact information shall be conspicuously placed and maintained to aid in preventing injury by unauthorized access.
- (vii) Number of Commercial Roof-Mounted Solar Energy Systems allowed per Lot. More than one Commercial Roof-Mounted Solar Energy System may be permitted and allowed per lot or parcel, regardless of lot size.
- (viii) Any Commercial Roof-Mounted Solar Energy System shall be accessible for all emergency service vehicles and personnel to the satisfaction of the Livingston County Office of Emergency Management Services and local fire chief.

- (ix) After completion of a Commercial Roof-Mounted Solar Energy System, the Applicant shall provide a post- construction certificate from a Professional Engineer registered in New York State stating that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
- (x) Compliance with regulatory agencies. The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Commercial Roof-Mounted Solar Energy System.
- (xi) Any application under this Section shall meet substantive Site Plan requirements in Article XI that, in the judgment of the York Town Planning Board, are applicable to the Solar Energy System being proposed.
- (xii) The Planning Board shall be required to hold a public hearing relating to Site Plan for any Commercial Roof-Mounted Solar Energy System.
- (xiii) Prior to determination or issuance of any permit, all Commercial Roof-Mounted Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (16 NYCRR 617).
- (xiv) Time limit on completion. After receiving Site Plan approval and Special Use Permit approval of a Commercial Roof-Mounted Solar Energy System, an Applicant shall obtain a Building Permit within twelve (12) months of such approvals or the approvals shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Commercial Roof-Mounted Solar Energy System within twenty-four (24) months of obtaining such approvals or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law.
- (xv) General complaint process. During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a Special Use Permit approval or condition, Site Plan approval or condition or building permit. After construction is complete, the permit holder of a Commercial Roof-Mounted Solar Energy System shall establish a contact person, including name and

telephone number for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements.

- (xvi) Inspections. Upon reasonable notice, the Town of York Code Enforcement Officer, or his or her designee, may enter a Lot on which a Commercial Roof-Mounted Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Article or any approval given or permit issued pursuant to this Article. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a Commercial Roof-Mounted Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of York at any time upon a determination by the Town's Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall be submitted to the Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder and shall be reimbursed to the Town of York within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any Special Use Permit granted. The Town of York reserves the right to levy all such un-reimbursed expenses onto the real property tax bill associated with the real property upon which the Commercial Roof-Mounted Solar Energy System is located.
- (xvii) Construction hours. During initial construction or any major replacement of the Solar Panels or Solar Energy Equipment after initial construction, all construction activities shall be limited to Monday through Saturday between the hours of 7:00 a.m. and 7:00 p.m. No construction activities shall take place on Sunday or any Federal holiday.
- (xvii) Until Decommissioning has been fully completed pursuant to this Article, each year, by January 20th, the owner or operator of the Solar Energy System (or its agent) shall provide the Town Building and Zoning Department with a notarized statement disclosing and certifying the actual produced amount of solar energy for the preceding year and a calculation showing such production as a percentage of the original nameplate capacity of the Solar Energy System. Such information is intended to allow Town officials to confirm that the Solar Energy System is "reasonably operable" or

“inoperable as defined in this Article, and/or whether such systems is exceeding its nameplate capacity.

- (6) Type 1 Solar Energy Systems are allowed as accessory uses and/or structures in all zoning districts except Hamlet Residential (HR) and High Density Residential (HDR). Type 1 Solar Energy Systems which are to be located in a Planned Development District (PD) must comply with the requirements of Article IV., §409 before the same are permitted.
- a. The placement, construction and major modification of Type 1 Solar Energy Systems shall only be permitted upon issuance of building permit based on special application materials supplied by the Town Building and Code Department.
 - b. Height. Type 1 Solar Energy Systems shall not exceed a maximum height of fifteen (15) feet as measured from the highest point of any Solar Panel (oriented at maximum tilt) or Solar Energy Equipment to the ground directly beneath it.
 - c. Setbacks. Type 1 Solar Energy Systems setbacks shall be twice the standard setbacks for Accessory Buildings or Structures within the zoning district it is located, but in no event shall any such setback be less than twenty (20) feet.
 - d. Coverage. Type 1 Solar Energy Systems ground coverage shall not exceed the allowable total surface or area coverage for Accessory Buildings or structures within the zoning district in which it is located and in no event shall the combination of all Accessory Buildings and structures located on the premises exceed 20% coverage of the entire area of such parcel. For purposes of this provision, coverage shall be calculated based upon the total surface area of the Solar Panels at minimum Tilt.
 - e. Glare. All Solar Panels shall have anti-reflective coatings(s).
 - f. All Type 1 Solar Energy Systems located in Residential Districts (R) shall be installed in the side or rear yard.
 - g. All applications for Type 1 Solar Energy Systems for businesses (including Multi-Family Dwellings) or farms, to the extent permitted by law, shall be subject to Site Plan review pursuant to Article XI. Applications for Type 1 Solar Energy Systems for use on residential parcels may be subject to Site Plan review at the sole discretion of the Code Enforcement Officer.

h. Pursuant to 6 NYCRR 617.5, Type 1 Solar Energy Systems to be used on One- and Two-Family Dwelling parcels shall be deemed to be Type 2 Actions for purposes of review under the New York State Environmental Quality Review Act (16 NYCRR 617). All other Type 1 Solar Energy Systems shall be deemed to be Unlisted Actions pursuant to the New York State Environmental Quality Review Act.

