

LOCAL LAW NUMBER 3 OF THE YEAR 2023

A LOCAL LAW OF THE TOWN OF LINCOLN, also known as “The Town of Lincoln Solar Energy Law,” in relation to the repeal of Local Law Number 2 of the Year 2021 and its replacement.

IT IS HEREBY ORDAINED AND ENACTED by the Town Board of the Town of Lincoln, Madison County, New York, as follows: That Town of Lincoln Local Law Number 3 of the year 2023 entitled “Town of Lincoln Solar Energy Law” is hereby adopted.

Said Local Law reads as follows:

SECTION 1. Statutory Authority

This Local Law is adopted pursuant to §10 of the Municipal Home Rule Law.

SECTION 2. Purpose and Legislative Intent

The purpose of this Local Law is to establish new rules and regulations regarding the siting and development of Solar Energy Systems within the Town of Lincoln.

SECTION 3.

Local Law Number 2 of the Year 2021 is hereby repealed.

Local Law Number 3 of the year 2023 is hereby enacted with the following text:

§1 Authority.

This Solar Energy Law is adopted pursuant to §§261-263 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.”

§2 Statement of Purpose.

This Solar Energy Law is adopted to advance and protect the public health, safety, and welfare of 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 non-polluting energy resource;
- B. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
- C. To increase employment and business development in the Town, to the extent reasonably practical, 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, and other protected resources;
- E. To appropriate siting of Solar Energy Systems in accordance with Town policy and the Town's Comprehensive Plan; and
- F. To maintain the rural character of the Town of Lincoln and to integrate solar energy usage in the Town in such a way as to minimize the visual impact on the community.

§3 Definitions.

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

ATTERBERG LIMITS AND FIELD TESTS: A basic measure of the critical water contents of a fine-grained soil and its shrinkage limit, plastic limit, and liquid limit. Establishes the moisture contents at which fine-grained clay and silt soils transition between solid, semi-solid, plastic, and liquid states.

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

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

ENVIRONMENTAL MANAGER: An individual possessing the skills and knowledge to effectively develop a site for use as a Solar Energy System and then reclaim the site restoring it, to the greatest extent practical, to its original use.

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

FARMLAND OF STATEWIDE IMPORTANCE: Land designated as "Farmland of Statewide Importance" in the U. S. Department of Agriculture Natural Resources Conservation Service' s (NRCS) Soil Survey Geographic (SSURGO) Database on Web Soil Survey, and/or pursuant to the New York State classification system for Madison County, that is of statewide importance for the production of food, feed, fiber, forage, and oil seed. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by New York State.

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

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

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

KILOWATT (kW): A unit of power equal to 1,000 watts. The nameplate capacity of residential and commercial Solar Energy Systems may be described in terms of kW.

MEGAWATT (MW): A unit of power equal to 1,000 kW. The nameplate capacity of larger Solar Energy Systems may be described in terms of MW.

MINERAL SOIL GROUPS 1-4 (MSG 1-4): Soils recognized by the New York State (NYS) Department of Agriculture and Markets as having the highest value based on soil productivity and capability, in accordance with the uniform statewide land classification system developed for the NYS Agricultural Assessment Program.

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

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

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 customers only pay for their net electricity usage for the applicable billing period.

PRIME FARMLAND, PRIME SOILS, AND PRIME SOIL LANDS: Soils and land that are best suited for producing food, feed, forage, fiber, and oilseed crops, and must be available for this use. Such soils have the soil quality, growing season, and moisture supply needed to economically produce a sustained high yield of crop when it is treated and managed according to acceptable farming methods. Prime Farmland may now be in crops, pasture, woodland, or other land, but not in urban and built-up land or water areas. (As referenced by the 2019 Madison County Agriculture and Farmland Protection Plan; lands designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service's (NRCS) Soil Survey Geographic (SSURGO) Database on Web Soil Survey; and Class I and Class II soil classifications found in the Madison County Planning Department Soil Classification Map of Madison County (September 2007)).

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

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

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 New York State 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 legally permitted building or structure that produces electricity for onsite or offsite consumption.

