

**TOWN OF SODUS**

**Proposed Local Law No. 4 of 2020**

**A Local Law to Amend the  
Code of the Town of Sodus to Add  
Provisions Related to Solar Energy Systems**

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

1. The Code of the Town of Sodus is amended to add a new Chapter 102 entitled “Solar Energy Systems,” as follows:

**Chapter 102**

**SOLAR ENERGY SYSTEMS**

<b>§102-1</b>	<b>Intent and Purpose</b>	<b>§102-7</b>	<b>Permit Requirements for Tier 3 Solar Energy System</b>
<b>§102-2</b>	<b>Definitions</b>	<b>§102-8</b>	<b>Site Plan Approval Standards</b>
<b>§102-3</b>	<b>Applicability</b>	<b>§102-9</b>	<b>Special Use Permit Standards</b>
<b>§102-4</b>	<b>General Requirements</b>	<b>§102-10</b>	<b>Non-Conformance</b>
<b>§102-5</b>	<b>Permit Requirements for Tier 1 and On-Farm Solar Energy Systems</b>	<b>§102-11</b>	<b>Real Property Tax Law § 487</b>
<b>§102-6</b>	<b>Permit Requirements for Tier 2 and Solar Energy Systems</b>	<b>§102-12</b>	<b>Host Community Agreements</b>

**§102-1. Intent and Purpose:**

To promote the safe, effective, and efficient use of Solar Energy Systems; to establish regulations regarding the installation of Solar Energy Systems to assure no significant adverse impact to public health, safety and welfare, the environment, and agriculture; and to ensure that the benefits of the community’s solar energy resource are available to the entire community, by promoting the installation of Solar Energy Systems through a payment-in-lieu-taxes (PILOT), and providing a revenue stream to the entire community.

**§102-2. Definitions:**

**ANNUAL PAYMENT:** The payment due under a PILOT Agreement entered into pursuant to Real Property Tax Law § 487(9).

**ANNUAL PAYMENT DATE:** January 1st of each year.

**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.

**CAPACITY:** The manufacturer's nameplate capacity of the Solar Energy System as measured in kilowatts (kW) or megawatts (MW) AC.

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

**FARMLAND OF STATEWIDE IMPORTANCE:** Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of state wide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

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

**GROUND-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System that is anchored to the ground via a structure, pole or series of poles, or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.

**KILOWATT AC (kW AC):** A unit of electrical power equal to 1,000 Watts of alternating current, which constitutes the basic unit of electrical demand. A watt is a metric measurement of power (not energy) and is the rate at which (not the quantity of) electricity is used. 1,000 kW is equal to 1 megawatt (MW).

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

**ON-FARM SOLAR ENERGY SYSTEM:** A Solar Energy System located on a farm that is a farm operation, as defined by Article 25-AA of the Agriculture and Markets Law, in an agricultural district, where the Solar Energy System is designed, installed, and operated so that the anticipated annual total amounts of electrical energy generated do not exceed the anticipated annual total electrical needs of the farm by more than 110 percent.

**OWNER:** The owner of the property on which a Solar Energy System is located or installed, or their lessee, licensee or other person authorized to install and operate a Solar Energy System on the property.

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

**ROOFTOP or BUILDING MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

**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 including Solar Panels, Solar Thermal Electric Equipment, associated wiring, mounting brackets, framing and foundations, accessory structures and buildings, Storage Batteries, light reflectors, concentrators, and heat exchangers, inverters and other power conditioning equipment, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities used for or intended to be used for Solar Energy Systems.

**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, Solar Thermal Electric Equipment, 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 either a Tier 1, Tier 2, Tier 3, or On-Farm Solar Energy System.

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

**SOLAR THERMAL ELECTRIC EQUIPMENT:** Solar energy conversion technologies that convert solar energy to electricity by heating a working fluid to power a turbine that drives a generator.

**SOLAR THERMAL SYSTEM:** Solar energy devices that convert solar radiation to usable thermal energy for the transfer of stored heat for heating water or air, consisting of solar collectors, storage tanks, and associated tubing and controls.

