

Local Law ___ of 2021
Town of Ripley Solar Energy Zoning Law

Section 1. Purpose and legislative intent.

In light of recent changes in State energy policy, the creation of the Office of Renewable Energy Siting, and aggressive state targets for new solar power generation and battery energy storage system capacity, the Town of Ripley anticipates an increase in proposals for solar energy and battery energy storage facilities of all sizes in the Town. The Town of Ripley desires to amend its zoning law to further align solar energy zoning provisions with the goals and objectives set forth in the Comprehensive Plan for the Town of Ripley, adopted January 12, 2017. The modifications to the law set out herein support state energy policy by promoting appropriate solar development while further protecting existing community character, valuable farmland, and other exceptional local resources, and protecting the local environment. The enactment of this law also evinces the Town's intent for state siting bodies to strictly apply all substantive provisions in the Town of Ripley Zoning Law.

Section 2. Enacting authority.

This Solar Energy Law is adopted pursuant to New York State Municipal Home Rule section 10(ii)(a)(12) which authorizes the Town of Ripley to adopt and amend local laws that are not inconsistent with the State Constitution nor general law and that are related to the government, protection, order, conduct, safety, health, and well-being of persons or property of the Town. In the alternative, this Solar Energy Law is adopted pursuant to the Town's general power to enact local laws relating to the government, protection, order, conduct, safety, health, and well-being of persons or property within a municipality granted directly to local governments by the People of the State of New York through Article IX, Sections 1(a), 2(c), and 3(c) of the New York State Constitution. The law is also adopted pursuant to the supersession authority granted by New York Municipal Home Rule Law, § 10, Subdivision (1)(ii)(d)(3).

Section 3. Article XVI is hereby added to the Town of Ripley Zoning Law, including new Sections 1501 through 1514. The new Article XV of the Town of Ripley Zoning Law supersedes and replaces the requirements of Article VI, Section 620 of the Town of Ripley Zoning Law as Section 620 pertains to the siting of Solar Energy Systems. Section 620 of the Town of Ripley Zoning Law remains in force to the extent it regulates the siting of Wind Systems. Article XV of the Town of Ripley Zoning Law is created and reads as follows:

ARTICLE XV
Town of Ripley Solar Energy Zoning Law

Section 1501 Title

Article XV of the Town of Ripley Zoning Law is known and may be cited as “The Town of Ripley Solar Energy Zoning Law”.

Section 1502 Purpose

A. Statement of Purpose

This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of the Town of Ripley by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:

1. To create synergy between solar energy system development while protecting the historic and rural character of the Town, maintaining the rural style of life, retaining active farm production, developing business, and keeping Ripley an affordable place to live.
2. To maintain the rural character of the town;
3. To preserve the agricultural base of land and farm operations;
4. To avoid, or if avoidance is impossible, mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, waterways, unique views and other protected resources;
5. To encourage sense of pride in the community and allow local residents, farms, businesses, and government to take advantage of the potential financial benefits of solar energy systems;
6. To increase employment and business development in the Town of Ripley by furthering the installation of appropriately sited Solar Energy Systems;
7. To diversify personal and community energy resources;
8. To decrease the use of fossil fuels to produce electricity, thereby reducing the carbon footprint of electricity produced in New York State;
9. To protect environmental resources such as agricultural lands, forests, wildlife and their habitats, waterways, wetlands, unique views and other protected resources from the potential for adverse impacts from Solar Energy Systems;
10. To advance state renewable energy policy by promoting community solar development of an appropriate scale, and providing substantive standards for large Solar Energy Facilities sited in Ripley by the New York State government.

Section 1503 Definitions

APPLICANT: The individual/individuals or entity/entities that apply for any federal, state, or local government permit or permission for installation of a Solar Energy System.

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.

COMMUNITY SOLAR PROJECT: Solar Energy Systems that are connected in parallel with a utility distribution system, and with a Facility Area less than or equal to 30 acres, and a nameplate capacity of 5 megawatts or less. A Community Solar Project is connected to a medium voltage utility distribution systems between 13 kv and 34.5 kv.

FACILITY AREA: The physical area, measured in both square feet and acres, used for any solar energy system, including the area within fencing, roads, visual screening, support facilities, Solar Energy Equipment, and all other components of a solar energy system facility. The facility area shall include, and shall not be limited to, the surface area of any Solar Panel and Solar Energy Equipment. The Facility Area is part of the Project Site.

