

**MINUTES OF THE
TOWN BOARD MEETING
MAY 13, 2021**

The regular meeting of the Town Board, Town of Ripley was called to order by Supervisor Bowen at 7:30 p.m., in the Ripley Town Hall with the Pledge of Allegiance. The following were present:

Supervisor: Douglas Bowen -ABSENT
Deputy Supervisor: Michael Rowe
Council: Patricia Hathaway
John Trevelline
Phil Chimera
Town Clerk: Rebecca Rowe Carvallo
Deputy Clerk: Ryleigh Enterline

Guests: Dale Davis, Maureen Davis, Mark Twichell, Rob Galbraith, Tom Loll, Kathy Thompson

As the Town Board continues safe COVID -19 pandemic procedures, this evenings meeting was held with social distancing practices and on “Zoom” for those who would rather participate from home.

Zoom Dept. Heads: Jim Spacht; Highway Superintendent, Shelly Spacht, Planning Board Chair

Zoom Guests: Kim Kleckner, Katherine Schebp, Cooper Wrourek, John Hamels, Lew Barnes, Dorothy Barnes, Katherine Galbraith, Mark Smith, Bob McIntosh, Karen Ingstrom, Keith Hagenbuch, Derek Rieman, Jim Boria, Ben Wisniewski Town Attorney for Solor Project, Isaac Phillips ConnetGen & Jamestown Post Journal reporter.

APPROVAL OF MINUTES

The minutes of the Regular Town Board Meeting dated April 8, 2021 were approved. Councilwoman Hathaway moved and Councilman Chimera seconded. This was carried unanimously.

The minutes of the Special Town Board Meeting dated March 31, 2021 were approved. Councilman Chimera moved and Councilman Trevelline seconded. This was carried unanimously.

The minutes of the Special Town Board Meeting dated April 29, 2021 were approved. Councilman Chimera moved and Councilman Trevelline seconded. This was carried unanimously.

APPROVAL OF ABSTRACTS

Warrant No. 5 in the amount of \$49,966.84 drawn on the General Acct. Was presented and audited by the Board Members.

Warrant No. 5 in the amount of \$10,204.70 drawn on the Highway Acct. Was presented and audited by the Board Members.

Warrant No. 5 in the amount of \$155.24 drawn on the St. Light Acct. Was presented and audited by the Board Members.

Warrant No. 5 in the amount of \$5,525.59 drawn on the Sewer Acct. Was presented and audited by the Board Members.

Warrant No. 5 in the amount of \$8,126.73 drawn on the Water Acct. Was presented and audited by the Board Members.

Warrant No. 5 in the amount of \$216,721.33 drawn on the Capital Acct. Was presented and audited by the Board Members.

Councilman Trevelline made the following motion: that the Supervisor be directed to draw the checks to cover the warrant as allowed for vouchers numbered 300 through 383. This was seconded by Councilman Chimera and carried unanimously.

APPROVAL OF THE APRIL 2021 FINANCIAL STATEMENT

Councilman Chimera made the motion to approve the Supervisor's April 2021 Financial Statement. This was seconded by Councilman Trevelline and carried unanimously.

CORRESPONDENCE

*Supervisor's Office received the monthly Charter Communications update.

SUMMER RECREATION EMPLOYEE POSTING

Mr. Rowe made the motion to authorize the job posting for the opening of Summer Recreation Assistant. All Applications shall be turned into the Town Clerk's Office no later than 4:00 p.m. Thursday, June 3, 2021. This was seconded by Councilman Chimera and carried unanimously.

EAST RIPLEY CEMETERY MOWER EMPLOYEE APPOINTMENT

Deputy Supervisor Rowe made the motion to hire Linda Weaver, N. State Street as the Mower/Groundskeeper of the East Ripley Cemetery. This was seconded by Councilman Chimera. ROLL CALL VOTE: Mr. Chimera YES, Mr. Trevelline YES, Mrs. Hathaway YES, & Mr. Rowe YES. Carried.

Highway Superintendent Spacht stated that the Highway Dept. would be providing her with a key to the gas pump tomorrow.