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

**TIER 1 SOLAR ENERGY SYSTEM:** Solar Energy Systems with a system capacity of 25 kW AC or less, or Solar Thermal Systems.

**TIER 2 SOLAR ENERGY SYSTEM:** Solar Energy Systems with a system capacity of 200 kW AC or less that are not Tier 1 Solar Energy Systems.

**TIER 3 SOLAR ENERGY SYSTEM:** Solar Energy Systems that are not Tier 1, Tier 2, or On-Farm Solar Energy Systems.

### **§102-3            Applicability:**

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

- B. 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.
- C. Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 5% of the original area of the Solar Energy System (exclusive of moving any fencing), or that triggers NYS code compliance, shall be subject to this Chapter.

#### **§102-4 General Requirements**

- A. A building permit shall be required for installation of all Solar Energy Systems.
- B. All Solar Energy System installations must be performed 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”), and the Town Code, the manufacturer's installation instructions, and industry standards, and prior to operation the electrical connections must be inspected by the Town Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be approved and inspected by the appropriate public utility.
- C. 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 departments.
- D. Issuance of permits and approvals by the Town Board, Planning Board and/or Zoning Board of Appeals shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”).
- E. Compliance with SEQRA. The installation of On-Farm Solar Energy Systems and Solar Energy Systems less than or equal to 5,000kW (5 MW) on a sanitary landfill, a brownfield site that has received a brownfield site clean-up order certificate of completion (under 6 NYCRR 375-3.9), waste-water treatment facilities, sites zoned for industrial use, solar canopies at or above residential and commercial parking facilities, or on an existing structure that is not listed on the National or State Register of Historic Places or located within a district listed in the National or State Register of Historic Places or on a structure or within a district that has not been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law, are considered Type II actions under the State Environmental Quality Review Act.
- F. Qualified Installers. For installations of Tier2 or Tier 3 Solar Energy Systems, the installer must be a person listed by the New York State Energy Research and Development Authority (NYSERDA) as qualified for Solar Energy System installations or certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP). For installations of Tier 1 or On-Farm Solar Energy Systems, the installer may be a person who is not listed by NYSERDA or NABCEP, if evidence of adequate training to determine the degree and extent of the hazard, personal protective equipment and job planning necessary to perform the installation safely is

provided to the Building Inspector. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

#### **§102-5 Permitting Requirements for Tier 1 and On-Farm Solar Energy Systems**

Tier 1 Solar Energy Systems shall be permitted in all zoning districts and On-Farm Solar Energy Systems shall be permitted in Agriculture (A) Districts. Tier 1 and On-Farm Solar Energy Systems shall be exempt from site plan review, subject to the following conditions for each type of Solar Energy System:

- A. All Roof and Building Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.
- B. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
- C. Roof and Building Mounted Solar Energy Systems (not including conduit) mounted on historic properties shall not be visible from the public right-of-way within a 200 foot radius of the property, at a level of 5 (five) feet from the ground in a similar manner as to any other rooftop HVAC or mechanical equipment. This can be accomplished with architectural screening such as a building parapet or by setting the system back from the roof edge in such a manner that the solar PV system is not visible from the public right-of-way within a 200 foot radius when measured at a distance of 5 (five) feet from the ground.
- D. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.
- E. Glare: All Solar Panels shall have anti-reflective coating(s).
- F. The Town of Sodus adopts the New York Unified Solar Permit for Tier 1 Solar Energy Systems.
- G. Ground-mounted Tier 1 and On-Farm Solar Energy Systems are permitted as accessory structures subject to the following requirements:
  - a. The location of the Solar Energy System meets all applicable setback requirements of the zone in which they are located.
  - b. The height of the Solar Energy Equipment shall not exceed twenty (20') feet when oriented at maximum tilt.
  - c. The total surface area of all Solar Panels on the lot shall not exceed shall not exceed 5 percent lot coverage.
  - d. The Solar Energy System is not the primary use of the property.
  - e. The Solar Energy Equipment is located in a side or rear yard.
  - f. The Solar Energy Equipment shall be designed and located in a way so as to prevent reflective glare toward any inhabited buildings on adjacent properties, roads or from impacting aircraft flight path as provided in Federal Aviation Administration guidance.