FARMLAND OF STATEWIDE IMPORTANCE: Land, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. 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 pole or other mounting system, detached from any other structure, that generates electricity for onsite or off-site consumption.

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

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

PRIME FARMLAND: Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database 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.

PROJECT SITE: The physical area needed for a Solar Energy System including any setbacks, buffers, fencing, roads, screening, support facilities, and Solar Energy Equipment. The Project Site includes the Facility Area.

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

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

SOLAR ENERGY SYSTEM: A system of components intended for the collection, inversion, storage, and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical, or other usable energy. A solar energy system consists of, but is not limited to, solar collectors, mounting devices or structures, generators/turbines, water and energy storage and distribution systems, Battery Energy Storage Systems, storage, maintenance and/or other accessory buildings, inverters, fans, combiner boxes, meters, transformers, and all other mechanical structures. The area for the solar energy system is all of the area within the project fence line, as well as, the area covered by all facility components, including but not limited to, access roads, transmission lines, and support buildings. The term also includes, but is not limited to, Solar Panels and Solar Energy Equipment. A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy System as follows:

- A. Tier 1 Solar Energy Systems include the following:
 1. Roof-Mounted Solar Energy Systems; and
 2. Building-Integrated Solar Energy Systems.
- B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with a total surface area of all solar panels on the lot of up to 5,000 square feet and that generate up to 110% of the electricity consumed on the site over the previous 12 months.
 1. Notwithstanding the above, a solar energy system located on a farm operation, as defined in § 301(11) or the relevant provision of the New York State Agriculture and Markets Law, and located in a New York State Agricultural District, which primarily serves the needs of such farm operation and produces up to 110% of the farm's needs, or other amount that may be established by resolution of the Ripley Town Board in accordance with New York State Department of Agriculture and Markets guidance, shall be deemed a Tier 2 solar energy system subject to limitations on farmland conversion contained in Section § 232-16.12 (F) and (G).
 2. A system that does not exceed the production or output limits and otherwise conforms to the requirements of this definition shall not be excluded from designation as a Tier 2 solar energy system as a result of selling or otherwise receiving credits or benefits for excess energy provided to the distribution grid.

- C. Tier 3 Solar Energy Systems are systems not included in the definition of Tier 1, Tier 2, or Tier 4 Solar Energy Systems, and include but are not limited to all Community Solar Projects. The Facility Area of Tier 3 Solar Energy Systems shall not exceed 30 acres in size and 5 mw in nameplate capacity.
- D. Tier 4 Solar Energy Systems include any Solar Energy System with a Facility Area greater than 30 acres in size.

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

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

Section 1504 Applicability

- A. Article XV of the Town of Ripley Zoning Law supersedes and replaces the requirements of Article VI, Section 620 of the Town of Ripley Zoning Law as Section 620 pertains to the siting of Solar Energy Systems.
- B. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town of Ripley after the effective date of this Local Law, excluding general maintenance and repair.
- C. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
- D. Any modifications to an existing Solar Energy System that increase the Solar Energy System area shall be subject to review pursuant to this Local Law.
- E. Any proposed Solar Energy System subject to review by the New York Board on Electric Generation and Siting and the Environment pursuant to Article 10 of the New York State Public Service Law, or the Office of Renewable Energy Siting pursuant to Article 94-c of the Executive Law, shall be subject to all substantive provisions of this Section and any other applicable laws, codes, and regulations of the Town of Ripley, New York; and any other applicable State or Federal laws.
- F. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”).

Section 1505 General Requirements

- A. A Building and Zoning permit shall be required for installation of all Solar Energy Systems.
- B. Issuance of permits and approvals by the Town of Ripley Planning Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”)].
- C. Unless preempted or waived by a body of competent jurisdiction such as

the Office of Renewable Energy Siting or the Board on Electric Generating Siting and the Environment, the procedural and substantive components of this law shall apply regardless of any contract, easement, or license that may exist between the Applicant and any other landowner in the Town of Ripley.

