

LOCAL LAW NO. 3 OF 2024 TO REVISE TOWN OF WALWORTH ZONING LEGISLATION TO ADDRESS SOLAR ENERGY SYSTEMS AND BATTERY ENERGY STORAGE SYSTEMS

BE IT ENACTED, by the Town Board of the Town of Walworth, Wayne County, State of New York, as follows:

Section I. Authorization and Supersession

The adoption of this Local Law is in accordance with Section 10 of the New York Municipal Home Rule Law.

Section II. Title and Purpose

This law shall be known as and may be cited as Local Law No. 3 of 2024 to Revise Town of Walworth Zoning Legislation to Address Solar Energy Systems and Battery Energy Storage Systems. The purpose of this Local Law is to implement updated zoning regulations to more comprehensively address Solar Energy Systems and Battery Energy Storage Systems in Town.

Section III. Legislative Finding

The Town Board of the Town of Walworth finds and hereby determines that the Town's zoning legislation should more comprehensively address Solar Energy Systems and Battery Energy Storage Systems in Town, and, as such, the following regulations shall be adopted. This Local Law is aimed at advancing and protecting the public health, safety, and welfare of the Town by creating regulations for the installation and use of solar energy generating systems, Battery Energy Storage Systems, and associated equipment, with the following objectives:

- A. To take advantage of abundant, renewable energy resources,
- B. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses, and to promote energy-efficiency relative to the same,
- C. To increase employment and business development in the Town, and to maintain economic viability and activity, to the extent reasonably practical, by furthering the installation of Solar Energy Systems and the associated efficient production and availability of energy,
- D. To mitigate the impacts of Solar Energy Systems and Battery Energy Storage Systems on environmental resources such as important agricultural lands, forests, wildlife, wetlands and other protected resources, and
- E. To mitigate the aesthetic and character impacts of Solar Energy Systems and Battery Energy Storage Systems on surrounding uses, including protecting the residential and commercial character of their respective neighborhoods.

Section IV. Substantive Legislation

The Town of Walworth's local zoning legislation, including as implemented by way of the Walworth Town Code, shall be amended as set forth below:

Section 180-4 of the Walworth Town Code, entitled "Terms Defined," shall be amended to remove the following definitions:

SOLAR COLLECTOR;
SOLAR STORAGE BATTERY; and
QUALIFIED SOLAR INSTALLER.

Section 180-4 of the Walworth Town Code, entitled "Terms Defined," shall be amended to add the following definitions therein in their appropriate alphabetical order:

ACTIVE AGRICULTURAL LAND (relative to Solar Energy Systems only): 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.

BATTERY ENERGY STORAGE SYSTEM ("BESS"): 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).

DECOMMISSION (relative to Solar Energy Systems only): The removal and disposal of the Solar Energy System, including all components and subsystems thereof, including associated Equipment, as well as site restoration, all in accordance with a Decommissioning Plan.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: Components of a building which harness solar energy for usable forms of electric or thermal energy. These components are directly integrated into the building itself. By way of example, these may comprise specially treated windows and glass, shingles, etc. This does not include building-mounted or roof-mounted solar panels.

SOLAR FACILITY AREA: The cumulative land area occupied for the operation of the Solar Energy System. This includes all areas and equipment within the facility's perimeter boundary (typically identified as the area within the required perimeter fence)– 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 used primarily for the Solar Energy System, permanent parking areas used primarily for the Solar Energy System, or other permanent improvements used primarily for the Solar Energy System. The facility area shall not include site improvements established for impact mitigation purposes which are outside of the facility's perimeter boundary, including but not limited to vegetative buffers and landscaping features.

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.

SMALL GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Ground-Mounted Solar Energy System which a) comprises a maximum of 2.0% of area of the lot on which it resides or b) has a total maximum of 1,000 square feet of Solar Facility Area, whichever is less. May only be utilized as an Accessory Structure. On Site Use only.

ON SITE USE (for Solar Energy Systems): Solar Energy System designed, installed, and operated so that the anticipated annual total amount of electrical energy generated does not exceed more than 110 percent of the anticipated annual total electrical energy consumed on the site on which the SES is located.

MEDIUM TO LARGE GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Ground Mounted Solar Energy System which does not qualify as a Small Ground-Mounted Solar Energy System or Small On-Farm Ground Mounted Solar Energy System due to a larger size or due to off-site Use.

