IN THE MATTER

Of

LOCAL LAW 2021-____ TO AMEND CHAPTER 165 OF THE CODE OF THE TOWN OF POMPEY TO REPEAL AND REPLACE SECTION 165-16.2 TO ALLOW CERTAIN SOLAR ENERGY SYSTEMS IN THE TOWN OF POMPEY

RESOLUTION APPROVIING LOCAL LAW

DRAFT

The **TOWN BOARD OF THE TOWN OF POMPEY**, in the County of Onondaga, State of New York, met virtually in regular session online, on the 6th day of April, 2021, at 6:30 p.m.

The meeting was called to order by Renee Rotondo, Supervisor, and the following were present, namely:

Renee Rotondo	Supervisor
Ann Christmas	Councilor
Carl Dennis	Councilor
Judy McElhannon	Councilor
Sheila Larkin	Councilor

The following resolution was moved, seconded and adopted:

WHEREAS, a Local Law has been introduced before the Board, to wit: Local Law 2021-__, entitled "**A LOCAL LAW AMENDING CHAPTER 165, ARTICLE III "DISTRICT REGULATIONS" OF THE CODE OF THE TOWN OF POMPEY**," the text of which is as follows:

LOCAL LAW 2021-__, A LOCAL LAW AMENDING CHAPTER 165, ARTICLE IV "SUPPLEMENTAL REGULATIONS" OF THE CODE OF THE TOWN OF POMPEY:

Be it enacted by the Town Board of the Town of Pompey, Onondaga County, New York as follows:

Section 1. That Chapter 165, Article IV, entitled "Supplemental Regulations" of the Code of the Town of Pompey, as amended, is further amended to repeal existing Section 165-16.2 as follows:

~~§ 165-16.2 **Solar energy conversion systems.**~~

~~[Added 2-2-2015 by L.L. No. 1-2015]~~

~~**A.** Purpose. The purpose of this section is to allow the construction of solar energy conversion systems in the Town of Pompey in a manner that preserves the health, safety and welfare of the Town~~

while facilitating the production of renewable energy. In so doing, this chapter establishes procedures for the use of generated energy by the principal user of a parcel with only ancillary sale of any excess energy to the public utility.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

SOLAR COLLECTION SYSTEM (SCS)

A device or system to absorb, accumulate or convert or otherwise use the sun's energy as a source of heat or electricity. A facility is only allowed in the Town if it supplies electrical power or heat solely for on-site use, except that when a parcel on which a SCS is installed also receives electrical power supplied by a utility company, excess electrical power generated by the SCS and not currently needed for on-site use may be used by the utility company in exchange for a reduction in the quantity of electrical power supplied by that company to the parcel for on-site use, as long as no net revenue is produced by such electrical power over a twelve-month period.

TOWN

Town of Pompey.

UNIFIED SOLAR PERMIT (USP)

An expedited solar permitting process developed by the NY-Sun public-private partnership which uses a unified permit across municipalities in New York State.

C. Applicability.

(1) This section shall apply to all SCS proposed in the Town, provided such generated energy is used primarily by the principal user of the property where the SCS is located. Commercial energy generation for sale off site is prohibited.

(2) Any SCS that falls within the parameters of the USP process as detailed in the USP application available through the Town Clerk or Code Enforcement Officer shall be eligible to obtain a USP.

D. Building permit required; application procedure. All proposed uses of a SCS shall obtain a building permit prior to construction pursuant to the rules of Chapter **165**. Unless eligible for the simplified procedures in the USP or as otherwise provided for in this section, the applicant shall first obtain site plan review approval from the Town Planning Board pursuant to § **165-44**. The Planning Board may schedule a public hearing following the rules of § **165-44**. When site plan review is approved, a building permit may be issued.

E. Specific district requirements. SCS are permitted in the following districts subject to these specific regulations:

(1) Roof- and wall-mounted.

(a) Allowed in all districts.

(b) The size shall be limited to the roof area of the principal or accessory building on which it is mounted.

(c) Site plan review is not required for single-family dwellings or USP eligible projects.

(d) In all districts, SCS that are wall-mounted shall only be mounted on the rear wall of the

principal or accessory building.

(2) Freestanding.

(a) In Residential, Hamlet Residential, Hamlet Commercial, and R-40 Districts: not allowed.