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

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

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 as follows:

- A. Tier 1 Solar Energy Systems.
 - (1) Tier 1 Solar Energy Systems include the following:
 - a. Roof-Mounted Solar Energy Systems; and
 - b. Building-Integrated Solar Energy Systems.
 - (2) Permits for all Tier 1 Solar Energy Systems are issued by the Town Code Enforcement Officer.
- B. Tier 2 Solar Energy Systems.
 - (1) Tier 2 Solar Energy Systems include residential or single-building-serving ground mounted Solar Energy Systems that are affixed to the ground either directly or by mounting devices and are not attached or affixed to a building or structure.
 - (2) Tier 2 Solar Energy Systems require a special use permit issued by the Town Board following site plan approval by the Planning Board. Applications for such permit shall be made to the Town Board, which shall review and issue a denial, approval, or conditional approval of the same.
- C. Tier 3 Solar Energy Systems.
 - (1) Tier 3 Solar Energy Systems are all Solar Energy Systems other than those included in the definitions of Tier 1 and Tier 2 above.
 - (2) Tier 3 Solar Energy Systems require a special use permit issued by the Town Board. Applications for such permit shall be made first to the Planning Board contemporaneously with the site plan application. After review of the application and site plan application, the Planning Board shall file an advisory report with the Town Board within 60 days of the completed application being filed with the Town. The Town Board shall review the application and advisory report and shall issue a denial, approval, or conditional approval of the same.

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

§4 Applicability.

- A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town after the effective date of this Local Law, excluding general maintenance and repair, but including all Solar Energy Systems for which an application of any type was pending as of the effective date of Local Law Number 2 of the Year 2023.
- B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
- C. Modifications to an existing Solar Energy System that increase the Facility Area by more than 5% of the original Facility Area (exclusive of moving any fencing) shall be subject to this Law.

§5 General Requirements.

- A. A Building permit shall be required for installation of all Solar Energy Systems. Installation must be performed by a Qualified Solar Installer approved by the Town Code Enforcement Officer.

- B. Solar Energy Systems, unless a part of a Tier 3 Solar Energy System, shall be permitted to provide for 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 the New York Public Service Law or similar state or federal statute. However, Solar Energy Systems applications in a residential setting and serving residential use on a single parcel or lot shall be limited to 25kW and 110% of energy consumed on the site in the prior 12 months. Solar Energy System applications serving a commercial or industrial use shall be limited to no more than 110% of the energy consumed on the site in the prior 12 months.
- C. Issuance of permits and approvals by the Town Board shall include review pursuant to the State Environmental Quality Review Act.
- D. Prior to operation, electrical connections must be inspected by an appropriate licensed electrical inspection person or agency, as determined by the Town. An electrical inspector must supply written verification that all electrical connections pass inspection.
- E. Connection to the public utility grid must be inspected by the appropriate public utility, and proof of inspection shall be provided to the Town.
- F. Solar Energy Systems shall be permitted only if they are determined by the Town not to present any unreasonable safety risk, including but not limited to weight load, resistance, and ingress and egress in the event of fire or other emergency.
- G. If storage batteries are included as part of the Solar Energy System, they must be placed in a secure container or enclosure under the requirements of the New York State Uniform Fire Prevention and Building Code when in use, and when no longer in use shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations.
- H. All utility services and electrical wiring/lines shall be placed underground and otherwise be placed within the walls or unobtrusive conduit. Conduits or feeds which are laid on the roof shall be camouflaged to blend in with the roof and reduce statically objectionable impacts.
- I. If Solar Energy Systems, except for Tier 3 systems which have separate regulations under this Law, cease to perform their originally intended function for more than 12 consecutive months, the property owner shall completely remove the system, mounts and all associated equipment and components by no later than 90 days after written notice from the Town. The Code Enforcement Officer shall have the right, at any reasonable time after notice, to enter in company of the owner or his agent to ensure that the Solar Energy System remains operational.
- J. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Uniform Code"), the NYS Energy Conservation Code ("Energy Code"), and the Town Code.
- K. Design, construction, operation, and maintenance of the Solar Energy System shall prevent direction, misdirection and/or reflection of solar arrays and/or glare onto neighboring properties, public roads, public parks, and public buildings.
- L. Prior to the time of the issuance of a solar building permit, the applicant/owner shall demonstrate to the Code Enforcement Officer a reliable and safe master method for the deenergizing of the Solar Energy System in the event of an emergency.
- M. For Solar Energy Systems subject to site plan review, the Town shall impose, and may update as appropriate, a schedule of fees to recover expenses associated with engineering, environmental, or legal services determined to be reasonably necessary in the processing of an application under this law.