SMALL ON-FARM GROUND MOUNTED SOLAR ENERGY SYSTEM: An On-Farm Ground Mounted Solar Energy System situated on a parcel a part of a Farm Operation which a) comprises a maximum of 4.0% of area of the farm lot on which it resides, or b) has a total maximum of 4,000 square feet of Solar Facility Area, whichever is less. May only be utilized as an accessory structure.

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.

SES 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.

NON-PARTICIPATING RESIDENCE (relative to Solar Energy Systems only): A residential property which is not on lands comprising the subject Solar Energy System and is not otherwise affiliated with the subject Solar Energy System in any contractual manner (e.g., via a lease relative to the System).

ON-FARM SOLAR ENERGY SYSTEM: A Solar Energy System located on a farm which is a "Farm Operation" (including 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 for On Site Use.

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

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System located on the roof of any legally permitted building or structure, which 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 (“SES”): 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.

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

The Walworth Town Code shall be amended by repealing existing Section 180-43.5 thereof, and replacing the same with the following at Section 180-43.5, to be entitled “Solar Energy Systems and Battery Energy Storage Systems,” to read as follows:

A. Applicability.

1. The requirements of this Section 180-43.5 shall apply to all Solar Energy Systems and Battery Energy Storage Systems permitted, installed, or modified in Town after the effective date of this Section 180-43.5, excluding general maintenance and repair.
2. Legally existing Solar Energy Systems and Battery Energy Storage Systems constructed or installed prior to the effective date of this Section 180-43.5 shall not be required to meet the requirements of this Section 180-43.5.
3. Modifications to existing Solar Energy Systems that increase the Solar Facility Area by more than 5% of the existing Solar Facility Area shall be subject to this Section 180-43.5.

B. General Requirements.

The following general requirements shall apply to all Solar Energy Systems and Battery Energy Storage Systems:

1. A building permit shall be required for the installation of all Solar Energy Systems and Battery Energy Storage Systems.
2. Prior to the issuance of the building permit and/or prior to any final application approval(s), any required construction and/or site plan documents must be signed and stamped by a NYS Licensed Professional Engineer or NYS Registered Architect.
3. The location and design of Solar Energy Systems shall be such that their access to sufficient sunlight remains economically feasible over the expected operational lifetime of the Solar Energy System.
4. All Solar Energy Systems, including associated BESS, shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards, including as referenced in the NYS Uniform Fire Prevention and Building Code (“Uniform Code”), the NYS Energy Conservation Code (“Energy Code”), the Walworth Town Code, and any applicable local design and construction standards.
5. Glare. All Solar Panels shall have anti-reflective coating(s).
6. Solar panels shall not be used for purposes or in ways other than for what they are designed and intended – to generate solar energy.
7. Reasonable costs and fees incurred by the Town in its review of applications for Solar Energy Systems and Battery Energy Storage Systems, including but not limited to costs associated with review and assistance from consultants and other professionals, shall be reimbursable to the Town pursuant to Chapter 74.

C. Requirements for Roof-Mounted and Building Integrated Solar Energy Systems.

All Roof-Mounted and Building-Integrated Solar Energy Systems shall be permitted in any zoning district upon the issuance of a building permit therefore, all in accordance with the applicable additional requirements which follow:

1. Additional Requirements for Roof-Mounted Solar Energy Systems. Roof-Mounted Solar Energy Systems shall incorporate the following design requirements:

- a. Solar Panels on pitched roofs:
 1. Shall be mounted with a maximum distance of 8 inches between the roof surface the highest edge of the system,
 2. Shall be installed parallel to the roof surface on which they are mounted or attached, and
 3. Shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
- b. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet nor more than 24 inches above the flat surface of the roof, whichever is higher, but, in any event, may only extend up to the maximum allowed building height.
- c. Roof-Mounted Solar Energy Systems shall be designed and installed so as to protect against injury from the shedding of ice or snow from the roof onto any pedestrian or vehicular travel area, sidewalk, stairwell, driveway, parking area, or porch.
- d. Proof shall be provided to the satisfaction of the Town Building Inspector which demonstrates structural integrity sufficient to support the load of any proposed Roof-Mounted Solar Energy Systems.