Section 1506 Permitting Requirements for Tier 1 Solar Energy Systems

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning law or other land use regulation, subject to the following conditions for each type of Solar Energy Systems:

A. Roof-Mounted Solar Energy Systems

1. Roof-Mounted Solar Energy Systems shall incorporate, the following design requirements:
 - a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface and the highest edge of the system.
 - b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
 - c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
 - d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
2. Glare: All Solar Panels shall have anti-reflective coating(s) not identified as a hazardous material by the EPA, unless an applicant demonstrates the hazardous material is unlikely to cause harm to people, plants, or animals when released by spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment. The applicant shall adhere to all federal and state laws, regulations, and guidelines regarding PFAS and polytetrafluoroethylene (PTFE) films.
3. Height: All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

- #### **B. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.**

Section 1507 Permitting Requirements for Tier 2 Solar Energy Systems

All Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall require a site plan review under the local zoning law subject to the following conditions:

- A. Glare: All Solar Panels shall have anti-reflective coating(s) not identified as a hazardous material by the EPA, unless an applicant demonstrates the hazardous material is unlikely to cause harm to people, plants, or animals when released by spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment. The applicant shall adhere to all federal and state laws, regulations, and guidelines regarding PFAS and polytetrafluoroethylene (PTFE) films.
- B. Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in rear yards in residential districts and shall not unreasonably encroach upon neighboring parcels through introduction of shade, nuisance noise, or other nuisance conditions.
- C. Height: Tier 2 Solar Energy Systems shall be subject to the height limitations specified for accessory structures within the underlying zoning district.
- D. Screening and Visibility:
 - 1. All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties.
 - 2. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading adjacent properties.
- E. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

Section 1508 Permitting Requirements for Tier 3 and Tier 4 Solar Energy Systems

Tier 3 and Tier 4 Solar Energy Systems are permitted within Rural/Agricultural (Rural), Commercial (no-rural) (C-1), Commercial Rural (C-2), and Manufacturing and Industry (M-I) districts with a Special Use Permit and Site Plan Review approved by the Town Board, after reviewing recommendations from the Planning Board, and subject to site plan application requirements set forth in the Ripley Zoning law, and the physical limitations on area and other substantive requirements set forth in this Section and related appendices. Tier 3 and Tier 4 Solar Energy Systems are a prohibited use in all other zoning districts.

Applications for the installation of Tier 3 and Tier 4 Solar Energy System shall be:

- A. Reviewed by the Zoning Enforcement Officer for completeness.
- B. Setbacks. Setbacks shall only be applied to land for which an applicant has obtained a real property interest through acquisition of a lease, license, easement, title, or other agreement. .

- C. Vehicular Paths. Vehicular paths and emergency access ways within the site shall be designed to minimize the extent of impervious materials and soil compaction. Topsoil in the same location as roads shall be stripped and stockpiled, and roads shall be capable of bearing the weight of emergency vehicles and sufficiently wide to permit access to emergency vehicles such as fire trucks and ambulances so that emergency vehicles may pass each other without leaving the road. Applicants, their successors, and assigns shall be responsible for keeping all access roads clear and passable by emergency equipment at all times.
- D. Signage.
1. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 4 square feet, but no less than square feet. Additional signage shall also be placed at the roadside for first responders to identify the type of project area they are entering and the hazards they can expect to encounter at each site location. The owners name, address and 24 hour contact information shall be displayed at the roadside. All signage should be a light reflective surface.
 2. As required by National Electric Code (NEC), disconnect and other emergency shut-off 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. Multiple remote shut-off locations will be installed to the extent technically feasible and shall be accessible by first responders.
- E. Glare. All Solar Panels shall have anti-reflective coating(s) not identified as a hazardous material by the EPA, unless an applicant demonstrates the hazardous material is unlikely to cause harm to people, plants, or animals when released by spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment. The applicant shall adhere to all federal and state laws, regulations, and guidelines regarding PFAS and polytetrafluoroethylene (PTFE) films. .
- F. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties with full cutoff and should not encroach outside of the fenced perimeter.
- G. Tree-cutting. Removal of existing trees larger than 6 inches for solar energy development shall be minimized to the maximum extent practicable. Applicants should offset the loss of any mature or old growth forest through conservation of the same amount of existing similar habitat, or creation of new sites to host mature or old growth forest.
- H. Blasting. Any and all types of blasting is prohibited at all stages of the project.
- I. Dielectric coolants used in any power transformers, voltage regulators, sectionalizing switches, transformer rectifiers, electromagnets, and voltage supply circuits installed on the SEPGS shall be a fire-resistant natural ester dielectric coolant specifically formulated

from edible vegetable oils and food grade performance enhancing additives for use in distribution and power transformers, as required by any applicable state or federal laws, regulations, or guidelines. All dielectric coolants used at the site shall be free, to the extent possible, of petroleum, halogens, silicones, or any other materials not specified above.