(b) In all other districts:

[1] The maximum SCS area allowed is based on the lot size as follows:

[a] Less than three acres: 700 square feet.

[b] Greater than three acres and less than six acres: 1,400 square feet.

[c] Greater than six acres: 3,300 square feet.

[2] The maximum height of any portion of the SCS above the ground is 10 feet when adjusted to the maximum tilt angle from horizontal of 12°.

[3] Minimum setbacks for both principal and accessory structures:

[a] Front: only allowed in front yard if minimum setback of 200 feet.

[b] Side: 25 feet.

[c] Rear: 25 feet.

F. General requirements. SCS are subject to the following requirements:

(1) All utility services and electrical wiring shall be underground and otherwise be placed within the walls or unobtrusive conduit.

(2) No signing, except for safety issues, is allowed.

(3) Lot coverage. The area occupied by the freestanding SCS shall be included in lot and building coverage.

(4) The location of freestanding SCS shall be at least 25 feet from:

(a) Any property line.

(b) Any public road right-of-way.

(c) Any overhead utility wires, unless otherwise approved by the utility company.

(5) Standards. In addition to any standards set forth in the USP, the following standards shall apply to all SCS:

(a) The equipment shall be Underwriters Laboratory (UL) or equivalently listed.

(b) SCS shall be approved for grid connection.

(c) The energy-generating equipment shall have its input/output ratings verified by a recognized independent third party.

(d) Contractors installing SCS shall be certified by the North American Board of Certified Energy Practitioners (NABCEP). Contractor's information shall be submitted with the development permit application.

~~**(6)** Variances to the distance and equipment requirements of this chapter are not permitted.~~

~~**G.** Severability. If any clause, sentence, paragraph, subdivision, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment is rendered.~~

Section 2. That Chapter 165, Article IV, entitled "Supplemental Regulations" of the Code of the Town of Pompey, as amended, is further amended to add a new Section 165-16.2 as follows:

§ 165.16.2. Solar Energy Systems

A. Authority. This solar energy chapter is adopted pursuant to §§ 261 through 263 of the Town Law and § 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and, in accordance with the Town Law of New York State, "to make provision for, so far as conditions may permit, the accommodation of Solar Energy Systems and equipment and access to sunlight necessary therefor."

B. Statement of purpose. The Town Board hereby determines and finds that the following is the policy and purpose of this Section:

(1) This solar energy Chapter is adopted to advance and protect the public health, safety, and welfare of the Town by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:

(a) To take advantage of a safe, abundant, renewable, and nonpolluting energy resource;

(b) To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;

(c) To increase employment and business development in the Town, to the extent reasonably practicable, by furthering the installation of Solar Energy Systems;

(d) To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, viewsheds and other protected resources; and

(e) To create synergy between solar and the Town's overarching sustainability policies as set forth in the Town of Pompey Comprehensive Plan.

C. Definitions. As used in this Chapter, the following terms shall have the meanings indicated:

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM
A combination of solar panels and solar energy equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for on-site consumption.

GLARE
The effect by reflections of light with intensity sufficient as determined in a commercially

reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM
A Solar Energy System that is anchored to or resting directly on the ground via a pole or other mounting or supporting system (including ballasts, racks or other nonpenetrative supports), detached from any other structure, that generates electricity for on-site or off-site consumption.

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

NET METERING
A billing arrangement that allows solar customers to receive credit for excess electricity which is generated from the customer's Solar Energy System and delivered back to the grid so that c customers only pay for their net electricity usage for the applicable billing period.

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

QUALIFIED SOLAR INSTALLER
A person who has skills and knowledge related to the construction and operation of Solar Energy Systems (and the components thereof) and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the NYS Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition.

ROOF-MOUNTED SOLAR ENERGY SYSTEM
A Solar Energy System located on the roof of any lawfully existing building or structure that produces electricity for on-site or off-site consumption.

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

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

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

(1) Tier 1 Solar Energy Systems include the following:

(a) Roof-mounted Solar Energy Systems with system capacity up to 25 kW DC (or 50 kW for active farm operations

(b) Building-integrated Solar Energy Systems with system capacity up to 25 kW (or 50 kW for active farm operations)

(2) Tier 2 Solar Energy Systems include ground-mounted Solar Energy Systems with system capacity up to 25 kW DC (or 50 kW for active farm operations).