(7) Type 2 Solar Energy Systems. Excepting as restricted in Article VI., §618. C. (7) a. immediately below, Type 2 Solar Energy Systems are permitted in Agricultural Districts (A), Commercial Districts (C), Mixed Use Districts (MU), Light Industrial Districts (LI), Industrial Districts (I) and in Planned Development Districts (PD), subject to the requirements of Article IV., §409. Type 2 Solar Systems in all of the above zoning districts are subject to the requirements set forth in this Section, including Site Plan approval pursuant to Article XI, and are allowed only after the issuance of a Special Use Permit pursuant to Article VIII., §802. C. and Article IX., §905. D. Applications for the installation of a Type 2 Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town of York Planning Board (for Site Plan and Special Use Permit) for its review and action, which can include approval, approval on conditions, or denial.

a. Areas Where Type 2 Solar Energy Systems are Not Permitted.

(i) Any property which is listed on either the New York State or National Register of Historic Places.

For reference, see map styled “Town of York – Lands Not Excluded for Type 2 Solar, prepared October, 2019, which said map is incorporated into these amendments and the underlying regulations by reference.

The above map shall be subject to periodic update when the data illustrated therein (derived from the U.S. Department of Agriculture NRCS Soil Survey Geographic Database) is modified or changed from the original source data information.

(ii) Any property located in the area that is bounded on the west by a line that runs parallel with and is 100 feet west of the west line of the Genesee Valley Greenway and is bounded on the east by the Genesee River, as such area is hereby deemed to be a scenic viewshed and which is a portion of the area that has previously been identified as a scenic viewshed pursuant to Article V., §514 C. (6) of the Zoning Ordinance.

For reference, see map styled “Town of York – Lands Not Excluded for Type 2 Solar, prepared October, 2019, which said map is incorporated into these amendments and the underlying regulations by reference.

The above map shall be subject to periodic update when the data illustrated therein (derived from the U.S. Department of Agriculture NRCS Soil Survey Geographic Database) is modified or changed from the original source data information.

- (iii) Any lands that are classified or designated as Prime Farmland or Farmland of Statewide Importance. Prohibition of development of Type 2 Solar Energy Systems on Prime Farmland and Farmland of Statewide Importance is consistent with the Town of York Comprehensive Plan, specifically, Chapter 2 – Plan Objectives and Goals, section B. 5., Chapter 4 – Future Land Use Plans, section B. 1., Chapter 5 – Recommendations, section C. Farmland Protection and Support of Agricultural Industry and Chapter 6 – Implementation, section C. Farmland Protection and Support of Agricultural Industry.

For reference, see map styled “Town of York – Lands Not Excluded for Type 2 Solar, prepared October, 2019, which said map is incorporated into these amendments and the underlying regulations by reference.

The above map shall be subject to periodic update when the data illustrated therein (derived from the U.S. Department of Agriculture NRCS Soil Survey Geographic Database) is modified or changed from the original source data information.

- (iv) While not strictly prohibited, it is strongly discouraged that Type 2 Solar Energy Systems be placed on parcels that will require the removal of wooded areas or development on wetland areas.
- b. Special Use Permit Application Requirements. For a Special Use Permit application, the Applicant shall submit to the Planning Board (In addition to the Site Plan application and materials required by Article XI), Article VIII., §805. B. and the following documents and information:
 - (i) If the property of the proposed Solar Energy System is to be leased, proof of legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements between the parties. Any lease agreement

between the Applicant and an Initial Landowner shall conform to or be amended such that it conforms with the requirements for Applicant and Initial Landowner as set forth in the Decommissioning Agreement referenced in §618. C. (7) b. (xii) (A). below. Applicant shall be required to provide, as part of the application, any Lease Agreement, easements and other agreements between itself and Initial Landowner or any owner of property contiguous to the land upon which the Solar Energy System (or any component thereof, including access ways or utility lines) shall be constructed.

- (ii) Plans and drawings for the Type 2 Solar Energy System signed by a Professional Engineer showing the proposed layout of the Solar Energy System along with providing a description of all components, existing vegetation, any proposed clearing and grading of the Lot(s) involved, any anticipated or possible storm water or erosion disturbances, and utility lines (both above and below ground) on the site and adjacent to the site.
- (iii) Submitted plans and drawings shall show all property lot lines and the location and dimensions of all existing buildings or structures and uses on any parcel within 750 feet of the outer perimeter fence line of the Type 2 Solar Energy System.
- (iv) Equipment specification sheets shall be provided for all Solar Panels, significant components, mounting systems, inverters and other Solar Energy Equipment that are to be installed.
- (v) A Property Operation and Maintenance Plan which describes all ongoing or periodic maintenance of the Type 2 Solar Energy System and property upkeep, such as routine maintenance, mowing and trimming, which shall also include the area under and around all panels and the rows in between panels such that the Solar Energy Systems appears orderly and neat at all times. The Plan shall also include details of anticipated use of pesticides, herbicides and other chemicals for vegetative abatement and/or maintenance. The Plan shall demonstrate that the use of any pesticide, herbicide or other chemical will be in compliance with all local, state and federal regulations and shall further demonstrate that alternatives to chemical treatments have been prioritized to the extent reasonably possible. Such Plan shall provide for biennial preventative maintenance site inspections that will include a representative from the owner or operator of the Solar Energy System and Code Enforcement Officer (or his/her designated representative).