- J. Noise: Once in operation, sound pressure level at the exterior of any residence or non-participating property line, expressed in terms of dBA Leq-8hr, shall not exceed existing background ambient noise, expressed in dBA Leq-8hr as measured by a qualified acoustician, by more than 6dB.
- K. Project construction hours. Pre, post and during construction working hours shall limited to Monday through Friday between the hours of 8 AM and 6 PM and Saturday between the hours of 10 AM and 4 PM, Eastern Standard Time; to ensure the quiet rural characteristics of the Town.
- L. A certificate of insurance for all contractors, owners, etc. shall be provided to the Code Officer.
- M. Decommissioning.
 - 1. Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 1 year, per parcel or any part of the “project” shall be removed at the owner and/or operator’s expense, which at the owner’s option may come from any security made with the Town of Ripley as set forth in Section 3(a) herein.
 - 2. A decommissioning plan (see Appendix G) signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:
 - a. The cost of removing the Solar Energy System.
 - b. The time required to decommission and remove the Solar Energy System and any ancillary structures.
 - c. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
 - 3. Security.
 - a. The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town of Ripley attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the state or local permit and provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 110% of the cost of removal of the Tier 3 Solar Energy System and restoration of the property in accordance with any state or local permit conditions, with an escalator of 3% annually, or by a percentage equal to annual inflation rate as calculated using the Consumer Price Index published by the Labor Department’s Bureau of Labor Statistics for the previous calendar year, whichever is greater, for the life of the Solar Energy System.
 - b. In the event the applicant is in default of its obligations to decommission the facility under any applicable law or permit, and after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the

Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

- c. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth herein.
 - d. Notwithstanding the forgoing, any Tier 4 solar energy system and any associated battery energy storage systems sited pursuant to Article 10 of the Public Service Law or Article 94-c of the Executive Law shall be required to obtain a letter of credit or fund an escrow in an amount satisfactory to the Town of Ripley, to ensure the removal of the systems, their components, and associated structures, fixtures, equipment, fencing, sub-surface components or other improvements, and the remediation of the site. The amount of the letter of credit shall not be reduced by the salvage value of facility components.
- N. Site plan application. For any Solar Energy System requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information, in addition to any other information required by the zoning law:
1. Property lines and physical features, including roads, for the project site.
 2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
 3. A three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code (NEC) 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 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. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming. No chemical herbicides to be allowed.
 9. 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.

10. Prior to the issuance of the Special Use 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.
- O. Special Use Permit Standards and substantive standards for Tier 3 and Tier 4 Solar Energy Systems:
1. Lot size.
 - a. The property on which the Tier 3 and Tier 4 Solar Energy System is placed shall meet the lot size requirements in Appendix F.
 2. Setbacks.
 - a. The Tier 3 and Tier 4 Solar Energy Systems shall meet the setback requirements in Appendix F. In addition, Tier 4 Solar Energy Systems shall be setback a minimum of 450 feet from the exterior of any occupied residence located on a non-participating property.
 3. Height.
 - a. The Tier 3 and Tier 4 Solar Energy Systems shall comply with the height limitations in Appendix F.
 4. Lot coverage.
 - a. For the purposes of determining compliance with Lot Coverage requirements set forth in this Section, Lot Coverage shall be calculated by dividing the Facility Area on any given parcel by the total Area of the Parcel and multiplying the result by 100 to obtain a percentage of lot coverage.
 - b. Lot coverage of Tier 3 and Tier 4 Solar Energy Systems, as defined above, shall not exceed the maximum lot coverage requirement of the underlying zoning district.
 5. Fencing Requirements for Tier 3 and Tier 4 Solar Energy Systems.
 - a. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.
 - b. Chain-link fencing surround Tier 4 Solar Energy Systems shall be visually screened wherever visible from roads, residences, or visually sensitive resources. Other types of fencing surrounding Tier 4 Solar Energy Systems may require visual screening at the discretion of the planning board.
 - c. Chain-link fencing surrounding Tier 3 Solar Energy Systems shall be visually screened at the discretion of the planning board.
 - d. The use of barbed wire, razor wire, or electric fencing around solar energy facilities is prohibited unless expressly required pursuant to state or federal law.
 6. Screening and Visibility.
 - a. Tier 3 Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent properties using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.