- g. A minimum setback of 50' from any property line for any Solar Energy Equipment.
  - h. The Solar Energy System shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.
- H. Where site plan approval is required elsewhere in the regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of the proposed Solar Energy System.
- I. When Storage Batteries are included as part of the Solar Energy System they must be installed to meet the requirements of the NYS Building Code and, when no longer being used, shall be properly disposed of in accordance with applicable laws and regulations.
- J. If a Solar Energy System ceases to generate solar energy for more than 12 consecutive months, the property owner shall remove the Solar Energy Equipment no later than 90 days after the end of the twelve-month period.
- K. Portable solar array (e.g. flower) units with a total module surface area of 100 square feet or greater must adhere to the same guidelines as ground mounted Tier 1 Solar Energy Systems.

#### **§102-6 Permitting Requirements for Tier 2 Solar Energy Systems**

Tier 2 Solar Energy Systems are only permitted in Agriculture (A), Industrial/Commercial (C-2), and Airport (P) Districts and only following approval of a site plan by the Town Planning Board that meets the Site Plan Standards set forth in §102-8 below and in Chapter 178 of the Code, and obtaining all other necessary approvals.

#### **§102-7 Permitting Requirements for Tier 3 Solar Energy Systems**

Tier 3 Solar Energy Systems are only permitted in Agriculture (A), Industrial/Commercial (C-2), and Airport (P) Districts and only following: (a) the issuance of a special permit from the Town Board complying with the specific standards for special permits set forth in Section 102-9 of this Chapter and the general standards for special permits Section 135-52 of the Code; and (b) the approval of a site plan by the Town Planning Board that meets the Site Plan Standards set forth in §102-8 below and of Chapter 178 of the Code, and obtaining all other necessary approvals.

#### **§102-8 Site Plan Standards**

In addition to site plan requirements under Chapter 178 of the Code, prior to issuance of final site plan approval from the Planning Board for a Solar Energy System, the following requirements shall be met:

- A. Lot coverage of the Solar Energy System, shall not exceed the maximum lot coverage requirement of the underlying zoning district. The following components of a Solar Energy System shall be considered included in the calculations for lot coverage requirements:
  - 1) Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.

- 2) All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
- 3) Paved access roads servicing the Solar Energy System.

B. No Solar Energy Equipment shall be installed within the following areas:

- 1) One-hundred-year flood hazard zones considered a V or AE Zone on the flood maps adopted by the Town as referenced in the Town of Sodus's Flood Damage Prevention Code (Chapter 69).
- 2) Historic and/or culturally significant resources.
- 3) Within 100 feet of a federal or state freshwater wetland.
- 4) Adjacent to, or within, the control zone of any airport.

C. Height and setback restrictions.

- 1) The maximum height for ground-mounted Solar Energy Systems shall not exceed 20 feet in height above the ground.
- 2) The minimum setback from property lines shall be 50 feet.

D. Solar Energy Systems on Designated Farmland. Any Tier 3 Solar Energy System located on the areas that consist of Designated Farmland shall not exceed 50 % of the area of Designated Farmland on the parcel.

E. Application requirements. In addition to the requirements of Chapter 178, any site plan application shall include the following information:

- 1) Property lines and physical features, including roads, for the project site
- 2) A screening and landscaping plan showing the proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures. The screening and landscaping plan shall include specifies 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.
- 3) A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- 4) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- 5) Name, address, and contact information of 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 building permit.