Additionally, the owner or operator shall provide the Code Enforcement Officer with reports of annual safety inspections of the Solar Energy System, as well as quarterly reports of inspection of the security systems relating to such Solar Energy Systems. Said Plan shall demonstrate how the Applicant (or the successor owner of the Solar Energy System) shall ensure proper removal and disposal of all Solar Panels and/or Solar Energy Equipment that becomes inoperable or is no longer being utilized and the same shall be disposed of outside the jurisdictional limits of the Town of York, unless there is a properly certified and/or licensed recycling facility within the Town that recycles Solar Panels and Solar Energy Equipment. Said Plan shall also obligate the Applicant (or the successor owner of the Solar Energy System) to provide the Town, not less than every other year (commencing the second year after the Solar Energy System is commercially operable), with test results from soil sampling collected and analyzed pursuant to the New York State Department of Agriculture and Markets Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands (or similar successor document of the Department of Agriculture and Markets) that are in effect as of the date of sampling, to demonstrate that the soils upon which the Solar Energy System is constructed have not been contaminated in any fashion as a result of the Solar Energy System placed on the property. Such test results shall be compared to the pre-construction soil sample analysis referenced in paragraph (x) (Pre-Development Site Conditions) below.

- (vi) Clearing, grading, storm water and erosion control plan. Applicant shall submit an engineered Storm Water and Erosion Control Plan to the Town of York Engineer for its review and approval which shall demonstrate that post development runoff, storm drainage and erosion will not be negatively impacted by placement of the Type 2 Solar Energy System on the site.
- (vii) Parking and Truck Traffic. Applicant shall a designated parking area on the site of the Solar Energy System for employees of Applicant (or the successor owner of the Solar Energy System) to park when providing monitoring or maintenance of the Solar Energy System. Additionally, the Plans and Drawings for a Type 2 Solar Energy System shall show adequate staging areas during the construction process to ensure that roadways are not impacted by delivery of materials. The Plans and Drawings shall also show all areas in which stock-piling of materials and equipment will take place during construction. Applicant shall provide data on

anticipated truck trips per day, including during peak material delivery periods, which shall also be provided to the New York State Department of Transportation.

- (viii) Noise Study. Applicant shall provide a noise study of the impacts of construction and operation of the proposed Solar Energy System. Said study shall reference any then existing regulations or suggested industry or development standards put out by the NYS Office of Renewable Energy Siting. Such study shall analyze the projected noise levels for both daytime and nighttime periods generated by the Solar Energy System and all collector substation equipment relative to all surrounding Dwellings.
 - (a) Excepting during construction, such noise study shall demonstrate that the operational noise levels of the Solar Energy System and collector substation equipment will not exceed pre-existing noise levels, for both daytime and nighttime, relative to all surrounding Dwellings, structures and property lines, including both participating and non-participating properties.
- (ix) Viewshed/Line of Site Analysis. Applicant shall provide a viewshed/line-of-site analysis, with scaled color visual renderings to demonstrate the adequacy of proposed buffering/screening at the completion of construction of the Solar Energy System, and similar visual renderings of the projected maturation of the buffering/screening at five (5) years and ten (10) years after completion of the Solar Energy System. The Planning Board may require the above viewshed/line-of-site analysis and scaled color visual renderings from multiple angles or perspectives as it/they deem appropriate.
 - (a) Applicant shall provide visual renderings of the actual fencing to be used to ensure compatibility and avoid adverse aesthetic impacts.
 - (b) Applicant shall provide a written Glare Analysis by a licensed engineer that demonstrates to the Planning Board and Town Engineer that the Solar Energy System uses materials and is designed and located in such a fashion as to prevent reflective glare toward any inhabited buildings on adjacent or nearby properties, roads or from impacting aircraft flight paths as provided in Federal Aviation Administration guidance.

- (x) Pre-Development Site Condition – Applicant shall provide a written and visual record of the pre-development site condition (which shall include the site condition prior to any logging/timber harvest or clearing of land in anticipation of the development of a Solar Energy Systems), which must be verified as to being complete by the Building and Zoning Department, to facilitate full and proper remediation of the site upon Decommissioning. As part of this record, Applicant shall provide an analysis of pre-construction soil samples, with such samples collected and analyzed pursuant to the New York State Department of Agriculture and Markets Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands (or similar successor document of the Department of Agriculture and Markets) that are in effect as of the date of sampling. Such samples shall be taken from various locations on the property on which the Solar Energy System is to be located and are specifically intended to demonstrate the pre-development condition and properties of the soils to ensure that full and proper remediation of the site occurs upon Decommissioning.
- (xi) Any such additional information as may be required by the Town's professional engineer or consultant, Town of York Planning Board, Town Attorney or Code Enforcement Officer.
- (xii) Decommissioning Plan. To ensure the proper removal of Type 2 Solar Energy Systems after such improvements are no longer reasonably operable or have been abandoned, a Decommissioning Plan shall be submitted as part of the application. For purposes of this Article, the term “reasonably operable” shall mean that such Solar Energy System is operating such that it produces at least 10% of the original nameplate capacity of the Solar Energy System at the time of original construction. The Decommissioning Plan must specify that after the Type 2 Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements and/or the subsequent owner of the property upon which the Type 2 Solar Energy System is placed. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. Cost estimations shall take into account inflation and shall be based on the operating life expectancy of the system.