APPROVAL OF GRANT SUBMISSION FOR HIGHWAY GARAGE REPAIRS

Resolution 68-2021

Authorizing USDA Rural Development application and preliminary engineering for Highway Barn Reconstruction

WHEREAS, there currently exists an application window for grant submissions for funding, through Rural Development's "Community Facilities Project" to assist in the repair or replacement of Highway facilities including the Town's Highway Barn and office complex, and

WHEREAS, the Town is faced with the need to repair the highway facilities in the foreseeable future making participation in the Federal program of great value, and

WHEREAS, the Town will need preliminary engineering services to assist with the grant application and to prepare for such repairs or facility replacements,

NOW THEREFORE IT IS RESOLVED, that the Town Board hereby authorizes and directs the Town Supervisor to prepare an application for funding assistance and to execute the same on behalf of the Town and to expend an amount not to exceed \$5,000.00 for engineering services to support the Town application with the Town's engineers Clark, Patterson and Lee.

Resolution 68-2021 was introduced by Mr. Rowe, seconded by Mr. Chimera. ROLL CALL VOTE: Mr. Chimera YES, Mr. Trevelline YES, Mrs. Hathaway YES, Mr. Rowe YES, and Mr. Bowen-ABSENT. Carried.

NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS (NOIRROF)

Resolution 69-2021 Authorizing Publication of NOIRROF Town of Ripley CDBG

WHEREAS, the Town currently is in the process of moving forward with its program of Sewer main improvements along Rt. 20 which is funded by a CDBG grant from the NYS Office of Community Renewal, which requires the publication of a Notice of Intent to Request Release of Funds according to the rules governing such CDBG projects,

NOW THEREFORE IT IS RESOLVED, that the Town Board hereby authorizes and directs the Town Clerk to prepare and have published the NOIRROF which is attached hereto and made a part hereof.

Deputy Supervisor Rowe offered Resolution 69-2021 Authorizing Publication of NOIRROF. This was seconded by Councilman Chimera. **ROLL CALL VOTE:** Mr. Chimera YES, Mr. Trevelline YES, Mrs. Hathaway YES, Mr. Rowe YES. Mr. Bowen – ABSENT. Carried.

**May 18 , 2021
Town of Ripley
14 N. State St. P.O. Box 352
Ripley, New York 14775
(716)-736-2201**

On or about May 26, 2021 the Town of Ripley will submit a request to the Office of Community Renewal for the release of CDBG funds under Title 1 of the Housing and Community Development Act of 1974, as amended, to undertake a project

known as " Main Street Sewer Replacement" for the purpose of constructing a new sewer main transmission line located inland from N.Y.S. Rt. 20 north from the intersection of N.Y.S. Rt. 20 with N.Y.S. Rt. 76, thence west to Barnes Rd. some 3,050 linear feet. The project will replace the existing sewer main at the current location and line of occupation. The total project will expend \$748,736.00 for the new sewer main which is being funded by CDBG grant #988PR155-19.

The activities proposed are **CATEGORICALLY EXCLUDED UNDER HUD REGULATIONS AT 24 CFR PART 58 FROM NATIONAL ENVIRONMENTAL POLICY ACT REQUIREMENTS**. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at the Office of the Town Supervisor of the Town of Ripley 14 N. State St. Ripley, N.Y. 14775. Additionally, the Environmental Review Record (ERR) may be reviewed at the Office of the Town Clerk of the Town of Ripley 14 N. State St. Ripley, N.Y. 14775 and may be examined and or copied Monday, Tuesday, Thursday or Friday from 9:00 A.M. to 11:30 A.M. and from 1:30 P.M. to 4:30 P.M.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the Office of the Town Supervisor, Douglas Bowen. All comments received by May 25, 2021 will be considered by the Town of Ripley prior to submission of a request for release of funds. NOTE: Due to the National Emergency concerning COVID-19 the Town will make the Environmental Record (ERR) and the additional information as contained therein available to the public for review electronically. Please submit your request by email to ripleytc@fairpoint.net which is the email address of the Town Clerk. The Town will receive electronic comments at this same email address ripleytc@fairpoint.net as stated above on or before May 25, 2021 and they will also be considered prior to submission of a request for release of funds.

RELEASE OF FUNDS

The Town of Ripley certifies to the Office of Community Renewal that Douglas Bowen in his capacity as TOWN SUPERVISOR consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. The Office of Community Renewal's acceptance of the certification satisfies its responsibilities under NEPA and allows the Town of Ripley to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

The Office of Community Renewal will accept objections to its release of funds and the Town of Ripley's certification for a period of fifteen [15] days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the Town of Ripley; (b) the Town of Ripley has omitted

a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by the Office of Community Renewal; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted via email in accordance with the required procedures (24 CFR Part 58, Sec.58.76) and shall be addressed to The Office of Community Renewal at Crystal. Loffler@nyshcr.org . Potential objectors should contact the Office of Community Renewal via email at OCRINFO@nyshcr.org to verify the actual last day of the objection period.