- 6) 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.
- 7) Zoning district designation for the parcel(s) of land comprising the project site.
- 8) In instances where the Solar Energy System is proposed to be sited on Designated Farmland, documentation demonstrating the exception to the presumption of Section 102-8(D) that Solar Energy Systems not be sited on Designated Farmland.
- 9) Property Operation and Maintenance Plan. Such plan shall describe continuing Solar Energy System maintenance and property upkeep, such as mowing and trimming.
- 10) A detailed safety plan specifying the measures that will be used to prevent public access to unsafe areas and to provide for emergency response, including but not limited to the location, height, materials, and colors of fencing and other barriers to access and a safety signage plan that contains the locations, sizes and text of signs that will be used to warn the public away from unsafe areas and that shall include the name and phone number of an official of the owner or operator who can be contacted in the event there is an emergency or any question about safety.
- 11) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- 12) A completed SEQRA EAF (Environmental Assessment Form)
- 13) Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

F. Design standards.

- 1) A landscaped buffer shall be provided around all Solar Energy Equipment to provide screenings so that the solar panels and other equipment are not visible from roadways and neighboring residential properties.
- 2) Removal of trees and other existing vegetation should be minimized or offset with planting elsewhere on the property.
- 3) Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction.
- 4) All on-site utility and transmission lines shall, to the extent feasible, be placed underground.
- 5) Solar Energy Systems and Solar Energy Equipment shall be designed and located in a way so as to prevent reflective glare toward any inhabited buildings on adjacent properties and roads.



- 6) Fencing Requirements. All mechanical equipment, including any structure for Storage Batteries, shall be enclosed by a 7-foot-high fence, or as otherwise required by the National Electric Code (NEC), with a self-locking gate to prevent unauthorized access. All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing.
- 7) All accessory structures and buildings for Storage Batteries or a Solar Energy System shall be secured.
- 8) 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.

G. A Solar Energy System to be connected to the utility grid shall provide a signed and executed New York State Standardized Interconnection Contract from the utility company acknowledging that it will be connected to the utility grid in order to sell electricity to the public utility. The New York State Standardized Interconnection Contract shall be submitted along with the application.

#### H. Signs.

- 1) No signage or graphic content may be displayed on the Solar Energy Equipment except the manufacturer's badge, safety information and equipment specification information. A sign not to exceed nine square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number, disconnect and other emergency shutoff information, 24-hour emergency contact information, and it will be clearly displayed on a light reflective surface.
- 2) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

I. Maintenance. All grounds shall be maintained on a regular basis to avoid unsightly vegetation growth.

#### J. Abandonment.

- 1) All applications Solar Energy System shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility, prior to issuance of a building permit.
- 2) If the applicant begins but does not complete construction of the project within twelve (12) months after receiving final site plan approval, the Town may consider this to be an abandonment of the project and require implementation of the decommissioning plan to the extent applicable.
- 3) The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:
  - a) Removal of aboveground and below-ground equipment, structures and foundations.

- b) Restoration of the surface grade and soil after removal of equipment.
  - c) Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
  - d) The plan shall include a time frame for the completion of site restoration work.
  - e) The cost of implementing the decommissioning plan.
- 4) In the event the facility is not completed and functioning within twelve (12) months of the issuance of the final site plan approval, the Town may notify the operator and/or the owner to complete construction and installation of the facility within one-hundred-eighty (180) days. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. In such instance, the decommissioning plan must be completed within one-hundred-eighty (180) days of notification by the Town.
- 5) Upon cessation of activity of a constructed facility for a period of one year, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within one-hundred-eighty (180) days of notice being served, the owner and/or operator can either restore operation equal to 80% of rated capacity of the approved Solar Energy System or implement the decommissioning plan.
- 6) If the owner and/or operator fails to fully implement the decommissioning plan within the one-hundred-eighty-day (180) time period, the Town may, at its discretion, provide for the restoration of the site in accordance with the decommissioning plan and may recover all expenses incurred for such activities from the defaulted owner and/or operator or, at the Town's sole discretion, from any security made with the Town as set forth in Section 102-8(J)(7) herein. The cost incurred by the Town not obtained from the security shall be assessed against the property, shall become a lien and tax upon the property, and shall be enforced and collected with interest by the same officer and in the same manner as other taxes. Legal counsel of the Town of Sodus shall institute appropriate action for the recovery of such cost, plus attorney's fees, including, but not limited to filing of municipal claims pursuant to the cost of such work, 6% interest per annum, plus a penalty of 5% of the amount due plus attorney's fees and costs incurred by the Town of Sodus for the removal work and filing the claim.
- 7) Security.
- a) The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the security shall be 125% of the cost of removal of the Tier 2 or Tier 3 Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System. The decommissioning amount shall be reduced by the amount of the estimated salvage value of the Solar Energy System.