(A). Prior to obtaining a building permit and as a condition to issuance of any Special Use Permit, the Applicant and Initial Landowner must enter into a Decommissioning Agreement with the Town that sets forth the obligations of the Applicant and/or the Initial Landowner to properly decommission the Solar Energy System if the use of such system is discontinued, abandoned or becomes inoperable pursuant to §618. E. of this Article as set forth below. Said Decommissioning Agreement shall require the Applicant to provide an irrevocable financial security bond (or other form of surety such as, but not limited to, letters of credit, etc. that are acceptable to the Town of York at its discretion) for the removal of the Type 2 Solar Energy System, with York as the designated assignee/beneficiary, in an amount approved by the Planning Board which is equal to 150% of the estimated removal cost. The bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal. Each year after a Type 2 Solar Energy System has been constructed, and no later than sixty (60) days prior to the anniversary date of the issuance of the building permit for such Solar Energy System, the then owner/permit holder for the system shall provide the Town of York with written proof that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above. The Decommissioning Agreement shall provide that Initial Landowner (or the successor and/or assigns of Initial Landowner) shall be responsible for all obligations pursuant to the Decommissioning Agreement in the event Applicant (or the successor owner of the Solar Energy System) does not complete all obligations as required by said Decommissioning Agreement. The Decommissioning Agreement shall be recorded at the office of the Livingston County Clerk and shall be indexed as deed restrictions against the property upon which the Solar Energy System is constructed, with the Town as a benefitted party, so as to put all future owners of the subject real property on notice of the obligations contained in the Decommissioning Agreement.

(xiii) At its sole discretion, the Town of York Planning Board may refer an application for a Type 2 Solar Energy System to one or more private consultants for review to assist such Board in properly

fulfilling its duties. Such consultants may include professional engineers, attorneys, planning consultants or other specialists. All expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, either Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Upon request of Applicant, the Planning Board shall provide a general estimate of anticipated consulting services to be provided and estimated costs for the same. However, any such estimate of services or costs related to such services shall not in any way restrict the level of reimbursement ultimately required to be made by Applicant. It is the specific intention of this section that all expenses relating to professional consulting services rendered to the Town or any of its Boards, relating to an application for development of a Solar Energy System, be borne by the Applicant and not the taxpayers of the Town. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Prior to the Town making any payment or withdrawal from such account, the Town shall provide Applicant with notice of such intended payment and documentation supporting such payment. Applicant shall have the right, within five (5) business days from receipt of such notice, to protest any account withdrawal or payment to a consultant which it contends is not reasonably necessary or is not reasonable in amount. The Town Board shall thereafter have thirty (30) days to provide its determination with regard to Applicant's objection, which shall be provided to Applicant in writing. Should such deposit be depleted prior to final approval, the Planning Board may require that additional monies be deposited with the Town before further review of the application will continue. The Planning Board may suspend indefinitely the review of any application as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town of New York State law, rule or regulation relating to the timing of issuance of decisions for such applications.

- (xiv) If a Type 2 Solar Energy System is proposed to be developed on land that is or could be in agricultural production, Applicant shall demonstrate how the proposed development complies with the then current guidelines as may be established by the New York State Department of Agriculture and Markets relating to Construction Mitigation for Agricultural Lands.
 - (xv) The Applicant shall be required to facilitate one or more site visits as deemed necessary or desirable by the Planning Board.
- c. Special Use Permit and Site Plan Approval Standards. In addition to those standards set forth in Article IX., §905. D. (2), the Applicant shall comply with the following:
- (i) Height. Type 2 Solar Energy Systems shall not exceed a maximum height of fifteen (15) feet as measured from the highest point of any Solar Panel (oriented at maximum tilt) or Solar Energy Equipment, to the ground directly beneath it.
 - (ii) Setbacks. Type 2 Solar Energy Systems shall be sited to create a front setback of no less than 100 feet (measured from the fence-line of the Solar Energy System) from the right-of-way line of any public or private roadways and setbacks of 200 feet (measured from the fence-line of the Solar Energy System) from all side and rear property lines, excepting that such Type 2 Solar Energy Systems shall be setback a minimum of 300 feet from the zoning district boundary of any area classified as Hamlet Residential Zoning District (HR) as enumerated on the Town Zoning Map and as regulated under Article IV., §402 of the Zoning Ordinance. In addition, no Type 2 Solar Energy System shall be located closer than 300 feet (measured from the fence-line of the Solar Energy System) from any Dwelling or Accessory Building containing a Dwelling Unit that is located on another parcel. The above stated side and rear property setback restrictions and those setbacks relating to a Dwelling or Accessory Building containing a Dwelling Unit, may be waived on any contiguous parcel (to that parcel upon which the Solar Energy System is being developed) owned by a participating landowner that owns the parcel upon which the subject Solar Energy System is being parcel. The above waiver shall not apply to any contiguous parcels that are not owned by the same landowner that owns the land upon which the Solar Energy System is placed.

- (iii) Lot Size. Type 2 Solar Energy Systems shall be located on Lots with a minimum Lot size of 25 acres.
- (iv) Lot Coverage. Type 2 Solar Energy System shall not exceed 80% coverage of the Lot on which it is installed. The coverage area shall be determined by the area covered by the perimeter of the Solar Energy System at minimum tilt and shall not include required fencing or access roads. It is the express intention of the Town of York that no variance or hardship request be granted to permit increased coverage by Type 2 Solar Energy Systems by any board or commission or other agency having legal authority to consider and grant such a variance or hardship request
- (v) Prohibition of Development on Prime Farmland and Farmland of Statewide Importance. Development of Type 2 Solar Energy Systems is not permitted on any property or Lot that is classified or designated as Prime Farmland or Farmland of Statewide Importance.

For reference, see map styled “Town of York – Lands Not Excluded for Type 2 Solar, prepared October, 2019, which said map is incorporated into these amendments and the underlying regulations by reference.