(3) Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

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

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

UNIFIED SOLAR PERMIT
An expedited solar permitting process developed by the NY-Sun public-private partnership which uses a unified permit across municipalities in New York State.

D. Applicability.

(1) The requirements of this Chapter shall apply to all Solar Energy Systems permitted, installed, or modified in the Town of Pompey after the effective date of this Chapter, excluding general maintenance and repair.

(2) Solar Energy Systems constructed or installed prior to the effective date of this Chapter shall not be required to meet the requirements of this Chapter but, if applicable, shall be required to meet the requirements of Chapter 165-16.2 in effect prior to the effective date of this Chapter.

(3) Modification to an existing Solar Energy System that increases the Solar Energy System area by more than 20% of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Chapter.

(4) All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code"), the NYS Energy Conservation Code ("Energy Code"), the National Electric Code, the National Fire Protection Association codes and the Town Code. To the extent the provisions of the Building Code, Energy Code, National Electric Code, or National Fire Protection Association codes are more stringent than the provisions set forth in this Chapter, the provisions of the Building Code, Energy Code, National Electric Code or National Fire Protection Association codes shall apply.

(5) Any Solar Energy System that falls within the parameters of the Unified Solar Permit (USP) process as detailed in the current USP application available through the Town Clerk or Code Enforcement Officer shall be eligible to obtain a USP by following the process set forth in the application.

E. General requirements.

(1) A Unified Solar Permit shall be required for the installation of all Tier 1 and Tier 2 Solar Energy Systems with system capacity up to 25 kW. A building permit shall be required for all Solar Energy Systems greater than 25kW.

(2) The reviewing board or person is encouraged to consider conditions on sites adjacent to Solar Energy Systems so as to protect System access to sufficient sunlight to remain economically feasible over time.

(3) Issuance of permits and approvals by the reviewing board shall include the applicable review pursuant to the State Environmental Quality Review Act ("SEQRA").

(4) Ground-mounted Solar Energy Systems are prohibited in the R, R-40, HC and HR Zoning Districts (unless the applicant obtains a use variance from the Zoning Board of Appeals), as well as in the following areas of potential sensitivity:

(a) One hundred-year flood hazard zones considered a V or AE Zone on the FEMA Flood Maps.

(b) Historic and/or culturally significant resources which prohibit construction of a ground-mounted Solar Energy System as determined by the New York State Historic Preservation Office (SHPO).

(c) Within 100 feet landward of a freshwater wetland.

(d) Adjacent to, or within, the control zone of any airport.

(5) All Solar Energy System installations must be performed by a Qualified Solar Installer.

(6) Solar Energy Systems, unless Tier 3 systems, shall be permitted only to provide power for use by owners, lessees, tenants, residents or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through a net-metering arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute. However, Solar Energy System applications associated with non-active farm operations shall be limited to 25 kW or less, unless a variance is granted by the Zoning Board of Appeals (ZBA). Solar Energy System applications associated with active farm operations may be permitted up to 50 kW.

(7) Prior to operation, electrical connections must be inspected by a Town Code Enforcement Officer and/or by an appropriate electrical inspector or agency, as determined by the Town.

(8) Any connection to the public utility grid must be inspected by the appropriate public utility and proof of inspection shall be provided to the Town.

(9) Solar Energy Systems shall be maintained in good working order.

(10) If solar storage batteries are included as part of the Solar Energy System, they must be placed in a secure container or enclosure meeting the requirements of the NYS Uniform Fire Prevention and Building Code and/or the National Fire Protection Association codes when in use

and when no longer used shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations.

(11) All utility services and electrical wiring/lines shall be placed underground and otherwise placed within the walls or unobtrusive conduit, with the exception of the main service connection at the utility company right of way and any new interconnection equipment, including without limitation any poles, with new easements and rights of way. Conduits or feeds which are laid on the roof shall be camouflaged to blend in with the roof and reduce aesthetically objectionable impacts.

(12) To the extent practicable, Solar Energy Systems shall have neutral paint colors, materials and textures to achieve visual harmony with the surrounding area. Solar Energy Systems shall be composed of panels which are the same or similar in composition and color.