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

## **§102-9 Special Use Permit Standards**

In addition to special use permit requirements of Section 135-52 of the Code, prior to issuance of a special use permit from the Town Board for a Solar Energy System, the following requirements shall be met:

- A. Special use permit application requirements. Each application for a Solar Energy System special permit shall include:
  - 1) The name(s) and contact information of the applicant and landowner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner confirming that the property owner is familiar with the proposed application and authorizes the submission of the application.
  - 2) The tax map number(s), existing use and acreage of the site parcel(s).
  - 3) A description of the project, including the Capacity of the proposed Solar Energy System.
  - 4) A survey map at an appropriate scale showing the proposed location of the elements of the Solar Energy System as it relates to:
    - a) Boundaries of the parcel
    - b) Access roads
    - c) Permanent easements and/or proposed easements
    - d) The location, approximate dimensions, and type of all structures on the property, together with distances of such structures from the proposed Solar Energy System.
  - 5) A complete plan, prepared by a professional engineer licensed by the State of New York, drawn to scale, showing the location of the Solar Energy Equipment, including access roads, electrical lines, substations, storage or maintenance units, and fencing; all existing natural land features, adjacent parcels showing existing structures, including certification of compliance with applicable building and electrical codes.
  - 6) A completed SEQRA EAF (Environmental Assessment Form).
  - 7) Proposal for landscaping and screening.
  - 8) Proposed lighting plan.
  - 9) A project visibility assessment consistent with the standards of this section below.
  - 10) A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the site of the Solar Energy System.
  - 11) A construction schedule describing commencement and completion dates, as well as a transportation plan describing routes to be used in delivery of project components, equipment and building materials and those to be used to provide access to the site during construction, as well as the gross weights and heights of vehicles used. Such plan should also describe any anticipated improvements to existing roads, bridges or other infrastructure, as well as the

measures which will be taken to restore damaged or disturbed access routes following construction.

- 12) Groundwater Impact Study: Applications shall include a study relating to the potential impacts to groundwater related specifically to excavation and/or blasting during the construction phase of the project.
- 13) In addition to the materials required in accordance with this section, complete applications should include any additional study or assessment determined to be required by the lead agency during review of the project pursuant to SEQRA. No application shall be determined to be complete until the SEQRA review with respect to such application is concluded.
- 14) Decommissioning Plan: The applicant shall submit a decommissioning plan consistent with Section 102-8(J)(3).

B. Application review process.

- 1) Six copies of the application shall be submitted to the Town Clerk, plus one additional copy for each SEQRA involved or interested agency. Payment of all application fees, including any fees for variance applications if not already paid, shall be made at the time of application submission.
- 2) If the application is deemed incomplete, the Town Board, Planning Board, Zoning Board of Appeals and/or their designated reviewer(s) shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information.
- 3) Upon submission of a complete application, the Town Clerk shall transmit the application to the Town Board. The application shall be referred to the Planning Board in accordance with the Zoning Code. If the application requests a variance, the application shall also be referred to the Zoning Board of Appeals in accordance with this Zoning Code.
- 4) The Town Board shall hold at least one public hearing on the application. Notice shall be given by legal notice published in the official newspaper of the Town of Sodus at least fifteen (15) days before the date set for a public hearing; the owner of the property for which special permit is sought or his agent shall be notified by mail; and written notice by first class mail to all property owners within three hundred (300) feet of the outside perimeter or boundary line of property involved in the application of the time, date, and place of such hearing at least fifteen (15) days prior to such hearing. Notice shall be deemed to have been given if mailed to the property owners at the tax billing address listed on the property records of the Town Assessor. Failure of the property owners to receive such notice shall not be deemed a jurisdictional defect.
- 5) The public hearing may be combined with public hearings on any site plan review, environmental impact statement, or requested variances.
- 6) Notice of the project shall also be given, when applicable, to;
  - a. The Wayne County Planning Board, if required by General Municipal Law §§239-1 and 239-m, and;
  - b. To adjoining Towns under Town Law §264.
- 7) The town may require an escrow agreement for the costs to the Town for the engineering and legal review of the applications and any SEQRA EAF or environmental impact statements.