- (vi) Glare. All Solar Panels shall have anti-reflective coatings(s). All Type 2 Solar Energy Systems shall be designed and located in such a fashion as to prevent reflective glare toward any inhabited buildings on adjacent or nearby properties, roads or from impacting aircraft flight paths as provided in Federal Aviation Administration guidance.
- (vii) Fencing and Screening. All Type 2 Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner’s contact information shall be placed and maintained on the entrance and perimeter of the fencing. The fencing and the Solar Energy System may be required to be further screened and/or enhanced by landscaping to avoid adverse aesthetic impacts. It is the intent of this Article, that in addition to screening of the visual impact cause by Solar Energy Equipment, adequate landscaping and plantings be integrated to make the entire developed site (including both outside and inside any fence) more visually appealing. All such landscaping and plantings shall be given routine maintenance, mowing and trimming, which shall also include the area under and around all panels and the rows in

between panels such that the Solar Energy Systems appears orderly and neat at all times. All buffering/landscaping materials shall be designed to promote sustainability, diversity and visual variety, which shall include a mixture of plant species, sizes/heights, deciduous and evergreen trees and/or shrubs and shall be noted in detail on a landscaping plan that shall be approved by the Planning Board. The Planning Board shall provide for enhanced screening and buffering for Type 2 Solar Energy Systems that are placed adjacent to residential zoning districts, areas containing residential Lots, residential uses or abut a public road.

- (viii) Number of Type 2 Solar Energy Systems allowed per Lot. Only one Type 2 Solar Energy System shall be allowed per Lot or parcel, regardless of Lot size.
- (ix) Recent Subdivision of Lot/Parcel. In order to prevent circumvention of the size and coverage restrictions set forth above, when considering such restrictions, the Zoning Board of Appeals shall consider the Lot or parcel to be the smallest configuration of the physical area where the Type 2 Solar Energy System is being proposed that has existed as a separate Lot or parcel (with its own Tax Identifier Map Parcel Number) in the official tax records of the Town of York within the ten (10) years immediately preceding the application seeking approval for such Type 2 Solar Energy System. This provision is specifically intended to prevent an owner of land from combining lands into larger parcels that would permit siting of larger Type 2 Solar Energy Systems on what would have otherwise been a lot or parcel that would have permitted a smaller Type 2 Solar Energy System with coverage as restricted herein.
- (x) Vegetation and Habitat. Type 2 Solar Energy System owners/developers shall develop and provide a written vegetation management plan (which shall be approved by the Planning Board) to implement and maintain for the life of the project, native, non-invasive plants and vegetation for the entire developed site, including around any fence perimeter and under and around the Solar Panels, such plantings to provide foraging habitat beneficial to game birds, songbirds and pollinators. The written vegetation management plan shall provide for routine maintenance, mowing and trimming, which shall also include the area under and around all panels and the rows in between panels such that the Solar Energy Systems appears orderly and neat at all times. To the extent practicable, when establishing perennial vegetation and beneficial

foraging habitat, owners/developers shall use native, non-invasive plant species and seed mixes.

- (xi) Any Type 2 Solar Energy System shall be accessible for all emergency service vehicles and personnel to the satisfaction of the Livingston County Office of Emergency Management Services Director and local fire department Chief.
- (xii) After completion of a Type 2 Solar Energy System, the Applicant shall provide a post- construction certificate from a Professional Engineer registered in New York State, certifying that the Type 2 Solar Energy System complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
- (xiii) Compliance with regulatory agencies. The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Type 2 Solar Energy System.
- (xiv) Any application under this Section shall meet substantive Site Plan requirements in Article XI that, in the judgment of the York Town Planning Board, are applicable to the system being proposed.
- (xv) The Planning Board shall be required to hold a public hearing relating to Site Plan for any Type 2 Solar Energy System and may conduct a single Public Hearing for both Site Plan and Special Use permit applications.
- (xvi) Prior to determination or issuance of any permit, all Type 2 Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (6 NYCRR 617). All applications (Site Plan and Special Use Permit) for approval of a Type 2 Solar Energy System shall be deemed to be Type I Actions for purposes of compliance with the New York State Environmental Quality Review Act. The Planning Board has the authority, pursuant to 6 NYCRR 617.4 (a) (1) and (2), to classify such actions in addition to the list established by such statute. The Planning Board shall conduct a coordinated review to the extent other interested and/or involved agencies are identified. Such review shall not be completed or closed out, and a final determination of significance made, until after the review of the application has been completed.

- (xvii) The development and operation of a Type 2 Solar Energy System shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town of York or other federal or state regulatory agencies. While not strictly prohibited, it is strongly discouraged that Type 2 Solar Energy Systems be placed on parcels that will require the removal of wooded areas or development on wetland areas.
- (xviii) The York Town Planning Board may impose conditions on the approval of any Site Plan or Special Use Permit under this Article to enforce the standards referred to in this Article or to discharge its obligations under the State Environmental Quality Review Act.
- (xix) Time limit on completion. After receiving Site Plan approval and Special Use Permit approval of a Type 2 Solar Energy System, an Applicant shall obtain a Building Permit within twelve (12) months of such approvals or the approvals shall automatically terminate and be deemed null and void. The above time period may be extended by the Planning Board, at its sole discretion, upon a showing of good cause by Applicant. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Type 2 Solar Energy System within twenty (24) months of obtaining such approvals or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law. The above time period may be extended by the Planning Board, at its sole discretion, upon a showing of good cause by Applicant.
- (xx) General complaint process. During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a Special Use Permit approval or condition, Site Plan approval or condition or building permit. After construction is complete, the permit holder of a Type 2 Solar Energy System shall establish and maintain a contact person, including name and telephone number for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements.
- (xxi) Inspections. During construction and upon reasonable notice, the Town of York Code Enforcement Officer, or his or her designee, may enter a Lot on which a Type 2 Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Article or any approval given or permit issued pursuant to this Article. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact

person shall be deemed reasonable notice. After construction is completed and the Solar energy System is operational, upon reasonable cause, at the discretion of the Town of York Code Enforcement Officer, or his or her designee, said Code Enforcement Officer (or his or her designee) may upon reasonable notice enter a Lot on which a Type 2 Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Article or any approval given or permit issued pursuant to this Article. Furthermore, a Type 2 Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of York at any time upon a reasonable determination by the Town's Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall be submitted to the Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder and shall be reimbursed to the Town of York within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any Special Use Permit granted. The Town of York reserves the right to levy all such un-reimbursed expenses onto the real property tax bill associated with the real property upon which the Solar Energy System is located.