2. Building-Integrated Solar Energy Systems shall be depicted on the plans submitted with the building permit application for the building containing the system.

3. Both Roof-Mounted and Building Integrated Solar Energy Systems shall be considered accessory uses and/or structures where they are located on buildings/structures that are, themselves, legal primary or accessory uses and/or structures, and where their use is otherwise subordinate and incidental to the primary building/structure or use.

D. Requirements for Battery Energy Storage Systems (“BESS”)

Battery Energy Storage Systems shall additionally comply with the following:

1. Battery Energy Storage Systems are only permitted in conjunction with and as a part of an approved Solar Energy System, and only to the extent that they directly serve and relate only to the subject Solar Energy System.
2. A building permit and an electrical permit shall be required for installation of all Battery Energy Storage Systems.
3. For Rooftop, Building Integrated, Small Ground Mounted, and Small On-Farm Ground Mounted Solar Energy Systems, any associated Battery Energy Storage System (a “Minor”

BESS) shall be permitted subject to any review as may be required for the underlying associated Solar Energy System (e.g., site plan review). Additionally, a Special Use Permit shall be required for any such Minor BESS, pursuant to both the general Special Use Permit standards located at Article VII of this Chapter, as well as subject to those certain Special Use Permit requirements set forth at Section 180-43.5[F](2)(a) herein which require an Operations and Maintenance Plan, an Emergency Operations Plan, and a Decommissioning Plan, with such additional Special Use Permit requirements to be applied specifically to the Minor BESS only, in this instance. In addition, the reviewing Board shall also take into consideration any issues that may be relevant depending on the particular size and location of the Minor BESS, including, for example, sufficient setbacks, sufficient fencing for security/safety purposes, etc., and may impose conditions relating to the same.

4. For Medium to Large Solar Energy Systems, any associated BESS shall be reviewed as part of the underlying SES application, including as part of and subject to the Special Use Permit process, standards and requirements set forth in this Section, including at “180-43.5[F]” hereof. Moreover, the reviewing Board shall additionally take into consideration any issues that may be relevant depending on the particular size and location of the BESS, including, for example, increased setbacks, additional fencing for security/safety purposes, etc., and may impose conditions relating to the same. The decommissioning, emergency and operation and maintenance plans for the associated Solar Energy System shall sufficiently address the BESS.
5. Setbacks. BESS shall be subject to the setbacks of its associated SES.
6. Additional Safety Requirements for all BESS:

In addition to those other applicable Special Use Permit requirements set forth herein, the following shall be required of all BESS, and shall be reviewed as part of the Special Use Permit process:

a. System Certification. Battery Energy Storage Systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to the UL Standard for Battery Energy Storage Systems and Equipment or other approved equivalent, with subcomponents meeting applicable standards including but not limited to:

- A) UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications), and
- B) UL 1642 (Standard for Lithium Batteries), and
- C) UL 1741 or UL 62109 (Inverters and Power Converters), and
- D) Certified under the applicable electrical, building, and fire prevention codes as required.
- E) Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.

b. Site Access. Battery Energy Storage 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.

c. Battery Energy Storage Systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA

70.

d. Signage. Signage shall be required for BESS, as follows: signage shall be in compliance with ANSI Z535 (or its successor) and shall include the type of technology associated with the Battery Energy Storage Systems, any special hazards associated, the type of suppression system installed in the area of Battery Energy Storage Systems, and 24-hour emergency contact information, including reach-back phone number. Moreover, as required by the 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. Vegetation and Tree-Cutting. Areas within 10 feet on each side of BESS shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

f. Design Standards. The BESS shall be constructed in accordance with all applicable local design standards, including but not limited to: the inclusion of a deluge system or similar system which permits water to be safely delivered directly to the BESS from a distance in the case of fire or similar emergency, that the BESS be designed so that it is primarily accessible from the exterior (e.g., from exterior paneling), and that the BESS be designed to include emergency ventilation systems which would operate, in accordance with law and regulations, in the event of an emergency, including in accordance with applicable NFPA standards.

g. Commissioning Plan. A commissioning plan shall be provided, and shall document and verify that the BESS and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, Battery Energy Storage System commissioning shall be conducted by a New York State (NYS) Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Town prior to final inspection and approval and maintained at an approved on-site location.

h. Fire Safety Compliance Plan. A fire safety compliance plan shall be provided, and shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.

i. Fencing Requirements. Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a 7-foot-high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.

