

**Town of Canajoharie**

Solar Energy Local Law

Date of Enactment: March 14, 2024

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## TOWN OF CANAJOHARIE, NY

Local Law No.: 2 of 2024

### A LOCAL LAW AMENDING THE ZONING LAW OF THE TOWN OF CANAJOHARIE WITH RESPECT TO SOLAR COLLECTOR SYSTEMS

**Be It Enacted By the Town of Canajoharie As Follows:**

#### **1. AUTHORITY**

This Local Law is adopted pursuant to New York State Town Law, sections 261-263; and, section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with Section 263 the Town Law of New York State, "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor."

#### **2. STATEMENT OF INTENT**

This Local Law is further adopted to advance and promote a clean, wholesome, and attractive environment; protect the community from potential hazards to property and person; protect water resources and viable farmlands; preserve the aesthetic qualities and character of the Town of Canajoharie; prevent depreciation of property; preserve the rights of property owners; and secure the public peace, health, safety and welfare of the Town of Canajoharie by creating regulations for the installation and use of solar energy systems and equipment.

The intent of this law is to further the legislative findings and intent of New York State codified in NY Agriculture and Markets Law (AGM) CH 69, Article 25-AA Section 300, which declares the following: "The socio-economic vitality of agriculture in this state is essential to the economic stability and growth of many local communities and the state as a whole. It is, therefore, the declared policy of the state to conserve, protect and encourage the development and improvement of its agricultural land for production of food and other agricultural products. It is also the declared policy of the state to conserve and protect agricultural lands as valued natural and ecological resources which provide needed open spaces for clean air sheds, as well as for aesthetic purposes."

In keeping with the above, the Town of Canajoharie prefers to host only smaller scale solar facilities or projects. However, recognizing that State policy, in particular "94-C" projects [Executive Law Chapter 18, Article 6, Section 94-C], or any successor or similar provisions, may supersede this law, the Town expects the Intent, Purpose and Provisions of this code to be taken into consideration to the maximum extent allowable. The Town further intends to participate in the siting and regulating process of any large scale solar projects above 20 MW or larger which are being reviewed under Section 94-C. All such projects are within the definition of Tier 4, set forth herein.

### **3. STATEMENT OF PURPOSE**

The purpose of this law is:

- A. To accommodate and take advantage of a safe, abundant, renewable and non-polluting energy resource;
- B. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources;
- C. To prevent the conversion of valuable farmland to other and/or industrial uses;
- D. To reduce impacts of Solar Energy Systems may have on neighbors, mitigate potential depreciation of neighboring properties, and preserve the rights of property owners to install solar energy systems without conflicting with the Comprehensive Plan for the Town of Canajoharie;
- E. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses, and offset energy demand on the grid where excess solar power is generated;
- F. To set provisions for the placement, design, construction, operation, decommissioning, and, ultimately, removal of Solar Energy Systems consistent with the Town of Canajoharie's intent to uphold public health, safety, and welfare by promoting a clean, wholesome, and attractive environment and preserving the aesthetic qualities of the Town and the Town's agricultural resources;
- G. To facilitate return of any productive agricultural lands and soils which may be impacted by installation and operation of Solar Collector Systems to productive agricultural use to the maximum extent possible;
- H. To preserve and protect local and state areas of historic importance.

### **4. DEFINITIONS**

**ACCESSORY BUILDING:** A building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building, as set forth in the Town's zoning law.

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

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

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEM:** A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades,

semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite or offsite consumption.

**FACILITY AREA:** The cumulative land area occupied during the commercial operation of the solar energy generating facility. This shall include all areas and equipment within the facility's perimeter boundary – including the solar energy system, onsite interconnection equipment, onsite electrical energy storage equipment, and any other associated equipment – as well as any Solar Energy Equipment and/or Battery Energy Storage System(s) beyond the facility's perimeter boundary such as improvements necessary for the utility interconnection, access roads or other permanent improvements, but excluding those established off-site for impact mitigation purposes, including but not limited to tree plantings.

**FARM OPERATION:** Land and on-farm buildings, equipment, facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise in accordance with the Town's zoning law and Agriculture & Markets Law § 301.

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

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

**KILOWATT (kW):** A unit of power equal to 1,000 watts. The nameplate capacity of residential and commercial solar energy systems may be described in terms of kW.