- (xxii) Construction hours. During initial construction or any major replacement of the Solar Panels or Solar Energy Equipment after initial construction, all construction activities shall be limited to Monday through Saturday between the hours of 7:00 a.m. and 7:00 p.m. No construction activities shall take place on Sunday or any Federal holiday.
- (xxiii) Until Decommissioning has been fully completed pursuant to this Article, each year, by January 20th, the owner or operator of the Solar Energy System (or its agent) shall provide the Town Building and Zoning Department with a notarized statement disclosing and certifying the actual produced amount of solar energy for the preceding year and a calculation showing such production as a percentage of the original nameplate capacity of the Solar Energy System. Such information is intended to allow Town officials to confirm that the Solar Energy System is “reasonably operable” or “inoperable” as defined in this Article, and/or whether such system is exceeding its nameplate capacity.

- D. General regulations. The placement, construction and major modification of all Solar Energy Systems within the boundaries of the Town of York shall be permitted only as follows:
- (1) Any inconsistent provisions of the Code of the Town of York which purport to or may be interpreted to allow Solar Energy Systems in other districts are hereby superseded.
 - (2) All Solar Energy Systems that have received a Special Use Permit or Building Permit as of the effective date of this Article shall be “grand fathered” and allowed to continue as they were approved. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance on pre-existing systems shall comply with the requirements of this Article.
 - (3) All new Solar Energy Systems and all additions and modifications to any pre-existing Solar Energy System shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code, the NYS Energy Conservation Code and all local laws, codes, rules and regulations of the Town of York.
 - (4) For all Commercial Building-Mounted Solar Energy Systems, Commercial Roof-Mounted Solar Energy Systems or Type 2 Solar Energy Systems, Applicant and/or the successor owner or operator shall provide a written training plan that provides for proper training of the Town Code Enforcement Office, Fire Department, Emergency Responders, Livingston County Emergency Management Services and Police agencies relative to health and safety concerns associated with larger scale commercial Solar Energy Systems. Such training plan shall be implemented before the Solar Energy System is made commercially operational. All costs and expenses related to such training shall be borne by the Applicant or the successor owner or operator of the Solar Energy System.
 - (5) Any applications (including variance applications) pending for Solar Energy Systems on the effective date of this article shall be subject to the provisions of this Article.
 - (6) This Article shall take precedence over any inconsistent provisions of the Zoning regulations contained within the Code of the Town of York.
 - (7) No Solar Panels or other Solar Energy Equipment used in any Solar Energy System shall utilize or contain any amount of GenX chemicals or

polyfluoroalkyl substances (PFAS). Applicant shall provide certified documentation that all Solar Panels and other Solar Energy Equipment do not contain polyfluoroalkyl substances, including PFOA, PFOS and/or GenX chemicals.

- (8) For all Solar Energy Systems, no signage or graphic content may be displayed on the Solar Energy Equipment except the manufacturer's badge, safety information and equipment specification information.
- (9) For Type 2 Solar Energy Systems, a sign not to exceed nine square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number, disconnect and other emergency shutoff information, 24-hour emergency contact information, and it will be clearly displayed on a light reflective surface.
- (10) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- (11) Payment in Lieu of Tax Agreement. The owners or developers and landowners of the property upon which Commercial Building-Mounted Solar Energy Systems, Commercial Roof-Mounted Solar Energy Systems or Type 2 Solar Energy Systems are to be developed shall be required to enter into a contract with the Town for payments in lieu of taxes pursuant to Real Property Tax Law §487 9.(a). Upon the owner or developer providing written notification to the Town of its intent to construct a Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System, the Town Assessor or the Town Attorney on behalf of the taxing jurisdiction shall notify such owner or developer in writing within sixty (60) days of its intent to require a contract for payments in lieu of taxes.
 - a. In no event shall such payment in lieu of tax agreement operate for a period of more than fifteen (15) years, commencing in each instance from the date on which the benefits of such exemption first become available and effective under Real Property Tax Law §487.
 - b. In no event shall such payment in lieu of tax agreement require annual payments in an amount that would exceed the amount that would otherwise be payable but for the exemption under Real Property Tax Law §487.
 - c. The payment in lieu of tax agreement shall run to the benefit of the Town of York and be executed by the Applicant/developer as well as the owners of the real property upon which the Solar Energy System is to be located

and such signatures shall be notarized in a format that allows the payment in lieu of tax agreement to be recorded at the Office of the Livingston County Clerk. Such payment in lieu of tax agreement shall, prior to commencement of construction, be recorded at the office of the Livingston County Clerk (at the expenses of Applicant/developer) as a lien on the property upon which and indexed against the property upon which the Solar Energy System is to be constructed. The intent of the above provisions is so that should the Applicant/developer or owner of the Solar Energy System default with regard to such payment in lieu of tax agreement, that such obligation will become the responsibility of the then owner of the property upon which the Solar Energy System is sited and that failure to satisfy the terms of such agreement will permit the Town of York to enforce such agreement as against the owner of the real property and the real property.