E. Requirements for Small Ground-Mounted Solar Energy Systems (including Small On-Farm Ground-Mounted SES).

All Small Ground-Mounted Solar Energy Systems (including Small On-Farm Ground Mounted SES), including any associated BESS, shall require site plan review in accordance with those requirements set forth in this Chapter for Site Plan review, and shall be subject to the following additional requirements:

1. **Minimum Setbacks.** Minimum front, side and rear setbacks shall each be the greater of either 25 feet, or the applicable setback as pursuant to the regulations of the underlying zoning district. Fencing, collection lines, and landscaping may occur within the SES setbacks, subject to the final approval of the Planning Board pursuant to its review.
2. **Location.** May only be installed in side or rear yards.
3. **Accessory Use.** Are only permitted as an Accessory Use/Structure.
4. **On Site Use.** May only be used for On Site Use.
5. **Height.** Maximum height shall be no greater than 12 feet, as measured from the highest natural grade below each Solar Panel.
6. **Buffering (view of SES from other properties).** View of Small Ground-Mounted Solar-Energy Systems shall be minimized from adjacent properties, particularly residences, including with special attention to potential glare. This requirement shall be assessed and applied by the reviewing Board during site plan review.

F. Requirements for Medium to Large Ground-Mounted Solar Energy Systems.

All Medium to Large Ground-Mounted Solar Energy Systems, including any associated BESS, shall require Site Plan Review and a Special Use Permit, shall only be permitted in the RR-1 District, and shall be subject to the following additional requirements:

1. **Site Plan Application Requirements.** In addition to those requirements for Site Plan applications already present in this Chapter, application for site plan review shall also include the following:
 - a. Name, address, and contact information of the system installer and the owner and/or operator of the Solar Energy System.
 - b. Name, address, contact information, and signature of the project applicant, as well as the property owner(s) providing consent to the application and the use of the property for the Solar Energy System.
 - c. Nameplate Capacity of the Solar Energy System (as expressed in kW or MW).
 - d. Zoning district designation for the parcel(s) of land comprising the Solar Facility Area.
 - e. Property lines and physical features, including roads, for the project site.
 - f. Adjacent land uses on contiguous parcels.
 - g. Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
 - h. A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including any associated BESS, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all Battery Energy Storage System components if applicable and should include applicable setback and other bulk and area standards.

- i. A preliminary equipment specification sheet that documents all proposed Solar Panels, BESS, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a building permit. Any additional information required by the Town shall be provided at the Town's request.

2. Special Use Permit Requirements and Standards. In addition to those standards and requirements for Special Use Permits otherwise present in this Section 180-43.5, as well present at Article VII of this Chapter (including a public hearing), the following additional standards and requirements shall also apply, and shall be addressed during Special Use Permit review:

a. Special Use Permit Requirements:

1. Reviewed for completeness. Applicants shall be advised within 30 days, or as soon as practicable thereafter, of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
2. Provide map(s) of MSG 1-4 soils and Active Agriculture Lands on the parcel(s) comprising the Solar Facility Area and adjacent parcels.
3. Provide erosion and sediment control and storm water management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the reviewing Board.
4. Provide a Property Operation and Maintenance Plan that sufficiently describes continuing site maintenance, including continuing maintenance and repair of the Solar Energy System (inclusive of any BESS), regular testing, and property upkeep, such as mowing and trimming, which Plan is subject to review and approval during Special Use Permit review. Such Plan shall be specific to the proposed project and site, and shall also include:
 - a) A snow removal plan shall be provided as part of the Plan. It shall include plow frequency, proposed snow storage locations, and a maximum allowable snow cover at any one time.
 - b) In addition to any other requirements, the Operation and Maintenance Plan shall require that broken, damaged or inoperable parts of a Solar Energy System be promptly repaired/replaced and/or removed in accordance with applicable laws.
 - c) The Operation and Maintenance Plan shall also include a section describing construction, installation, testing and commissioning information (which shall meet all applicable requirements set forth in the Uniform Code).
5. Provide an Emergency Operations Plan. Such Plan shall be specific to the proposed project and site and shall detail information relative to emergency response and maintaining emergency access, including via roadways during the winter months. This Plan shall be provided to the local fire department and local fire code official(s). A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. This Plan shall detail for the Solar Energy System, inclusive of any BESS:
 - a) Sufficient processes and provisions to address situations, including the handling of any emergencies, that may include hazardous materials, including the process for cleanup and disposal thereof in compliance with law.