Town of Ripley

Douglas Bowen, Town Supervisor and Certifying Officer

CERTIFYING OFFICER

**Resolution 70-2021
Reconfirming Appointment of CDBG Project #988PR155-19 Sewer District 1
Certifying Officer**

WHEREAS the Board at its meeting held June 11, 2020 had moved and approved the appointment of Supervisor Bowen as Certifying Officer for purposes of carrying out Grant Functions for Sewer Main replacement facilities funded by the New York Office of Community Renewal with a CDBG Grant #988PR155-19, and

WHEREAS, as a motion appointment the action did not have a Resolution number assigned as it was not pre filed as a Resolution, which the Board wishes to remedy by this action,

NOW THEREFORE IT IS RESOLVED, that this Town Board hereby reconfirms and approves the previous action of the Board taken on June 11, 2020 that Douglas Bowen is the appointed Certifying Officer for all purposes in regard to CDBG Grant #988PR155-19.

The Resolution was introduced by Deputy Supervisor Rowe and was seconded by Council Person Hathaway and the vote was as follows: **ROLL CALL VOTE:** Mr. Chimera YES, Mr. Trevelline YES, Mrs. Hathaway YES, Mr. Rowe YES. Mr. Bowen – ABSENT. Carried.

Resolution 71-2021
confirming Supervisor/Deputy Supervisor Authority to act in an Executive Capacity
for Water /Sewer Districts

WHEREAS, the ongoing demands of multiple Water/Sewer capital construction projects often requires immediate response and action by the Town to ensure that project activities remain on schedule with their respective grant agreements as well as with the numerous actions that comprise each project through the ongoing phases of preconstruction, construction and project close out, and

WHEREAS, these requirements are such that it is impossible for the Town Board as a whole to carry out the oversight and managerial control of such projects on an ongoing daily, weekly or even bi-weekly basis, and

WHEREAS, the Town Law of the State of New York provides at Section 29[16] that the Board may delegate such supervisory and or managerial authority to the Supervisor as may be needed for the proper administration of districts such as the Town Water and Sewer Districts,

NOW THEREFORE IT IS RESOLVED, That the Town Board finds it to be in the best interests of the respective Water and Sewer Districts of the Town to delegate such executive and managerial authority to the Town Supervisor or Deputy Supervisor to allow for the ability of same to make executive/managerial decisions of behalf of the respective Districts and their various construction projects including making financial disbursements in amounts allowed to the Supervisor pursuant to the Board's Organization Meeting in any given year, the ability to act in any administrative or programmatic capacity for any of the funding programs which may provide in whole or part the monies needed for the District projects, to appoint such individuals as needed to carry out such project activities as required by any of the Governmental Agencies or Departments that are providing assistance to the Town District Projects, the ability to oversee and to make executive decisions relating to the on going performance of the Town's Contractors, Consultants, Employees, Officers or any others who may be providing service to the Town in regard to these District Projects and

BE IT FURTHER RESOLVED, That the grant of authority made herein shall cover all of the ongoing Special District projects and their activities to date and shall continue until each has completed the course of public improvements authorized by the Board. The grant of authority shall not extend to the establishment of rates, regulations, the review and approval of contracts needed for specific improvements, consultant agreements, payment requests for contract performance, or any other matter reserved to the Town Board by any other Law or Regulation.

The Resolution was introduced by Deputy Supervisor Rowe and was seconded by Council Person Trevelline and the vote was as follows: **ROLL CALL VOTE:** Mr. Chimera YES, Mr. Trevelline YES, Mrs. Hathaway YES, Mr. Rowe YES. Mr. Bowen – ABSENT. Carried.

APPROVAL TO ADVERTISE FOR BIDS WATER #4

**RESOLUITON 72-2021
TOWN OF RIPLEY
APPROVAL OF BID ADVERTISEMENT FOR BIDS WATER #4**

BE IT RESOLVED, that the Town of Ripley Water District #4 bid advertisement be approved as follows:

This was offered by Deputy Supervisor Rowe, seconded by Councilwoman Hathaway. **ROLL CALL VOTE:** Mr. Chimera YES, Mr. Trevelline YES, Mrs. Hathaway YES, Mr. Rowe YES. Mr. Bowen – ABSENT. Carried.