(13) The design, construction, operation and maintenance of Solar Energy Systems shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties, public roads, public parks and public buildings.

(14) Marking of equipment:

(a) Solar Energy Systems and components shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. For residential applications, the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover.

(b) In the event any of the standards in this Subsection for markings are more stringent than applicable provisions of the NYS Uniform Fire Prevention and Building Code or the National Fire Protection Association codes, this Subsection shall be deemed to provide guidelines only and the standards of the NYS Uniform Fire Prevention and Building Code or the National Fire Protection Association codes shall apply.

F. Permitting requirements for Tier 1 Solar Energy Systems.

(1) All applications for Tier 1 Solar Energy Systems shall be reviewed by the Code Enforcement Officer, shall be permitted in all zoning districts, and shall be exempt from site plan review under the Town Code, subject to the following conditions for each type of Solar Energy System:

(a) Roof-mounted Solar Energy Systems.

[1] Roof-mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:

[a] Solar panels on pitched roofs shall be mounted with a maximum distance of eight inches between the roof surface and the highest edge of the system.

[b] Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

[c] Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.

[d] Solar panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 36 inches above the flat surface of the roof, whichever is higher.

[2] Glare. All solar panels shall have anti-reflective coating(s) and supporting structures shall be constructed of materials which minimize glare to the maximum extent possible.

[3] Height. All roof-mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

(b) Building-integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

G. Permitting requirements for Tier 2 Solar Energy Systems.

(1) All Tier 2 Solar Energy Systems shall be permitted subject to the following conditions:

(a) Code Enforcement Officer approval. All applications for Tier 2 Solar Energy Systems must be reviewed and approved by the Town's Code Enforcement Officer and shall be exempt from site plan review under the Town Code.

(b) Glare. All solar panels shall have anti-reflective coating(s) and supporting structures shall be constructed of materials which minimize glare to the maximum extent possible.

(c) Setbacks. All ground-mounted Solar Energy Systems shall only be installed in the side or rear yards (unless a side yard or rear yard directly abuts a roadway, in which case the system shall be installed in the rear yard) of the lot. Ground-mounted Solar Energy Systems shall not be allowed as principal structure on a lot for Tier 2. The required setbacks shall be as follows:

[1] Double the required setback of the zoning district when the property is located in a Commercial, Industrial or Farm District; or

[2] Double the required setback for accessory structures in the zoning district when the property is located in a Residential or Hamlet District (assuming a use variance has first been granted by the Zoning Board of Appeals to allow Tier 2 Solar Energy Systems in these Districts).

(d) Height. Tier 2 Solar Energy Systems shall be subject to the height limitations specified for accessory structures within the underlying zoning district or fifteen feet, whichever is less.

(e) Screening and visibility:

[1] All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties and roadways to the extent reasonably practicable.

[2] Solar energy equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views and shading of surrounding properties, while still providing

adequate solar access.

[3] To accomplish adequate screening, architectural features, earthen berms, or landscaping in the form of at least one row of native evergreen, trees and/or shrubs which is capable of forming a continuous hedge at least 25% taller than the maximum height of the array within two years of planting shall be required and maintained. The screening shall harmonize with the character of the property and surrounding area and shall be of a species which provides screening year round. The exact form of screening shall be determined by the Code Enforcement Officer.

(f) Lot size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirements specified for accessory structures within the underlying zoning district.

(g) Maximum landscape coverage. The total coverage of all buildings and structures on a lot, including Tier 2 ground-mounted Solar Energy Systems, shall not exceed fifty percent (50%).

(h) Decommissioning and removal.

[1] Unsafe Solar Energy Systems. Should a Code Enforcement Officer deem a Solar Energy System unsafe or dangerous to the life, health, property or safety of the public or so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible, the owner thereof shall remove said system at the owner's expense within 90 days of written notice thereof from the Town Code Enforcement Officer.

[2] Removal. If removal of the Solar Energy System is ordered pursuant to this section, the owner or operator shall remove the entire aboveground structure (exclusive of the foundation), including transmission equipment and fencing. The owner or operator must comply with applicable provisions of the New York State Building Code and Property Maintenance Law.