- b) Emergency planning shall include documentation and verification that the system and its associated controls and safety systems are in compliance with all regulations, Codes and requirements.
- c) Procedures for inspection and testing of associated alarms, interlocks, and controls.
- d) Ongoing monitoring systems and procedures, including systems and procedures which are utilized to identify safety issues or dangerous conditions, and which notify appropriate parties, including alerting emergency responders, of the same.
- e) Detailing procedures to be followed in response to potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
- f) Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
- g) Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures should include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
- h) Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
- i) Procedures for dealing with SES / BESS equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove equipment from the facility.
- j) Other procedures as determined necessary to provide for the safety of occupants, neighboring properties, and emergency responders, including but not limited to HAZMAT response, etc.
- k) Response logistics, as well as procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures. Such training shall be provided at the applicant's cost.

6. A Decommissioning Plan signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant and subject to review and approval during Special Use Permit review. The Decommissioning Plan and compliance therewith, including the provision and maintenance of associated decommissioning security, shall be a de facto condition of any Special Use Permit approval. The Decommissioning Plan shall generally take the form specified by the Town, given the facts and circumstances of the particular application, and shall adequately address the following requirements:

- a. The time and steps required to decommission and remove the Solar Energy System, including any associated BESS, and any ancillary structures, including restoration required as a result of the installation and removal of the Solar Energy System, which shall begin no later than 4 months after a triggering event, and shall be completed within 12 months after a triggering event.
- b. The anticipated life of the Solar Energy System, including any associated BESS.

- c. The itemized cost of decommissioning and removing the Solar Energy System and BESS, as well as all necessary site remediation or restoration.
- d. The provision and maintenance of decommissioning security which shall adhere to requirements set forth herein.
- e. The Decommissioning Plan shall ensure the safe disposal of all items, including hazardous waste in accordance with local, state, and federal waste laws, rules, and regulations.
- f. The Decommissioning Plan and associated decommissioning security must be provided prior to the issuance of a Building Permit.

7. Decommissioning security. Decommissioning security shall be provided in accordance with the Decommissioning Plan and as required below:

- a). The deposit, execution, or filing with the Town of cash, bond, or other form of security acceptable to the Town which shall be in an amount sufficient to ensure the removal of the SES and BESS and restoration of the site subsequent to the removal.

The amount of the bond or security shall be 115% of the estimated cost of removal and site restoration for the Solar Energy System and BESS, which shall be revisited every five years and updated as needed to reflect any changes (due to inflation or other cost changes). The decommissioning amount shall be reduced by the amount of 33% of the estimated salvage value of the Solar Energy System. Such decommissioning costs and salvage values shall be established by an engineering estimate acceptable to the Town.

- b). In the event of default in completing construction of the SES within the permitting periods herein, or a default in removal of the same in accordance herewith, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain action thereon.

- 3). The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

8. The reviewing Board may refer submittals hereunder including the Operations and Maintenance Plan, as well as the Emergency Operations Plan, to local code enforcement official(s) / Fire Marshall / emergency responders for purposes of assessment for fire safety and emergency purposes. Such assessment may include reviewing adequate access, the length and width of access roads to adequately reach the proposed site, turnarounds and bump outs required to allow for emergency vehicle access/passing, and an approved driving surface capable of supporting the heavy weight of emergency apparatus. The reviewing Board shall take such assessment into consideration during its review, and may impose conditions related thereto.

9. Compliance. The Plans set forth herein shall be a de facto condition of any Special Use Permit approval.

- b. Additional Special Use Permit Standards. The following shall apply and shall be reviewed during Special Use Permit review:

1. Underground Requirements. All utility lines serving the Solar Energy System, including any BESS, 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 as needed.

2. Vehicular Paths. Vehicular paths within the Solar Facility Area shall be designed in compliance with Uniform Code requirements to ensure adequate emergency access, while minimizing the extent of impervious materials and soil compaction.