- b. Tier 3 and Tier 4 Energy Systems larger than 10 acres shall be required to conduct a visual impact assessment to determine the Solar Energy System's visual impact 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. In addition, when a visual impact assessment pursuant to this subsection is required:
 - (i) 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.
 - (ii) The screening and landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscaped screening shall be comprised of a minimum of one (1) evergreen tree, at least 6 feet high at time of planting, plus two (2) supplemental shrubs at the reasonable discretion of the Town of Ripley Planning Board. 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 of Ripley Planning Board.
 - (iii) The applicant shall be responsible for maintaining, preserving, and repairing visual screening until decommissioning of any solar energy system is complete.
- 7. Agricultural Resources. For projects located on agricultural lands:
 - a. Tier 3 and Tier 4 Solar Energy Systems on Prime Farmland or Farmland of Statewide Importance shall be required to seed 75% of all area within perimeter fencing suitable for seeding with native perennial vegetation, with native perennial vegetation.
 - b. Tier 3 and Tier 4 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the requirements of the New York State Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Solar Energy Projects.
 - c. Tier 3 and Tier 4 Solar Energy System owners shall develop, implement, and maintain native vegetation pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. When establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.
 - d. Tier 3 and Tier 4 Solar Energy Systems shall not result in conversion of more than 10% of all prime farmland in the Town of Ripley. Converted farmland

includes both prime farmland inside any perimeter fencing associated with Tier 4 facilities, and any adjacent prime farmland on the same parcel as the fencing that is no longer suitable for farming as a result of the Tier 4 facility. Prime farmland means prime farmland as defined by the United States Department of Agriculture, New York State, or the Natural Resources Conservation Service. A farmland “conversion” is defined by Section 301(8) of the Agricultural and Markets Law. Any pillars or anchors used must be removed and the land must be fully restored.

P. **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 proposed new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator 30 days before the ownership change.

Section 1509 Safety

- A. Solar Energy Systems and Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
- B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal sufficient to allow access to emergency personnel and emergency vehicles at all times.
- C. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town of Ripley and any applicable federal, state, or county laws or regulations.
- D. If at any time there is a change in ownership, The Town must have full access to the new project owner’s security system before or at the time of the change in ownership.

Section 1510 Permit Time Frame and Abandonment

The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 12 months, provided that a building permit is issued for construction or construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 12 months after approval, the applicant or the Town may extend the time to complete construction for 90 days. If the owner and/or operator fails to perform substantial construction after 15 months, the approvals shall expire.

- A. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator

- of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 1 year of notification.
- B. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of Ripley may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

Section 1511 Inspections

- A. The Zoning Enforcement Officer or his or her duly authorized and appointed deputies or assistants or authorized agents shall have the authority to cause any plans, structures, lots, or system components to be inspected, examined, or reviewed for any Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy Systems to determine whether or not they are in conformity with the provisions of this law.
- B. The Zoning Enforcement Officer's duties and authority granted under Article III of the Town of Ripley Code shall be applicable to Solar Energy Systems except where expressly preempted herein by a provision specific to Solar Energy Systems.

Section 1512 Reimbursement of Fees

- A. Reimbursement for review of Application for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 Public Service Law, or for any application filed pursuant to Article 94-c of the Executive Law. The Applicant shall reimburse the Town for any fee or expense incurred in hiring subject matter experts and attorneys to review whether a Solar Energy System proposed for siting pursuant to Article 10 of the New York Public Service Law or Article 94-c of the Executive Law complies with this law's substantive provisions.
- B. The fees for a Special Use Permit, Site Plan Review, and Zoning Permit for a Solar Energy System shall be set from time to time by the Town Board by resolution.
- C. The Applicant for either state or local siting approval shall deliver to the Town Board, along with its application if local approval is sought, and concurrent with the filing of an Article 10 or Article 94-c Application, if applicable, an amount equal to one percent (1 %) of the estimated cost of the project (the "Initial Deposit"). This sum shall be held by the Town in a non-interest-bearing account, and these funds shall be available to the Town to pay consultants and attorneys engaged by the Town to assist in application review if a local permit is sought, and to pay consultants and attorneys engaged by the Town to assist in review of an Article 10 or Article 94-C Application should awarded intervenor funds be insufficient to fully participate in the Article 10 or Article 94-c Process, or should intervenor funds be otherwise exhausted. Following the approval or denial of the state or local application, the Town shall return to the Applicant any excess funds remaining in escrow. If the escrow account has been depleted prior to approval or denial of the application, the Applicant shall deposit such funds necessary for the Town to pay any outstanding fees to said consultants.