**TOWN OF RIPLEY
COUNTY OF CHAUTAUQUA, STATE OF NEW YORK
WATER DISTRICT NO. 4**

ADVERTISEMENT FOR BIDS

Sealed Bids for the construction of the **Town of Ripley – Water District No. 4** will be received by the **Town of Ripley**, at the office of the **Ripley Town Clerk**, until **11:00 am**, local time on **June 7, 2021**, at which time the Bids received will be **publicly** opened and read. The Project consists of **furnishing and installing approximately 10,000 linear feet (LF) of 8-inch water main and appurtenances along a portion of East Lake Road, 3,300 LF of 6-inch water main and appurtenances along portions of Bauer’s Lane and Ripley Beach Road, and 1,200 LF of 4-inch water main and appurtenances along a portion of Forsyth Road. Directional drilling of below items is also required.**

- 1) Approximately 71 feet of 6 inch HDPE DR-11 carrier pipe & 10 inch DR-13.5 casing pipe.**
- 2) Approximately 125 feet of 8 inch HDPE DR-11 carrier pipe & 12 inch DR-13.5 casing pipe.**
- 3) Approximately 55 feet of 8 inch HDPE DR-11 carrier pipe & 12 inch DR-13.5 casing pipe.**
- 4) Approximately 21 long side services within right of way of 1 inch plastic pipe.**

Bids will be received for a single prime All Work Contract (Bid A) and for a single prime Drilling Contract (Bid B). Bids shall be on a lump sum and unit price basis, as indicated in the Bid Form. Bidders may submit on both bids or only specific bid of interest. If Bid A cost is prohibitive, the Town of Ripley will procure materials and perform project with assistance of Drilling Contract (Bid B).

Prospective Bidders may examine the Bidding Documents at the Issuing Office on Mondays through Fridays between the hours of **8:00 am and 4:00 pm** and may obtain copies of the Bidding Documents from the Issuing Office only as described below.

The Issuing Office for the Bidding Documents is:

CPL
26 Mississippi Street
Buffalo, New York 14203
Contact to obtain documents: Patty Miller – 716.218.4738, pmiller@CPLteam.com
Contact for project questions: Seth Krull– 716.880.1256, skrull@CPLteam.com

Bidding Documents also may be examined at:

Town of Ripley – Clerk’s Office
14 North State Street
Ripley, New York 14775
Contact: Rebecca Rowe Carvallo – 716.736.6881, townclerk@ripley-ny.com
Hours: 9:00 am to 12:00 pm. and 1:15 pm to 4:30 pm, Monday through Friday

ConstructConnect – <http://www.constructconnect.com>

Construction Exchange of Buffalo & WNY – <https://conexbuff.com>

Dodge Data & Analytics – <https://www.construction.com>

Southern Tier Builder’s Association – <http://stba.com>

Electronic copies (preferred method due to Covid-19) of the Bidding Documents may be obtained by e-mailing Patty Miller. There is no fee for the electronic copies of the Bidding Documents.

Printed copies of the Bidding Documents may be obtained **in person** from the Issuing Office, during the hours indicated above, upon payment of a deposit of **\$75.00** for each set. Bidders and **Non-Bidders** who return full sets of the Bidding Documents in good condition (suitable for re-use) within 30 days after receipt of Bids will receive a full refund. Checks for Bidding Documents shall be payable to **“Town of Ripley.”** **Requests for mailing of Bidding Documents shall be made ONLY to the Issuing Office.** Upon request and receipt of the document deposit indicated above, plus a non-refundable shipping charge, the Issuing Office will transmit the Bidding Documents via delivery service. A separate check in the amount of **\$25.00** made payable to **“CPL”** is required for handling and mailing fees. **Alternatively, Bidders can provide their UPS or FedEx shipper account number for shipment of Bidding Documents.** The date that the Bidding Documents are transmitted by the Issuing Office will be considered the Bidder’s date of receipt of the Bidding Documents. Partial sets of Bidding Documents will not be available from the Issuing Office. Neither Owner nor Engineer will be responsible for full or partial sets of Bidding Documents, including Addenda if any, obtained from sources other than the Issuing Office. **Only Bidders receiving bid documents from the Issuing Office will be allowed to submit a bid to be considered for award.**

A pre-bid conference will not be held.