3. Signage.

- a. No signage or graphic content shall be displayed on the Solar Energy Systems except that the following information shall be displayed: the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet, or larger if permitted by the reviewing Board during Special Use Permit review.
- b. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall also be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

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

5. Inverters shall be placed as feasibly close to the center/interior of the project so as to minimize the impact thereof, such as potential noise, etc. The project shall be developed such that operational noise impacts to nearby properties is materially minimized or avoided.

6. Lot size. The property on which the Medium to Large Solar Energy System is placed shall meet the lot size requirements of the underlying zoning district, if any.

7. Minimum Setbacks. Medium to Large Solar Energy Systems shall be subject to each of the following setbacks, or applicable setbacks as pursuant to the regulations of the underlying zoning district, whichever of each is greater. Collection lines, access roads and landscaping may occur within the setback, but only upon approval pursuant to the Special Use Permit review.

- i. Front: 100 feet.
- ii. Side: 50 feet.
- iii. Rear: 50 feet.
- iv. Non-Participating Occupied Residence: 250 feet, as measured from the Solar Facility Area to the subject primary residential structure.

8. Height. The maximum height of a Medium to Large Solar Energy System shall be no greater than 12 feet, as measured from the highest natural grade below each Solar Panel. This height requirement may be varied by the reviewing Board during Special Use Permit review if the panels are being raised to accommodate continued or new agricultural practices.

9. Lot coverage. Medium to Large Solar Energy Systems are subject to applicable lot coverage requirements in the underlying zoning district.

10. Fencing Requirements. The Solar Energy System, including any structure for Battery Energy Storage System components, shall be enclosed by a 7-foot-high fence, or at a greater height if otherwise required by NEC, with a self-locking gate to prevent unauthorized access.

11. Buffering (View of SES from other properties). Views of Solar Energy Systems shall be minimized from adjacent properties, particularly residences, including with special attention to potential glare. This may include, for example, architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area. The following additional requirements shall apply:

- a. Visual Assessment. The applicant shall 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, a glare analysis, inclusive of the Solar Energy System, utility poles, etc., may be required.
- b. Screening and Landscaping Plan. The applicant shall 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 from public roadways and adjacent properties.
 - i. 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, following any applicable rules and standards established by the Town. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening.
 - ii. A variety of native, non-invasive deciduous and evergreen trees and/or shrubs, of various sizes/heights/planting off-sets shall be used to create a natural appearance and protect against possible disease. The potential impact of tree mortality on the effectiveness of the buffer should be assessed.
 - iii. The Plan shall identify trees/vegetative buffers to remain and to be removed. Adequate spacing between the perimeter site fencing and limit of disturbance for vegetative buffers to be installed should be provided.
 - iv. The Board, during the Special Use Permit process, may elect to waive certain screening and landscaping requirements in select locations based on an applicant's demonstration of non-impact or impact mitigation.

12. Viewshed Protection. Solar Energy Equipment shall be located in a manner to avoid and/or minimize blockage of views from adjacent properties while still providing adequate Solar Access. This requirement shall be assessed and applied by the reviewing Board during Special Use Permit review.

13. Environmental Resources

- a. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the maximum extent possible.
- b. The applicant 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 developer shall use native plant species and seed mixes and seed all appropriate areas

within the Solar Facility Area. Any project which is designed to incorporate agricultural or farm-related activities or uses within the Solar Facility Area may be excluded from this requirement based on the amount of space actually occupied by the agricultural use(s). This exclusion will only be allowed based on a determination that these lands are being used for actual agricultural uses.

- c. To the extent reasonably practicable, the project shall use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.

14. Agricultural Resources. Solar Energy Systems for which the Solar Facility Area includes lands consisting of MSG 1-4 and/or Active Agricultural Land shall adhere to the following requirements:

- a. Solar Energy System components and equipment, inclusive of the entire area of the Solar Facility Area, as well as associated impervious surfaces, shall occupy no more than a) 50% of the area of MSG 1-4 located on the parcels which contain the SES, nor shall they occupy more than b) 50% of the area of Active Agricultural Land located on the parcels which contain the SES.