Section 1513 Enforcement

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

Section 1514 Severability

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

Section 4. The following new Appendix F, titled Tier 3 and Tier 4 Solar Energy Systems Lot Size, Setback, and Height Requirements, is added to the Town of Ripley Zoning Law and reads as follows:

Appendix F – Tier 3 and Tier 4* Solar Energy Systems Lot Size, Setback, and Height Requirements

ZONING DISTRICT	TIER 3 and TIER 4 SOLAR ENERGY SYSTEM ACCESSORY USE	MINIMUM LOT SIZE	MINIMUM SETBACK FROM PROPERTY LINE, (FEET)			MAXIMUM HEIGHT (FEET)
			FRONT	SIDE	REAR	
Rural Rural/Agricultural, Tier 4 Solar Energy Systems*	PERMITTED WITH SPECIAL USE PERMIT AND SITE PLAN	≥ 10 ACRES	200'	200'	200'	20'
Rural Rural/Agricultural, Tier 3 Solar Energy Systems*	PERMITTED WITH SPECIAL USE PERMIT AND SITE PLAN	≥ 10 ACRES	100'	50'	50'	20'
R-1 RESIDENTIAL (smaller lot)	NOT PERMITTED	NA	NA	NA	NA	NA
R-2 RESIDENTIAL (larger lot)	NOT PERMITTED	NA	NA	NA	NA	NA
Rec/Con Recreation/ Conservation	NOT PERMITTED	NA	NA	NA	NA	NA
C-1 COMMERCIAL (non-rural)*	PERMITTED WITH SPECIAL USE PERMIT AND SITE PLAN	≥ 2 ACRES	100'	50'	50'	20'
C-2 COMMERCIAL (rural)*	PERMITTED WITH SPECIAL USE PERMIT AND SITE PLAN	≥ 2 ACRES	100'	50'	50'	20'
(M-I) Manufacturing & Industry*	PERMITTED WITH SPECIAL USE PERMIT AND SITE PLAN	≥ 2 ACRES	100'	50'	50'	20'
M/I-A	NOT PERMITTED	NA	NA	NA	NA	NA

* In addition, Tier 4 Solar Energy Systems shall be setback a minimum of 450 feet from the exterior of any occupied residence located on a non-participating property.

Section 5. The following new Appendix G, titled Example Decommissioning Plan, is added to the Town of Ripley Zoning Law and reads as follows:

Appendix G: Example Decommissioning Plan

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at: [Solar Project Address] Prepared and Submitted by [Solar Developer Name], the owner of [Solar Farm Name] As required by the Town of Ripley, [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the “Facility”).

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends.
2. The system does not produce power for 12 months.
3. The system is damaged and will not be repaired or replaced.

The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of any depth below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

All said removal and decommissioning shall occur within 12 months of the Facility ceasing to produce power for sale. The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

Facility Owner Signature:

Date:

Section 6. Saving clauses.

The amendment by this law of the Town of Ripley Zoning Law shall not affect or impair any permit issued or approved or the conditions thereof, or any offense committed or obligation, liability, order, penalty, forfeiture or punishment incurred or imposed, prior to the time of such

amendment, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent and in the same manner as if such chapter or provision has not been amended, except that any structure or lot, or use or development of land within the Town of Ripley that was lawful immediately prior to the enactment of this local law but that does not conform to the specifications of Article XV of the Town of Ripley Zoning Law as enacted by this local law, including but not limited to Article XV and Appendices F and G of the Zoning Law, shall be deemed nonconforming as of the effective date of this law, and subject thereby to all provisions applicable to a nonconforming lot, structure, use, or development.

Section 7. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

Section 8. Effective Date.

This law shall become effective immediately upon filing with the Secretary of State.