- 8) The Town Board may impose additional conditions or restrictions as it may deem necessary prior to approving any special use permit application in order to protect public health and safety, the quality of the town's natural resource base, and the value of property.

### C. Design Standards

- 1) No Solar Energy Equipment shall be installed within the following areas:
  - a. One-hundred-year flood hazard zones considered a V or AE Zone on the flood maps adopted by the Town as referenced in the Town of Sodus's Flood Damage Prevention Code (Chapter 69).
  - b. Historic and/or culturally significant resources.
  - c. Within 100 feet of a federal or state freshwater wetland.
  - d. Adjacent to, or within, the control zone of any airport.
- 2) Solar Energy Systems on Designated Farmland. Any Tier 3 Solar Energy System located on the areas that consist of Designated Farmland shall not exceed 50 % of the area of Designated Farmland on the parcel.
- 3) The total coverage of all buildings and structures on a lot, including ground-mounted Solar Energy Systems, shall not exceed the maximum lot coverage requirement of the underlying zoning district
- 4) Height and setback restrictions
  - a. The maximum height for ground-mounted Solar Energy Systems shall not exceed 20 feet in height above the ground.
  - b. The minimum setback from property lines shall be 50 feet.
- 5) Screening and Visibility.
  - a. Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
  - b. Solar Energy Systems larger than 10 acres shall be required to:
    - i. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to be submitted by the applicant.
    - ii. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible. The screening &

landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. A list of suitable evergreen tree and shrub species should be provided by the Town.

- 6) Tier 3 Solar Energy Systems sited on Designated Farmland shall be required to seed 20% of the total surface area of all solar panels on the lot with native perennial vegetation designed to attract pollinators or, alternatively, develop an Agricultural Integration Plan to maintain agricultural productivity at the site of the Solar Energy System.
  - 7) To the maximum extent practicable, Tier 3 Solar Energy Systems located on Designated Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.
- D. Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.
- E. Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing 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 shall notify the Building Inspector of such change in ownership or operator within 30 days of the ownership change.

## **§102-10 Non-Conformance.**

### **A. Building Mounted Systems**

- 1) If a Building-Mounted Solar Energy System is to be installed on any building or structure that is non-conforming because its height violates the height restrictions of the zoning district in which it is located, the building-mounted system shall be permitted, so long as the building-mounted system does not extend above the peak or highest point of the roof to which it is mounted and so long as it complies with the other provisions of this law.
- 2) If a Building-Mounted Solar Energy System is to be installed on a building or structure on a non-conforming property that does not meet the minimum setbacks required and/or exceeds the lot coverage limits for the zoning district in which it is located, a Building-Mounted System shall be permitted, so long as there is no expansion of any setback or lot coverage non-conformity and so long as it complies with the other provisions of this law.

- B. Impervious Property Coverage Restrictions. The following components of any Ground-Mounted Solar Energy System shall be considered included in the calculations for lot coverage requirements:

- 1) Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
- 2) All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
- 3) Paved access roads servicing the Solar Energy System.