- i. A Solar Energy System may exceed the 50% coverage threshold(s) only to the extent it incorporates an onsite activity or program which provides for the use of the land as a Farm Operation. Exceedance beyond the 50% threshold(s) will thus only be allowed based on a determination that the subject lands exceeding the 50% are also being substantially and materially used as a Farm Operation (e.g., such that the subject lands exceeding the 50% are being used both and dually for the SES and the Farm Operation at the same time).
- ii. Subject to discretion of the reviewing Board during its review hereunder, if the applicant demonstrates that – notwithstanding the classification as MSG 1-4 / Active Agricultural Land – such lands cannot be feasibly employed in agriculture due to excessive wetness, rocky conditions or slopes, such lands may be excluded from counting as part of the threshold area for purposes of calculations under this subsection.

- b. To the maximum extent practicable, Solar Energy Systems located on MSG 1-4 shall be constructed, monitored, and decommissioned in accordance with the current version of the NYS Department of Agriculture and Markets’ “Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands.” Provisions of the same may be waived or varied by the reviewing Board where the Board finds that any such waiver is otherwise consistent with applicable and relevant Special Use Permit requirement/standards herein given the particular circumstances of the subject application, and only where such waiver or variance is limited such that said Guidelines continue to be applied to maximum extent practicable and feasible given the particular circumstances of the subject application. In carrying out this provision, the Board may incorporate reasonable conditions relating to the same as a part of its determination.

15. Ownership Changes. If the owner or operator of the Solar Energy System changes or the landowner of the subject 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 Decommissioning Plan, the Operations and Maintenance Plan, and the Emergency Operations Plan, and any required security continues in full effect upon change of ownership. Evidence in

writing of the same shall be provided to the Town prior to any such change.

16. Taxation. So long as the Town has not removed the real property tax exemption under § 487 of the New York Real Property Tax Law, the Town may require that a project involving a Solar Energy System enter into a payment in lieu of taxes agreement, all as permitted at § 487 of the New York Real Property Tax Law.

17. Pre-Construction Meeting. Prior to the issuance of any building permits for Medium to Large Ground-Mounted Solar-Energy Systems, a pre-construction meeting shall be held between the owner/operator/applicant and the Town.

c. Special Use Permit – Waiver.

Special use permit requirements set forth within this Section 180-43.5 may be waived by the Town Board, subject to reasonable conditions, if any, set forth by the Town Board, where the Town Board finds that 1) any such requirement(s) are not requisite in the interest of the public health, safety or general welfare or the same are otherwise found to be inappropriate to a particular special use permit, and 2) such requirements cannot reasonably be satisfied as required, or that the same can be reasonably satisfied by reasonable alternatives which will be implemented by the applicant as a condition of the waiver.

G. Safety, Generally.

1. Solar Energy Systems, Solar Energy Equipment and BESS shall be certified under the applicable electrical and/or building codes as required.
2. Solar Energy Systems and BESS 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 emergency service providers.
3. If a Battery Energy Storage System is included as part of the Solar Energy System, it 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 law.
4. Where deemed necessary, the Applicant shall ensure emergency access to the Solar Facility Area for local first responders by installing an emergency lock box or similar device.

H. Permit Timeframe, Decommissioning, Abandonment and Compliance.

1. The duration of the Special Use Permit shall be as set forth at Section 180-55, except as may otherwise be set forth herein at this Section 180-43.5.
2. Should the Building Permit or Special Use Permit expire, terminate or otherwise no longer permit the construction and/or operation of the Solar Energy System, or should operation of the Solar Energy System cease, the use of the Solar Energy System and BESS shall be prohibited and the Solar Energy System and BESS shall be decommissioned and removed and all site restoration and remediation activities shall be completed by and at the sole cost of the owner and/or operator, all within 12 months of any such triggering event, and such decommissioning activity to begin with 4 months of such triggering event, all in accordance with the Decommissioning Plan.