§6 Permitting Requirements for Tier 1 Solar Energy Systems.

Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under this Law, subject to the following conditions:

- A. Roof-Mounted Solar Energy Systems
 - (1) Roof-Mounted Solar Energy Systems shall incorporate the following design requirements:
 - a. Solar Panels on pitched roofs shall be mounted with a maximum distance of eight inches between the roof surface the highest edge of the system.
 - b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
 - c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
 - d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than twenty-four inches above the flat surface of the roof, whichever is higher.
 - e. Solar Energy Systems, to the extent possible, shall have neutral paint colors to achieve harmony with the surrounding area.
 - (2) Glare. All Solar Panels shall have anti-reflective coating(s).
- B. Building-Integrated Solar Energy Systems
 - (1) Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

§7 Permitting Requirements for Tier 2 Solar Energy Systems.

Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures, are subject to site plan approval, and require a special use permit.

- A. Standards. Tier 2 Systems shall adhere to the following standards:
 - (1) Front yards.
 - a. Tier 2 Solar Energy Systems are prohibited in front yards.
 - b. A front yard, for the purposes of this Law, is defined as the area between the highway and a line parallel front lot line that intersects with the corner of the principal structure closest to the highway.
 - (2) Tier 2 Solar Energy Systems shall comply with the most restrictive area, yard, and total area/lot coverage restrictions based on the specific zoning regulation in each applicable zoning district in which the Tier 2 Solar Energy System is constructed. Moreover, additional setbacks and yard requirements in total area/lot coverage restrictions may be required by the Planning Board in order to protect the public safety, health, and welfare.
 - (3) Tier 2 Solar Energy Systems shall only be permitted on lots which are 20,000 square feet or larger.
 - (4) The height of solar collectors/panels in any quantity, when oriented at the maximum tilt measured from the ground, including any base, shall not exceed 10 feet in height in residential districts and 15 feet in height in other districts.

- (5) Tier 2 Solar Energy Systems shall have views minimized from adjacent properties, streets, and rights of way to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
- (6) Tier 2 Solar Energy Systems shall be sited in a manner that reasonably minimizes view blockage and shading of property for surrounding properties while still providing adequate solar access.
- (7) Neither the Solar Energy System nor any component thereof shall be cited within any required easement, right-of-way, or setback
- (8) No special use permit shall be issued by the Town Board unless it is determined that the proposed Solar Energy System will:
 - a. Be consistent with and not impede an appropriate policy, goal, or objective of the Town or the Town's Comprehensive Plan.
 - b. Be consistent with and not impede the lawful use and development of contiguous and neighboring properties and not unreasonably affect their use, enjoyment, and value.

§8 Permitting Requirements for Tier 3 Solar Energy Systems.

Tier 3 Solar Energy Systems shall be permitted in AR-2 and I-C zoning districts only, are subject to site plan approval pursuant to the requirements of this Law, and require a special use permit. In AR-2 districts, the minimum lot size for a Tier 3 Solar Energy System shall be 100 acres. In granting a special use permit, the Town Board shall strive to permit the location of Tier 3 Solar Energy Systems in such a manner so that no one area or neighborhood in the Town would be over-burdened by the placement of Tier 3 Solar Energy Systems.