[3] Failure to remove the Solar Energy System. If the Solar Energy System is not removed by the owner within 90 days of written notice from the Town, the Town may authorize the dismantling and removal of the Solar Energy System at the owner's expense. The cost of removing the Solar Energy System and associated equipment will be a lien on the property and added to the property owner's tax bill.

H. Permitting requirements for Tier 3 Solar Energy Systems.

(1) All Tier 3 Solar Energy Systems are permitted through the approval of a Solar Energy System Overlay District by the Town Board, pursuant to the following procedure:

(a) Concept site plan. Prior to the submission of any application for overlay zoning to the Town Board, the applicant shall submit a concept site plan, as described below, to the Town Planning Board for its review and recommendation on the overlay zoning.

(b) Overlay zoning application. Any application for overlay zoning shall be submitted to the Town Board and it shall contain the following information:

[1] The report of the Town Planning Board resulting from the aforesaid concept site plan and overlay zoning review.

[2] The concept site plan. For purposes of this section, a "concept site plan" is a map, drawn to scale, prepared by a licensed engineer, architect, and landscape architect which graphically depicts proposed improvements to the property, including: topographical features, system footprints, travelways, access locations, drainage facilities, lighting, landscaping, buffering, fencing, and signs. Said concept site plan shall also depict existing improvements and contain all information required by § 165-44 and shall be in accordance with the design and construction standards of the Town of Pompey.

[3] Proof of ownership of the land proposed for overlay zoning.

[4] A description of the property and/or parcel. A metes and bounds description of the parcel will be required at the time of building permit application.

[5] A letter of intent which states the land's present use and the type of Solar Energy System proposed for the land.

[6] A completed long form of the environmental assessment form (EAF).

[7] A statement as to the present underlying zoning district and proposed zoning as a Solar Energy Systems Overlay District.

[8] Present land use and proposed future land use.

[9] Two copies of an application to overlay zone the land. Submit the original application to the Town Clerk and give copies to the Town Supervisor and Town Attorney.

(c) Solar Energy System overlay zoning conditions. All Solar Energy System overlay zoning, prior to being placed on the Town of Pompey Zoning Map, shall be conditioned upon the applicant obtaining:

[1] The approval of the Town Board creating the Solar Energy Systems Overlay District on the property. Said review shall include a public hearing for overlay zoning approval.

[2] Site plan approval from the Planning Board. Said review shall include a public hearing for site plan approval in accordance with the provisions of § 274(a) of the New York State Town Law.

[3] A “glint and glare” study to be performed by the applicant for any Solar Energy System greater than 1 megawatt (MW).

(d) All Tier 3 Solar Energy Systems are subject to the following additional conditions:

[1] Vehicular paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

(e) Signage:

[1] No signage or graphic content shall be displayed on the Solar Energy Systems except for the manufacturer's name, equipment specific information, safety information, and twenty-four-hour emergency contact information. Said information shall be depicted within an area of no more than eight square feet.

[2] As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly

visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

(f) Glare. All solar panels shall have anti-reflective coating(s) and supporting structures shall be constructed of materials which minimize glare to the maximum extent possible.

(g) Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

(h) Tree-cutting. Removal of existing trees and other existing vegetation should be minimized or offset with planting elsewhere on the property.

(i) Decommissioning:

[1] Solar Energy Systems that have been abandoned and/or not producing electricity for a period of one year shall be removed at the owner and/or operator's expense, which at the owner's option may come from any security made with the Town as set forth herein.

[2] A decommissioning plan signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:

[a] The cost of removing the Solar Energy System.

[b] The time required to decommission and remove the Solar Energy System and ancillary structures.

[c] The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.

[d] A detailed description of the site restoration work that shall be done.

[1] Security:

[a] The deposit, execution, or filing with the Town Clerk of a cash, bond, or other form of security reasonably acceptable to the Town Attorney and Town Bookkeeper, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal.. The Town shall hire an independent engineer or expert, at the applicant’s cost, to provide a written report before construction begins, that determines the cost of removal and restoration and the bond amount necessary to secure those costs. The Town Code Enforcement Officer shall have this report updated every five (5) years by independent engineer or expert at the expense of the owner of the Tier 3 Energy System.

[b] In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

[c] In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth herein.

(2) Site plan approval. If the Town Board approves a Solar Energy System Overlay District, the Planning Board shall consider a site plan using the criteria set forth in Chapter 165-44 of the Town Code, as well as demonstrated compliance with the requirements of this Section.