3. Upon substantial cessation of electricity generation of a Solar Energy System (the generation of less than 5% of the rated capacity) on a continuous basis for 12 months, the Solar Energy System shall be considered abandoned and its operation shall be ceased, and the Decommissioning Plan shall be implemented, requiring that the Solar Energy System and BESS be decommissioned and removed by and at the sole cost of the owner and/or operator, and all site restoration and remediation activities shall be completed, which shall all be completed within 12 months of such abandonment, with such decommissioning activity to begin with 4 months of such abandonment, all in accordance with the Decommissioning Plan.
4. If the owner and/or operator fails to comply with decommissioning as set forth herein, including within the time set forth herein, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and BESS and restoration of the site in accordance with the Decommissioning Plan and this Section 180-43.5.
5. The landowner shall additionally be responsible for compliance with this Section 180-43.5, including that the landowner shall additionally be responsible for the decommissioning of the Solar Energy System and BESS, including where the Solar Energy System owner or operator fails to comply with the provisions hereof relative to decommissioning and/or where the bond and/or security for the removal is insufficient or otherwise unavailable.

I. Enforcement.

Any violation of this Section 180-43.5 shall be subject to the same enforcement provisions, including the civil and criminal penalties, as generally provided for in this Chapter.

Section 180-10 of the Walworth Town Code, “RR-1 Districts: Single-Family Residential,” Subsection “B” thereof (dealing with accessory uses), shall be amended by adding the following additional accessory uses to such subsection:

- (7) Building Integrated Solar Energy Systems, in accord with Section 180-43.5.
- (8) Roof-Mounted Solar Energy Systems, in accord with Section 180-43.5.
- (9) Small Ground-Mounted Solar Energy Systems, in accord with Section 180-43.5.
- (10) Small On-Farm Ground-Mounted Solar Energy Systems, in accord with Section 180-43.5.

Section 180-10 of the Walworth Town Code, “RR-1 Districts: Single-Family Residential,” Subsection “C(1)” thereof (dealing with specially permitted uses), shall be amended by adding the following additional specially permitted use to such subsection:

- (j) Medium to Large Ground-Mounted Solar Energy Systems, in accord with Section 180-43.5.

Section 180-10.1 of the Walworth Town Code, “RR-1A Districts: Single-Family Residential,” Subsection “B” thereof (dealing with accessory uses), shall be amended by adding the following additional accessory uses to such subsection:

- (7) Building Integrated Solar Energy Systems, in accord with Section 180-43.5.
- (8) Roof-Mounted Solar Energy Systems, in accord with Section 180-43.5.
- (9) Small Ground-Mounted Solar Energy Systems, in accord with Section 180-43.5.
- (10) Small On-Farm Ground-Mounted Solar Energy Systems, in accord with Section 180-43.5.

Section 180-12 of the Walworth Town Code, “R Districts: Single-Family Residential,” Subsection “B” thereof (dealing with accessory uses), shall be amended by adding the following additional accessory uses to such subsection:

- (7) Building Integrated Solar Energy Systems, in accord with Section 180-43.5.
- (8) Roof-Mounted Solar Energy Systems, in accord with Section 180-43.5.
- (9) Small Ground-Mounted Solar Energy Systems, in accord with Section 180-43.5.
- (10) Small On-Farm Ground-Mounted Solar Energy Systems, in accord with Section 180-43.5.

Section 180-16 of the Walworth Town Code, "I Districts: General Industrial," shall be amended by adding an additional subsection thereto at subsection "C," with the remaining existing subsections thereafter to be re-lettered accordingly, with "C" becoming "D," and so on, and with said new subsection "C" to read as follows:

C. Permitted accessory uses located on the same lot with the permitted principal use are:

- (1) Building Integrated Solar Energy Systems, in accord with Section 180-43.5.
- (2) Roof-Mounted Solar Energy Systems, in accord with Section 180-43.5.
- (3) Small Ground-Mounted Solar Energy Systems, in accord with Section 180-43.5.
- (4) Small On-Farm Ground-Mounted Solar Energy Systems, in accord with Section 180-43.5.

Section V. Validity and Severability

Should any word, section, clause, paragraph, sentence, part or provision of this local law be declared invalid by a Court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

Section VI. Repeal, Amendment and Supersession of Other Laws

All other ordinances or local laws of the Town of Walworth which are in conflict with the provisions of this local law are hereby superseded or repealed to the extent necessary to give this local law force and effect during its effective period, including but not limited to the repeal and supersession of the moratorium relative to Solar Energy Systems in the Town of Walworth that was implemented by way of Local Law No. 3 (including any extension thereof such as its extension by way of subsequent amendment to said Local Law).

Section VII. Effective Date

This Local Law shall be effective after its approval and filing with the Secretary of State.