- A. Applications for the installation of Tier 3 Solar Energy System shall be:
 - (1) Reviewed by the Code Enforcement Officer for completeness. Applicants shall be advised within 30 days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
 - (2) Subject to a public hearing to hear all comments for and against the application. The Town Board shall have a notice printed in a newspaper of general circulation in the Town at least 10 days in advance of such hearing Applicants shall have delivered the notice by first-class mail to adjoining landowners or landowners within 1,000 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Town Board at the public hearing.
 - (3) Referred to the County Planning Department pursuant to General Municipal Law § 239-m and the Town Planning Board for site plan review and advisory report.
 - (4) Upon closing of the public hearing, the Town Board shall take action on the application within 62 days of the public hearing, which can include approval, conditional approval, or denial. The 62-day period may be extended upon consent of the Town Board and applicant.
- B. Underground requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles with new easements and right-of-way.
- C. Vehicular paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.
- D. Signage.
 - (1) No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and twenty-four-

hour emergency contact information. Said information shall be depicted within an area no more than eight square feet.

- (2) As required by the 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.
- E. All solar panels shall have anti-reflective coating(s).
- F. Lighting of the Solar Energy System shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
- G. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
- H. Decommissioning
- (1) Solar Energy Systems that have been abandoned for one year and/or are not producing electricity for a period of one year at least 50% of its intended usage shall be removed at the owner's and/or operator's expense which, at the owner's option, may come in part or whole from any security made with the Town.
 - (2) A decommissioning plan signed by the owner and 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 from any ancillary structures.
 - c. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
 - (3) The Town at its option may obtain its own decommissioning plan, the cost of which shall be borne by the applicant.
 - (4) Security limited access agreement, assessment of expenses and insurance.
 - a. The Town of Lincoln recognizes the importance of the need to possess adequate security in an easily convertible and usable form in the event the Town is forced to act to decommission the arrays and remediate a property if a permitted operation is abandoned. Lincoln also recognizes the long-term nature of some of these projects and the need to have a full cash security posting before the life of the project expiration date. Accordingly, the Town of Lincoln will require the posting of a significant cash component of the security amount determined, in addition to the initial posting of an irrevocable letter of credit. The Town shall require all applicants to post additional cash with corresponding decreases in the letter of credit posting throughout the term of the project life until the Town has a full cash security posting. The deposit, executions, or filing with the Town Comptroller of cash and/or irrevocable letter of credit shall be in an amount set by the Town Engineer or Attorney, and 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. In addition to the NYSERDA guidelines, the security amount shall factor in: mobilization costs, a minimum 2.5% escalation, a 30% contingency and consideration that prevailing wage rates will be required should the decommissioning fall to the Town.
 - b. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash and/or letter of credit security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit and/or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed. The Town may also bring legal action against the applicant for any unrecovered losses.

- c. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth herein.
- d. Any expenses or losses incurred by the Town and not reimbursed by any security in connection with the cost of removal of abandoned equipment or other related items and legal fees and expenses shall be levied and collected in the same manner as provided in the Town Law for the levy and collection of a special ad valorem levy on the real property on which the Solar Energy System is located. This assessment shall be assessed on the next assessment against said property, and the same shall be levied and collected in the same manner as the regular Town tax.
- e. Insurance. The applicant and/or owner shall maintain a current insurance policy which will cover the installation and operation of the Tier 3 project at all times in the minimum amount of \$5,000,000 property and personal liability coverage and provide proof of such policy to the Town on an annual basis.
- f. Limited site access agreement. The Town of Lincoln shall require all applicants to enter into a limited site access agreement upon the posting of security to ensure the Town may access the property in the event the Town is forced to act to decommission the project. The agreement shall be prepared by the Town Attorney in a form and content acceptable to the Town Board.

§9 Site Plan Application.

For any Solar Energy System requiring a special use permit, site plan approval shall be required. Any site plan application shall include the following information:

- A. Property lines and physical features, including roads, and all improvements for the project site as shown on a current survey prepared and signed by a licensed surveyor.
- B. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
- C. A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code-compliant disconnects and over-current devices.
- D. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a building permit.
- E. Name, address, and contact information of the proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of a building permit.
- F. Name, address, phone number, and signature of the project applicant as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
- G. Zoning district designation for the parcel(s) of land comprising the project site.
- H. Property operation and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- I. Erosion and sediment control and stormwater management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Town Board.
- J. Prior to the issuance of the building permit or final approval by the Town Board engineering documents must be signed and sealed by a New York State (NYS) licensed professional engineer or NYS registered architect.