Requests for Information (RFI) will only be accepted in written form. RFI’s will be accepted until 11:00 am local time on June 1, 2021, at the Office of the Engineer to the attention of Seth Krull via email (skrull@CPLteam.com). If necessary, an Addendum will be issued via email by 11:00 am local time on June 3, 2021 to the addresses recorded on the Plan Holders List.

A Bid security shall be furnished in accordance with the Instructions to Bidders.

Each bid must be accompanied by a certified bank check or bid bond from a domestic carrier licensed to do business in the State of New York in the amount of not less than five percent (5%) of the amount of the bid submitted.

Bidders on this work will be required to comply with Executive Order Nos. 11,246 and 11,375 which prohibit discrimination in employment regarding race, creed, color, sex, or national origin.

The successful bidder must be an equal opportunity employer, must meet all appropriate State and Federal standards, and comply with all relevant governmental regulations.

Statement of Non-Collusion: Bidders on the contract are required to execute a non-collusive bidding certificate pursuant to Section 103d of the General Municipal Law of the State of New York.

Security for Faithful Performance: The successful bidder will be required to furnish Performance and Payment Bonds written by firms licensed to do business in New York State, each in the amount of one hundred percent (100%) of the contract amounts in accordance with the provisions of the Contract Documents.

Sales and Use of Tax Exemptions: The Town of Ripley is exempt from the payment of sales and compensation use taxes of the State of New York and of cities and counties on all materials, equipment, and supplies sold to the Town of Ripley pursuant to this contract. Also exempt from such taxes are purchases by the Contractor and his Subcontractors of materials, equipment, and supplies to be sold to the Town of Ripley pursuant to this contract, including tangible personal property to be incorporated in any structure, building, or other real property forming part of the project. These taxes are not to be included in the Bid.

Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies an American Iron and Steel requirement to this project. All listed iron and steel products used in this project must be produced in the United States. The term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The de minimis and minor components waiver (pig iron and stainless steel nuts and bolts) apply to this contract.

All bids shall be binding for a period of forty-five (45) days after the bid opening date. The Town of Ripley reserves the right to reject any and all bids and to waive any informalities therein.

Owner: **Town of Ripley**
By: **Rebecca Rowe Carvallo**
Title: **Town Clerk**
Date: **May 17, 2021**

+ + END OF ADVERTISEMENT FOR BIDS + +

INTRODUCE PROPOSED SOLAR LAW

**RESOLUTION 73-2021
TOWN OF RIPLEY
LOCAL LAW
AMENDING TOWN OF RIPLEY LOCAL LAW 1992-2 ADDING TOWN OF
RIPLEY SOLAR ENERGY LAW ARTICLE XV**

Deputy Supervisor Rowe moved, councilwoman Hathaway seconded. **ROLL CALL VOTE:** Mr. Chimera YES, Mr. Trevelline YES, Mrs. Hathaway YES, Mr. Rowe YES. Mr. Bowen – ABSENT. Carried.

the following Resolution:

RESOLVED, that the Town Board hereby introduces a Local Law to provide for an **AMENDMENT OF THE TOWN OF ZONING LAW 1992-2. THE AMENDMENT CONSISTS OF A NEW ARTICLE XV TOWN OF RIPLEY SOLAR ENERGY LAW WHICH IS ATTACHED HERETO AND MADE A PART HEREOF.**

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

RESOLUTION 74-2021

**ADOPTION BY THE TOWN BOARD
OF THE TOWN OF RIPLEY
OF A RESOLUTION CLASSIFYING
CONSIDERATION OF THE ENACTMENT OF THE PROPOSED SOLAR
LAW AS A TYPE I ACTION UNDER SEQRA**

WHEREAS, on or about May 13, 2021 the Town Board of the Town of Ripley (the “Town Board”) introduced the proposed Solar Law, Local Law 1 of 2021, and

WHEREAS, the Town Board recognizes the emergence and growing use of solar energy as a renewable energy resource, and

WHEREAS, the Town of Ripley’s current Zoning Code does not adequately meet the Town’s objectives, which include:

11. 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.
12. To maintain the rural character of the town;
13. To preserve the agricultural base of land and farm operations;

14. 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;
15. 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;
16. To increase employment and business development in the Town of Ripley by furthering the installation of appropriately sited Solar Energy Systems;
17. To diversify personal and community energy resources;
18. To decrease the use of fossil fuels to produce electricity, thereby reducing the
19. carbon footprint of electricity produced in New York State;
20. 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;
21. 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.