- d. At its sole discretion, the York Town Board may refer an application for a Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System to one or more private consultants to assist such Board in negotiating, drafting and/or reviewing the required payment in lieu of tax agreement. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, the Town Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Upon request of Applicant, the Town shall provide a general estimate of anticipated consulting services to be provided and estimated costs for the same. However, any such estimate of services or costs related to such services shall not in any way restrict the level of reimbursement ultimately required to be made by Applicant. It is the specific intention of this section that all expenses relating to professional consulting services rendered to the Town or any of its Boards, relating to an application for development of a Solar Energy System, be borne by the Applicant and not the taxpayers of the Town. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Prior to the Town making any payment or withdrawal from such account, the Town shall provide Applicant with notice of such intended payment and documentation supporting such payment. Applicant shall have the right, within five (5) business days from receipt of such notice, to protest any account withdrawal or payment to a consultant which it contends is not reasonably necessary or is not

reasonable in amount. The Town Board shall thereafter have thirty (30) days to provide its determination with regard to Applicant's objection, which shall be provided to Applicant in writing. Should such deposit be depleted prior to final approval of the required payment in lieu of tax agreement, the Town Board may require that additional monies be deposited with the Town before further processing of the payment in lieu of tax agreement will continue. The Town Board may suspend indefinitely the negotiation and drafting and review of the payment in lieu of tax agreement as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town of York, New York State law, rule or regulation relating to the timing of issuance of approvals for such payment in lieu of tax agreements.

- e. No building permit may be issued for any approved Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System until such time as a payment in lieu of tax agreement has been executed by all parties.
- (12) Community Benefit Agreement. The owners or developers and landowners of the property upon which a Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System is to be developed shall be required to enter into a community benefit agreement with the Town for payment by the owners, developers or landowners to the Town, of an agreed upon monetary amount or provision of a specified public improvement or improvements that shall act to offset the potential negative impacts that may be associated with a Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System.
- a. At its sole discretion, the York Town Board may refer an application for a Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System to one or more private consultants to assist such Board in negotiating, drafting and/or reviewing the required community benefit agreement. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, the Town Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for

reimbursement of such expenses. Upon request of Applicant, the Town shall provide a general estimate of anticipated consulting services to be provided and estimated costs for the same. However, any such estimate of services or costs related to such services shall not in any way restrict the level of reimbursement ultimately required to be made by Applicant. It is the specific intention of this section that all expenses relating to professional consulting services rendered to the Town or any of its Boards, relating to an application for development of a Solar Energy System, be borne by the Applicant and not the taxpayers of the Town. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Prior to the Town making any payment or withdrawal from such account, the Town shall provide Applicant with notice of such intended payment and documentation supporting such payment. Applicant shall have the right, within five (5) business days from receipt of such notice, to protest any account withdrawal or payment to a consultant which it contends is not reasonably necessary or is not reasonable in amount. The Town Board shall thereafter have thirty (30) days to provide its determination with regard to Applicant's objection, which shall be provided to Applicant in writing. Should such deposit be depleted prior to final approval of the required community benefit agreement, the Town Board may require that additional monies be deposited with the Town before further processing of the community benefit agreement will continue. The Town Board may suspend indefinitely the negotiation and drafting and review of the community benefit agreement as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants.

- b. No building permit may be issued for any approved Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System until such time as a community benefit agreement has been executed by all parties.
- (13) Road Use Agreement. Prior to issuance of any building permit for a Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System and as a condition to any Special Use Permit being issued, the Applicant and its general contractor shall enter into a written Road Use Agreement benefitting the Town and in a format acceptable to the Town at its sole discretion. Such Road Use Agreement will require Applicant and its General Contractor to

indemnify and hold the Town harmless from any and all damage to the roadways within the Town that may result from the development of Applicant's Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System. As a part of such Road Use Agreement, Applicant (or its General Contractor) shall provide an irrevocable financial security bond (or other form of surety acceptable to the Town of York at its sole discretion), benefitting the Town, that shall ensure the indemnification and hold harmless provisions set forth in the applicable Road Use Agreement.

- a. In the event that any damage is done to any Town road as a result of the development of an Applicant's Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System, said Applicant and/or its General Contractor shall be responsible to perform repairs to such road that are acceptable to the Town Highway Superintendent in his/her reasonable discretion.
 - b. Such repairs shall be completed within sixty (60) days of when written notice of a demand to repair was personally served or sent via certified mail to Applicant or its General Contractor or such longer timeframe as determined by the Town Board at its sole discretion upon a showing of good cause by Applicant. Should Applicant or its General Contractor fail to effectuate such repairs within sixty (60) days, or within a different timeline at the discretion of the Town Board, the Town shall be permitted to execute on the irrevocable financial security bond (or other form of surety) with written notice to Applicant or its General Contractor.
 - c. The provisions of the Road Use Agreement required hereby and the requisite financial security bond (or other form of surety) shall remain in full force and effect for no less than one year after all construction has been completed and the project has been certified as complete by a professional engineer.
 - d. No building permit may be issued for any approved Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System until such time as a Road Use Agreement as required hereby has been executed by all parties.
- (14) Traffic Routes. Construction and delivery vehicles for Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System and Type 2 Solar Energy Systems shall use traffic routes established

as part of the applications review process. Factors in establishing such corridors shall include:

- a. Minimizing traffic impacts from construction and delivery vehicles.
- b. Minimizing Solar Energy System related traffic during times of school bus activity.
- c. Minimizing wear and tear on local roads.
- d. Minimizing impacts on local businesses.
- e. Special Use Permit approval may contain conditions that limit Solar Energy System related traffic to specified routes and include a plan for disseminating traffic route information to the public.