- K. The Planning Board shall complete site plan review within 45 days from the receipt of all relevant and required documents from the applicant and, for Tier 3 applications, forward its report with any recommendations to the Town Board unless the time is extended by the Town Board.
- L. Special and additional requirements for all Tier 3 applications:
- (1) Plans and drawings of the proposed Tier 3 installation signed, marked and/or stamped by a professional engineer or architect registered in New York State showing the proposed layout of the entire solar farm along with a description of all components whether on-site or off-site, existing vegetation and proposed clearing and grading of all sites involved. The plans and development plan shall be drawn in sufficient detail and shall further describe:
 - a. Property lines and physical dimensions of the proposed site, including contours at five-foot intervals.
 - b. Location, approximate dimensions and types of all existing structure(s) and uses on the site.
 - c. Location and elevation of the proposed Tier 3 installation.
 - d. Location of all existing aboveground utility lines showing the connection of the system to the utility line within 1,200 linear feet of the site.
 - e. Where applicable, the location of all transmission facilities proposed for installation. All transmission lines and wiring associated with a Tier 3 project shall be buried underground and include necessary encasements in accordance with the National Electric Code and Town requirements. The Town Board may waive this requirement if sufficient engineering data is submitted by the applicant demonstrating that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead electric utility/transmission lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the public utility company's requirements for interconnection. Any connection to the public utility grid must be inspected by the appropriate public utility.
 - f. Location of all service structures proposed as part of the installation and primary equipment sheds.
 - g. Landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material. The plan shall show any trees and/or vegetation which is proposed to be removed for purposes of providing greater solar access. Removal of existing trees larger than six inches in diameter shall be minimized to the greatest extent possible.
 - h. A berm, landscape screen, or any other combination acceptable to the Town capable of screening the site, shall be provided along any property line as may be required by the Planning Board during review.
 - i. Soil type(s) at the proposed site.
 - j. Photographic simulations shall be included showing the proposed solar farm along with elevation views and dimensions and manufacturer's specifications and photos of the proposed Solar Energy Systems, solar collectors, solar panels and all other components comprising the Tier 3 project.
 - k. Prior to the issuance of a solar/building permit, certification from a professional engineer or architect registered in New York State indicating that the building or structure to which a solar panel or Solar Energy System is affixed is capable of handling the loading requirements of the solar panel or Solar Energy System and various components.
 - l. Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc.

- m. A plan for clearing and/or grading of the site and a stormwater pollution prevention plan (SWPPP) for the site.
- n. Documentation of utility notification, including an electric service order number.
- o. The manufacturer's or installer's identification and appropriate warning signage shall be posted at the site and be clearly visible.
- p. Solar Energy Systems shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the electric systems. Materials used for marking shall be weather resistant. The marking shall be placed adjacent to the main service-disconnect location clearly visible from the location where the lever is operated.
- q. The height of the solar panel array shall conform to the height restrictions for an accessory structure in the applicable zoning district, but in no case shall exceed 15 feet measured from the ground and including any base or supporting materials. Neutral paint colors, materials and textures may be required for Tier 3 project components, buildings and structures to achieve visual harmony with the surrounding area.
- r. The design, construction operation and maintenance of the Solar Energy System shall prevent the direction, misdirection and/or reflection of solar rays and/or glare onto neighboring properties, public roads, public parks and public buildings.
- s. Artificial lighting of solar arms shall be limited to lighting required for safety and operational purposes, shall be shielded from all neighboring properties and public roads.
- t. Noise. To the extent possible, all equipment that produces noise shall be placed in the center of the solar array. Further, and at the property line of any Solar Energy System, the noise level shall not exceed 60 dB.

§10 Special Use Permit Standards.