(a) Site plan standards:

[1] Lot size. The property on which the Tier 3 Solar Energy System is placed shall be at least 10 acres.

[2] Setbacks. The Tier 3 Solar Energy Systems shall be set back:

[a] A minimum of one hundred feet front yard setback and minimum one hundred feet from an abutting lot when the property is in a Commercial, Industrial or Farm District, unless the Planning Board determines, by findings of fact, that additional setbacks are necessary based on the health, safety and welfare of the residents or based on the community character of a particular neighborhood or area.

[b] A minimum of two hundred feet when the property is located in a Residential or Hamlet District (assuming a use variance has been granted by the Zoning Board of Appeals). The Zoning Board of Appeals, at its discretion, may vary the required dimensional setback of 200 feet to minimize environmental impacts created when locating ground-mounted Solar Energy Systems within the dimensional regulations. In such instances the Zoning Board of Appeals may vary the setback to 100 feet or 200 feet from the nearest habitable building, whichever distance is more restrictive. The burden of proof for the grant of such variance shall always be upon the applicant.

[3] Height. No structure can exceed 15 feet, including Solar Energy Systems at maximum tilt angle.

[4] Maximum landscape coverage:

[a] The total coverage of all buildings and structures on a lot, including Tier 3 ground-mounted Solar Energy Systems, shall not exceed fifty percent (50%).

[b] The following components of a Tier 3 Solar Energy System shall be included in the calculations for lot coverage requirements:

(i) Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.

(ii) All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformer, or storage cells.

(iv) Paved access roads servicing the Solar Energy System.

(b) Fencing requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed by an eight-foot-high fence with a self-closing and self-locking gate to prevent unauthorized access.

(c) Screening and visibility. Applicants for Tier 3 Solar Energy Systems shall be required to:

[1] Conduct a visual assessment of the visual impacts of the Solar Energy

System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital view-shed report, may be required to be submitted by the applicant.

[2] Submit a screening and landscaping plan, prepared by a licensed landscape architect, to show adequate measures to screen through landscaping, grading, or other means so that views of solar panels and solar energy equipment shall be minimized as reasonably practicable from public roadways and adjacent properties to the extent feasible. The screening and landscape plan shall include the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system.

(d) Agricultural resources. For projects located on lands zoned Farm:

[1] Any Tier 3 Solar Energy System shall not exceed 50% of the area of Prime Farmland, Unique Farmland or Farmland of Statewide Importance on the parcel as defined by federal or state law/regulation.

[2] To the maximum extent practicable, Tier 3 Solar Energy Systems located in these Agricultural Districts shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.

[3] Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation at a minimum of 50% pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes. Such vegetation and landscaping shall be maintained during the life of the Solar Energy System.

(e) Ownership changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the successor owner or operator assumes in writing all of the obligations of the site plan approval and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the Code Enforcement Officer of such change in ownership or operator within 30 days of the ownership change.

(f) Solar Energy Systems shall be permitted only if they are determined by the Planning Board not to present any unreasonable safety risks, including but not limited to:

[1] Weight load;

[2] Wind resistance; and

[3] Ingress or egress in the event of fire or other emergency.

(g) Insurance. The applicant, owner, lessee or assignee shall maintain a current insurance policy which will cover installation and operation of the Solar Energy System at all times. Said policy shall provide a minimum of $2,000,000 property and personal liability coverage and shall list the Town as an additional insured.

I. Safety.

(1) Solar Energy Systems and solar energy equipment shall be certified under the New York State Uniform Fire Prevention and Building Code and applicable electrical codes as required.

(2) Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department.

(3) The applicant shall coordinate with all relevant local fire departments to discuss emergency access and procedures.

J. Permit time frame and abandonment.

(1) The site plan approval for a Solar Energy System shall be valid for a period of 12 months, provided that a building permit is issued for construction. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Town Board or Planning Board, within 12 months after approval, the applicant or the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 24 months, the approvals shall expire.

(2) Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the owner and/or operator of the Solar Energy System shall implement the decommissioning plan. The decommissioning plan must be completed within 360 days of cessation.