E. Abandonment and Decommissioning.

- (1) If the use of an approved Solar Energy System is discontinued, the owner or operator shall provide written notice to the Code Enforcement Officer within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative and abandoned after 180 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) for Type 1 Solar Energy Systems or 180 days without production of energy and offsite sale to and consumption by one or more customers for Commercial Building-Mounted Solar Energy Systems, Commercial Roof-Mounted Solar Energy Systems or Type 2 Solar Energy Systems. Each of the above time frames may be extended by the Town Board, at its sole discretion, upon a showing of good cause by the then owner or operator of the Solar Energy System.
- (2) Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a Solar Energy System shall be made by the Town Code Enforcement Officer, who shall provide the permit holder, owner or operator and owner of the real property upon which the Solar Energy System is located with written notice by personal service or certified mail. At the earlier of the 91 days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals and/or permits granted or issued for the Solar Energy System shall automatically expire. For purposes of this Article, the term “inoperability” or “inoperable” shall mean that such Solar Energy System is operating such that it produces less than 10% of the original nameplate capacity of the Solar Energy System at the time of original construction.

(3) Removal. All Solar Energy Systems (and related infrastructure) shall be dismantled and removed immediately from a Lot where the Special Use Permit or Site Plan approval has been revoked by the Town of Planning Board, or if the Solar Energy System has been deemed by the Code Enforcement Officer to be inoperative or abandoned for a period of more than 180 days (unless the time frame is extended by the Town Board pursuant to the provisions of paragraph (1) above) and the Lot shall be restored to its pre-development condition. The responsibility to dismantle and remove and all such costs of removal shall be the sole responsibility of the permit holder, owner or operator and/or owner of the real property upon which the Solar Energy System is located. If the permit holder, owner or operator and/or owner of the real property upon which the Solar Energy System is located does not dismantle and remove said Solar Energy System as required by the Decommissioning Agreement, the Town Board may complete removal and decommissioning as set forth in the Decommissioning Agreement and levy all related expenses (not covered by any removal bond or other form of surety provided pursuant to such Decommissioning Agreement) associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder, owner or operator and owner of the real property upon which the Solar Energy System is/was. Any costs or expenses related to removal (by the Town or completed on behalf of the Town's authority pursuant to this section) that are to be levied onto the real property tax bill for the property on which the Solar Energy System was located, shall not be off-set, reduced or diminished for any recycling or salvage credits or value relating to the removed Solar Panels or Solar Energy Equipment, except and unless the Town has actually received such credits or value prior to the relevy of such costs and then, such reduction shall be limited to the actual dollar value received by the Town. Nothing in this Article shall be interpreted to require or obligate the Town to undertake to obtain salvage or recycling credits, value or proceeds with regard to any Solar Panels or Solar Energy Equipment to be removed pursuant to this section.

(4) Removal of all Commercial Building-Mounted Solar Energy Systems, Commercial Roof-Mounted Solar Energy Systems and Type 2 Solar Energy Systems shall be in accordance with the Decommissioning Agreement required by §618. C. (7) b. (xii) (A). above.

F. Revocation. If the Applicant or its successor in title/ownership of any Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System violates any of the conditions of its Special Use Permit, Site Plan approval, any provision of this Article or violates any other local, state or federal laws, rules or regulations, such

violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval as well as any Certificate of Compliance or Certificate of Occupancy issued for such System. Revocation may occur after the applicant is notified in writing of the violations and the Planning Board holds a hearing on the alleged violations, at which the Applicant or its successor in title/ownership shall have an opportunity to be heard and present evidence in defense of the allegations of such violations.

- G. **Enforceability; Penalties for Violations.** In addition to Revocation as provided for in section F. above, any violation of or failure to comply with any provision of this Article or any approval granted pursuant to this Article shall be result in a fine of not less than \$350.00, nor more than \$500.00 or imprisonment not to exceed 15 days or both such fine and imprisonment for a first offense. For a second offense, such fine shall be not less than \$500.00, nor more than \$1,000.00 or imprisonment not to exceed 15 days or both such fine and imprisonment. For a third or more offense, such fine shall be not less than \$1,000.00, nor more than \$5,000.00 or imprisonment not to exceed 15 days or both such fine and imprisonment. From the date of notice of the initial violation, each week of continued violation shall constitute a separate and distinct offense.
- H. **Civil Penalty.** Any person or entity violating any provision of this Article, or any condition of any approval granted pursuant to this Article shall be subject to a civil penalty of \$2,500.00 for each offense, enforceable and collectible by the Town of York. From the date of notice of the initial violation, each week of continued violation shall constitute a separate and distinct offense.
- I. **Interpretation; conflict with other law.** In its interpretation and application, the provisions of this Article shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. This Article is not intended to interfere with, abrogate or annul other rules, regulations or laws, provided that whenever the requirements of this Article are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards shall govern.
- J. **Severability.** If any section, subsection, phrase, sentence or other portion of this Article is for any reason held invalid, void, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.
- K. **Commencement of Operations.** No Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System, Type 1 Solar Energy System requiring Site plan approval or Type 2 Solar Energy System shall be made

operational until such time that all conditions of approval relating to the Site Plan and Special Use Permit have been satisfied, the System fully complies with the solar regulations in this Article VI of the Town of York Zoning Ordinance and a Certificate of Compliance or Certificate of Occupancy has been issued by the Code Enforcement Officer. Should any such Solar Energy System be made operational prior to the above conditions being fully met and satisfied, it will be deemed a violation and may result in revocation of the Site Plan approval and/or Special Use Permit approval, along with any other remedy available pursuant to the Town of York Zoning Ordinance or New York state law.”

This Local Law shall take effect immediately upon filing with the Secretary of State of New York.

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