- A. The property on which a Tier 3 Solar Energy System is placed shall meet the lot size requirements of the underlying zoning district, except that in AR-2 districts a minimum of 100 acres is required.
- B. Setbacks.
 - (1) All Tier 3 Solar Energy Systems shall be set back at least 250 feet from all property lines unless the Solar Energy System crosses multiple lots; then, 250 feet from the exterior perimeter of the combined lots.
 - (2) Tier 2 setbacks are as permitted in the underlying zoning district.
- C. Lot coverage.
 - (1) The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:
 - a. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
 - b. All mechanical equipment of the Solar Energy System including any pad-mounted structure for batteries, switchboard, transformers, or storage cells.
 - c. Paved access roads servicing the Solar Energy System.
 - d. Lot coverage of Tier 3 Solar Energy System as defined above, shall not exceed 75% of the lot.
 - e. Lot coverage for Tier 2 Solar Energy Systems shall not exceed the maximum lot coverage requirement of the underlying zoning district except as modified by §7(A)(2)(a) of this Law.
 - f. Fencing requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a seven-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.
- D. Screening and visibility.
 - (1) Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent properties

to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.

- (2) Solar Energy Systems larger than 10 acres shall be required to:
 - a. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including, for example, a digital viewshed report, may be required to be submitted by the applicant.
 - b. Submit a screening and landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of solar panels and solar energy equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.
 - c. The screening and landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Town.

§11 Agricultural Resources.

For projects located on agricultural lands:

- A. The Town Board on any Tier 3 Solar Energy System located on the areas that consist of prime farmland, prime soils, prime soil lands, and/or farmland of statewide importance shall give special consideration to the removal of such farmland in granting a special use permit under this chapter.
- B. To the maximum extent practicable Tier 3 Solar Energy Systems located on prime farmland, prime soils, prime soil lands, and/or farmland of statewide importance shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.
- C. Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds songbirds, and pollinators. To the extent practicable when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.
- D. For Tier 3 Solar Energy Systems, all buried electric cables in cropland, hay land, and improved pastures shall have a minimum depth of 48 inches of cover. At no time is the depth of cover to be less than 24 inches below the soil surface.
- E. Cut and fill shall not be used to construct access roads.
- F. Vehicle and equipment traffic, parking areas, and/or designated work areas, such as laydown areas, are to be limited in size to the greatest extent practical. Vehicles and traffic shall not leave the work area, access roads, and parking areas.
- G. When necessary, and consistent with existing agreements between landowners, if any, fences shall be constructed around work areas to prevent livestock access.
- H. Excess concrete shall not be buried, stored, or otherwise left on site. Concrete trucks shall not be washed in or near agricultural areas.
- I. In determining whether to grant an approval or conditional approval of a special use permit for a Tier 3 Solar Energy System, the Town Board shall consider the following:
 - (1) Whether an environmental monitor should be required to oversee the construction and restoration of the proposed site, and/or to subsequently monitor the Solar Energy System, should a permit be granted;