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

K. Referral to Environmental Conservation Commission. Upon receipt of an Overlay District application, the Town Board shall e-mail and send via standard mail said application to the Environmental Conservation Commission ("ECC") for review and report. The ECC shall report back to the Town Board within 30 days of such referral. The time period within which the ECC shall be required to report back may be extended at the discretion of the Town Board. Failure by the ECC to report back to the Town Board within the specified time period shall be interpreted as indicating no objection to the application.

L. Fees. The application and developer fees for Solar Energy Systems shall be established from time to time by resolution of the Town Board. No review of a Solar Energy System application may commence until such time as all application and developer fees have been paid.

M. Taxation. Pursuant to § 487 of the Real Property Tax Law, the Town shall require all applicants to enter into a contract for payments in lieu of taxes (PILOT) for all Tier 3 ground-mounted Solar Energy Systems.

N. Enforcement. Any violation of this solar energy law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in Chapters 4, 93 and 165 of the Town Code.

O. Severability. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

Section 3. Effective Date. This law shall become effective upon filing with the Secretary of State.

~~Strikeout~~ means eliminated language

WHEREAS, in 2014, Governor Cuomo launched New York's energy policy, Reforming the Energy Vision (REV), which is intended to build an integrated energy network throughout New York State able to harness the combined benefits of the central grid with clean, locally generated power;

WHEREAS, in 2016 the State of New York adopted the State Energy Plan (the "State Energy Plan");

WHEREAS, the State Energy Plan is a comprehensive roadmap to build a clean, resilient, and affordable energy system for all New Yorkers.

WHEREAS, he State Energy Plan, as a roadmap for REV, fosters economic growth and environmental stewardship—government and industry working together through public-private partnerships to achieve our shared goal of a healthier and stronger New York economy.

WHEREAS, the initiatives outlined in the State Energy Plan, along with private sector innovation and investment fueled by REV, will put New York State on a path to achieving the following clean energy goals: (i) 40% reduction in greenhouse gas emissions from 1990 levels; (ii) 50% of energy generation from renewable energy sources; (iii) 600 trillion Btu increase in statewide energy efficiency

WHEREAS, the Town Board desires to conform to the State Energy Plan and assist the State in meeting its goals for renewable energy and is thus considering Local Law 2021-___ to accomplish this goal;

WHEREAS, the Town Board first held a public hearing on the initial Local Law on _____, 2021 at which time the public had an opportunity to speak for or against the initial local law;

WHEREAS, the Town Board kept the public hearing open and the public was allowed to speak for and/or against the Local Law on _____, 2021 and _____, 2021, at which time the public hearing was closed;

WHEREAS, at the request of the Onondaga County Planning Agency, which reviewed the initial Local Law regarding Solar Panel regulation, the Town worked with the Central New York Regional Planning Agency to create Local Law 2021-__ and make changes to said law based on the concerns raised by the public;

WHEREAS, the Onondaga County Planning Board has reviewed Local Law 2021-__ and determined, in a resolution dated _____, 202__, that the Local Law will not have a Countywide impact and made several recommendations that were considered by the Town Board;

WHEREAS, the Town Board, at its April __, 2021, meeting reviewed the short Environmental Assessment Form and determined that the Local Law will not have a significant environmental impact on the Town because it: (i) furthers the goals of the State Energy Plan by allowing renewable energy opportunities in the Town of Pompey and the State of New York; (ii) the Local Law regulates and limits the areas of the Town where Solar Energy Systems will be allowed; (iii) the Local Law sets forth two separate and distinct process to site a Tier 3 Solar Energy System (the Town Board approving an Solar Energy System Overlay Zone and site plan approval through the Planning Board) in the Town of Pompey, at which point both the Town Board and the Planning Board will examine the specific plan and determine whether it will have a significant environmental impact in a specific location; (iv) the Local Law requires screening and setbacks that will lessen the visual impact of a Tier 3 Solar Energy System; (v) the residents of the Town of Pompey will potentially be able to obtain renewable energy from Tier 3 Solar Energy Systems and/or community solar farms;

NOW, THEREFORE, be it

RESOLVED that the Town Board hereby approval Local Law 2021-__ that regulates the construction of Solar Energy Systems in the Town of Pompey; and be it further

RESOLVED AND ORDERED, that said Local Law shall be in full force and effect as provided by law upon the filing of this Local Law with the Secretary of State.