**§102-11 Real Property Tax Law § 487**

- A. The owner of a property on which a Solar Energy System is located or installed (including any improvement, reconstruction, or replacement thereof), shall enter into a PILOT Agreement with the Town consistent with the terms of this Local Law, except for:
  - 1) Tier 1 Solar Energy Systems, On-Farm Solar Energy Systems, and Tier 2 Solar Energy Systems that are designed, installed, and operated so that the anticipated annual total amounts of electrical energy generated exceed the anticipated annual total electrical needs of the Owner by more than 110 percent.
  - 2) Solar Energy Systems that do not seek or qualify for an exemption from real property taxes pursuant to Real Property Tax Law § 487(4).
- B. The Lessee or licensee of any Owner of a property required to enter into a PILOT Agreement by this section, which owns or controls the Solar Energy System, may enter into the PILOT Agreement on behalf of the Owner of the property.
- C. Upon receipt of any notification from an Owner or other person of intent to install a Solar Energy System, the Building Inspector shall immediately, but in no case more than sixty days after receipt of the notification, notify the Owner or other person of the mandatory requirement for a PILOT Agreement pursuant to the terms of this Code.
- D. Nothing in this Code shall exempt any requirement for compliance with state and local codes for the installation of any Solar Energy Equipment or a Solar Energy System, or authorize the installation of any Solar Energy Equipment or a Solar Energy System. All Solar Energy Systems must file a Real Property Tax Exemption application pursuant to Real Property Tax Law § 487 to receive a tax exemption.
- E. Contents of PILOT Agreements. Each PILOT Agreement entered into shall include:
  - 1) The name and contact information of the Owner or other party authorized to act upon behalf of the Owner of the Solar Energy System.
  - 2) The SBL number for each parcel or portion of a parcel on which the Solar Energy System will be located.
  - 3) A requirement for fifteen successive Annual Payments, to be paid commencing on the first Annual Payment Date after the effective date of the Real Property Tax Exemption granted pursuant to Real Property Tax Law § 487.
  - 4) The Capacity of the Solar Energy System, and that if the Capacity is increased or increased as a result of a system upgrade, replacement, partial removal or retirement of Solar Energy

Equipment, the Annual Payments shall be increased or decreased on a pro rata basis for the remaining years of the Agreement.

- 5) That the parties agree that under the authority of Real Property Tax Law § 487 the Solar Energy System shall be considered exempt from real property taxes for the fifteen-year life of the PILOT Agreement.
- 6) That the PILOT Agreement may not be assigned without the prior written consent of the Town, which consent may not be unreasonably withheld if the assignee has agreed in writing to accept all obligations of the Owner, except that the Owner may, with advance written notice to the Town but without prior consent, assign its payment obligations under the PILOT Agreement to an affiliate of the Owner or to any party who has provided or is providing financing to the Owner for or related to the Solar Energy System, and has agreed in writing to accept all payment obligations of the Owner.
- 7) That a Notice of the PILOT Agreement may be recorded by the Owner at its expense, and that the Town shall cooperate in the execution of any notices or assignments with the Owner and its successors.
- 8) That the Annual Payment shall be \$ 3.40 per kW of Capacity.
- 9) That the Annual Payment shall escalate two percent (2%) per year, starting with the second Annual Payment.
- 10) That if the Annual Payment is not paid when due, that upon failure to cure within thirty days, the Town may cancel the PILOT Agreement without notice to the Owner, and the Solar Energy System shall thereafter be subject to taxation at its full assessed value.

**§102-12. Host Community Agreement:**

The Town may require, as a condition precedent to the issuance of any special permit or approval of a Tier 3 Solar Energy System, that the applicant enter into a host community package acceptable to the Town of Sodus to mitigate the environmental and economic impacts of the Solar Energy System.

4. The Table of Permitted Uses contained in Section 135-6 of the Town Code is amended to add the following rows:

Use	Zone A	Zone R	Zone C-1	Zone C-2	Zone W-1	Zone P
	Ag-No Water	Single Family	Hamlet	Industrial/ Commercial	Waterfront Residential	Airport
Tier 1 Solar Energy Systems	P	P	P	P	P	P
Tier 2 Solar Energy Systems	P*	NP	NP	P*	NP	P*
Tier 3 Solar Energy Systems	SP*	NP	NP	SP*	NP	SP*
On Farm Solar Energy Systems	P	N/A	N/A	N/A	N/A	N/A

\* Site Plan Approval required from Planning Board.



5. If any provision of this law is determined to be unconstitutional or invalid, the validity and enforceability of the remainder shall not be affected.
6. This local law shall take effect immediately.