- (2) The location and configuration of aboveground overhead collection lines, interconnect cables, and transmission lines (when such aboveground structures are unavoidable);
 - (3) The width and placement of access roads. When reasonably practicable, access roads:
 - a. Should be located along the edge of agricultural fields, in areas next to hedgerows and field boundaries, and in nonagricultural portions of the site;
 - b. Should be located along ridge tops and follow field contours if they cross agricultural fields;
 - c. Should be no wider than 20 feet; and
 - d. Should be level with the adjacent field when crossing agricultural fields;
 - (4) The preservation, maintenance, and repair of existing drainage and erosion control structures such as diversions, ditches, and tile lines;
 - (5) The installation of culverts and water bars to maintain natural drainage patterns;
 - (6) Whether topsoil stripping from work areas, vehicular traffic and parking areas, and other areas should be required;
 - (7) Whether, following site restoration, the project sponsor should be required to, at its own expense, provide a monitoring and remediation service for a period which shall not in any case be less than two years, to monitor such conditions as include topsoil thickness, relative content of rock and large stones, trench settling, crop production, drainage and repair of severed subsurface drain lines, fences, and any other conditions expressly stated by the Town Board; and
 - (8) Any other factor which the Town Board shall expressly find reasonably necessary for the protection and preservation of agricultural resources.
- J. Following the installation of a Tier 3 Solar Energy System, agricultural lands temporarily disturbed by construction shall be restored as follows:
- (1) Soil shall be decompacted to a depth of 18 inches with a deep ripper or heavy-duty chisel plow. Soil compaction shall be no more than 250 pounds per square inch as measured with a soil penetrometer;
 - (2) In areas where the topsoil was stripped, soil decompaction should be conducted prior to topsoil replacement;
 - (3) Following decompaction, removal of all rocks four inches in size or greater from the surface of the subsoil shall occur prior to replacement of topsoil;
 - (4) Topsoil shall be replaced to original depth and original contours reestablished where possible;
 - (5) No project restoration activities are to occur in agricultural fields between the months of October and May unless favorable soil moisture conditions exist, provided, however, that subsoil decompaction and topsoil replacement shall be avoided during said time period;
 - (6) Access roads shall be regraded to allow for farm equipment crossing and to restore either original surface drainage patterns or other drainage patterns incorporated into the approved site plan design by the Planning Board;
 - (7) Restored agricultural areas shall be seeded with a seed mix consistent with this Law;
 - (8) Damaged drainage structures shall be repaired to preconstruction condition, unless such structures were required to be removed or replaced by the approved site plan. Post-construction drainage problems shall be referred to the Planning Board for a determination of required mitigation measures;
 - (9) Restoration measures shall be postponed until favorable (workable and relatively dry) topsoil and subsoil conditions exist; restoration is not to be conducted while soils are in a wet or plastic state of consistency. Stockpiled topsoil shall not be regraded and subsoil shall not be decompacted until plasticity, as determined by the Atterberg Limits and Field Test, is adequately reduced;
 - (10) Following site restoration, all construction debris shall be removed from the site;
 - (11) Topsoil deficiencies and trench settling shall be mitigated with imported topsoil that is consistent with the topsoil at the project site. Excess rocks and large stones shall be removed; and

- (12) All concrete piers, footers, and other supports shall be removed to a depth of no less than 48 inches below the soil surface.

§12 Ownership Changes.

If the owner or operator of a Solar Energy System changes or the owner of the property upon which a Solar Energy System is sited changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System or the property upon which a Solar Energy System is sited shall notify the Town of such change in ownership or operator within 10 days of the ownership change by certified mail to both the Town Clerk and Town Supervisor and addressed to the Lincoln Town Hall.

§13 Safety.

- A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
- B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is located in an ambulance district, the local ambulance corps.
- C. If a Battery Energy Storage System is included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations.
- D. Where deemed necessary by the Town Board, the Applicant shall ensure emergency access to the Facility Area for local first responders by installing an emergency lock box or similar device, in a location and of a type subject to approval by the Fire Chief of the Lincoln Volunteer Fire Department.

§14 Permit Timeframe and Abandonment.

- A. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 12 months after issue. In the event a building permit is not issued or significant construction is not in progress in accordance with the final site plan and special use permit within the twelve-month period, the Town may extend the time to pull a permit or complete construction for an additional 90 days by resolution of the Town Board. If the expiration time is not extended, all approvals shall become null and void.
- B. If there is no electricity generation of a Solar Energy System on a continuous basis for 12 months and/or a reduction of proposed usage in the amount of 50% for 12 months, the Town may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. Decommissioning must be completed within 200 days of such notification.
- C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

§15 Enforcement.

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

§16 Severability.

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of this Law, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional or in any way null and/or void, 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.

§17 Waiver.

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

§18 Fees.

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

SECTION 4. Severability

The provisions of this Local Law are severable and if any provision, clause, sentence, subsection, word, or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word, or part had not been included therein, and as if such person or circumstance, to which the Local Law or part thereof is held inapplicable, had been specifically exempt therefrom.

SECTION 5. Effective Date

This Local Law shall take effect immediately upon filing with the New York State Secretary of State pursuant to §27 of the Municipal Home Rule Law.