WHEREAS, adoption of the Proposed Solar Law would involve a change in allowable uses within at least one zoning district affecting 25 or more acres of the district, and

WHEREAS, an amendment to the Town of Ripley's current zoning ordinance may be necessary to allow for the use of solar energy generation and support state energy policy, while meeting the objectives of the Town and its residents, and

WHEREAS, consideration is warranted of a proposed local law to amend the current zoning ordinance of the Town of Ripley to establish a Solar Law to plan for well-sited solar projects in order to protect and promote the health, safety, and welfare of the community, and

WHEREAS, The Town Board has considered the content of the prior draft version of the proposed Solar Law provided by the Planning Board, the current version of the proposed solar law, and all comments related to this action received to date, and

WHEREAS, The Town Board has considered any relevant public input, and

NOW, THEREFORE, the Town Board of the Town of Ripley hereby finds that the adoption of the current version of the proposed Solar Law would qualify as a Type I action under SEQRA because it would involve a change in allowable uses within any zoning district affecting 25 or more acres of the district, under 6 NYCRR 617.4(b)(2).

AND THEREFORE, the Town Board of the Town of Ripley further resolves that the Proposed Action is classified as a Type I Action under SEQRA.

AND THEREFORE, the Town Board of the Town of Ripley will continue its SEQRA review of the proposed solar law by preparing a Full Environmental Assessment Form at a special board meeting to be held on or about **7:00 P.M. June 3, 2021**.

AND THEREFORE, the Town Board of the Town of Ripley will review any relevant submissions and comments related to the proposed Solar Law in order to make a determination of environmental significance under SEQRA.

AND THEREFORE, the Town Clerk is hereby directed to enter this resolution in the minutes of this meeting.

This Resolution was introduced by Deputy Supervisor Rowe, seconded by Councilwoman Hathaway.

The question of the foregoing resolution was duly put to a vote as follows:

Town Board Member:	Yes	No	
Abstain			
<u>Phil Chimera</u>	X	<input type="checkbox"/>	<input type="checkbox"/>
<u>John Trevelline</u>	X	<input type="checkbox"/>	<input type="checkbox"/>
<u>Patricia Hathaway</u>	X	<input type="checkbox"/>	<input type="checkbox"/>
<u>Michael Rowe</u>	X	<input type="checkbox"/>	<input type="checkbox"/>
<u>Douglas Bowen</u>	ABSENT		

Dated: May, 13, 2021

Ripley, New York

By order of the Town Board of the Town of Ripley, New York.

Mike Rowe, Deputy Town Supervisor

**Resolution 75 - 2021
Moving Proposed Local Law
Town of Ripley
Solar Law To the Table**

Deputy Supervisor Rowe moves Proposed Local Law to the table pending further action. Council Person Hathaway seconds the resolution. Carried unanimously.

DEPARTMENT HEAD REPORTS

WATER/SEWER REPORT

Deputy Supervisor Rowe presented the Water/Sewer Superintendent's Report as attached.

HIGHWAY

Mr. Rowe read Highway Superintendent Spacht's Highway monthly report as attached.

CODE OFFICER

Mr. Rowe read the Code Officer's monthly report as attached.

ASSESSOR

Mr. Rowe read the Assessor's Monthly report as attached.

PLANNING BOARD

Shelly Spacht stated that the Planning Board had no new business to report at this time.

TOWN CLERK

Mrs. Carvalho, Town Clerk introduced Deputy Town Clerk Ryleigh Enterline who attended the meeting with her this evening.

Mrs. Carvalho also informed the board that this years November monthly meeting will fall on Veteran's Day, Thursday November 11, 2021 and she suggested that the Town Board discuss moving the regular scheduled meeting date.

PRIVILEGE OF THE FLOOR

Isaac Phillips, ConnectGen representative, stated that ConnectGen would be scheduling a meeting with the Ripley Fire Districts soon.

Robert McIntosh, East Lake Road, discussed his resignation as the newly appointed member of the Planning Board. He stated he was very sorry that things have turned out this way but his family obligations have changed.

Mark Twichell, Chautauqua County resident discussed the Town's Solar Projects and praised the Town for being so proactive in protecting its community.

Mr. Chimera made the motion to adjourn the meeting. This was seconded by Mr. Trevelline and carried unanimously. 8:40 p.m.

Respectfully submitted,
Rebecca Rowe Carvallo
Town Clerk