**MEGAWATT (MW):** A unit of power equal to 1,000 kW. The nameplate capacity of larger solar energy systems may be described in terms of MW.

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

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

**NON-PARTICIPATING PROPERTY:** Any property that is not participating in solar development.

**NON-PARTICIPATING RESIDENCE:** Any dwelling located on a nonparticipating property.

**OPERATOR:** The applicant for the approval of a solar energy system, the owner, lessee, licensee, or other person authorized to install and operate a solar energy system on the real property of an owner, and each operator's successors, transferees, assignees, and all parties to

which the solar energy system may transfer any or all of its ownership interests or contracts or subcontracts concerning the construction, management, operations, and/or maintenance in, and responsibilities of the solar energy system.

**OWNER:** The owner of the real property on which a solar energy system is located or installed or proposed to be located or installed.

**PARTICIPATING PROPERTY:** A solar energy system host property or any real property that is the subject of an agreement that provides for compensation to the landowner from the operator (or affiliate), regardless of whether any part of the solar energy system is constructed on the property.

**PLANNING BOARD:** The Town of Canajoharie Planning Board created pursuant the Town's zoning law and NYS Town Law with the power to, inter alia, review and approve site plans and special permits.

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

**PRIME AND OTHER IMPORTANT FARMLANDS:** Soils recognized by the USDA Natural Resources Conservation Service (NRCS) and New York State as having the highest value based on soil productivity and capability. These soils include those soils classified as Prime Farmland, Prime Farmland (if drained), and Farmland of Statewide Significance, according to the NRCS.

**PRODUCTIVE FARMLAND:** Lands recognized by NYS Dept. of Agriculture and Markets (NYSDAM) and NYSERDA as important agricultural resources impacts to which, in decreasing order of importance, should be avoided when installing Tier 3 Solar Collector Systems: Active rotational farmland (most important); Permanent hay land; Improved pasture; Unimproved pasture; Other support lands; and Fallow/inactive farmland (least important).

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

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

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

**SOLAR ENERGY SYSTEM:** The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. Any Solar Energy System shall not be considered a Public Utility but shall be defined and governed by the regulations set forth in this section. A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3, Tier 4, or On-Farm Solar Energy System as follows:

A. Tier 1 Solar Energy Systems include the following:

1. Roof-Mounted Solar Energy Systems for on-site consumption
2. Building-Integrated Solar Energy Systems for on-site consumption

B. Tier 2 Solar Energy Systems include the following:

All Ground-Mounted Solar Energy Systems with a Facility Area of up to 5 acres in size and which generate up to, but shall not exceed 110% of the electricity consumed on the site over the previous 12 months, as determined by a qualified energy audit.

C. Tier 3 Solar Energy Systems include the following:

1. Ground-Mounted Solar Energy Systems not included under Tier 2 Solar Energy Systems, with a Facility Area of up to 30 acres in size installed primarily for off-site consumption. For the purposes of this definition, each Tier 3 system is defined as being permitted by one utility provider interconnection permission to operate (larger scale solar energy projects are neither encouraged, nor desired, in the Town of Canajoharie, in keeping with the Agricultural nature and character of the community).
2. Roof-Mounted Solar Energy Systems and Building Integrated Solar Energy System installed primarily for off-site consumption.

D. Tier 4 Solar Energy System shall be defined as:

A Solar Energy System greater than 20 MW and/or classified as a system regulated under Section 94-C [Executive Law, Chapter 18, Article 6, Section 94-C], or any successor provisions relating to the siting, placement and regulation of large-scale solar energy systems. Such systems are designed primarily or exclusively for off-site consumption.

E. On-Farm Solar Energy Systems include the following:

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

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

**STEEP SLOPES:** Any area having a topographical gradient of 15% (the ratio of vertical distance to horizontal distance) or more with a minimum of 500 square feet, one dimension of which is a minimum of 10 feet. For purposes of this definition, area measurements must be made along a horizontal plane from within the boundaries of a lot.

- A. **STEEP SLOPE:** A slope with a topographical gradient equal to or greater than 15% but less than 25%.

- B. VERY STEEP SLOPE: A slope with a topographical gradient equal to or greater than 25% but less than 35%.
- C. EXCESSIVELY STEEP SLOPE: A slope with a topographical gradient equal to or greater than 35%.

ZONING LAW: The Town of Canajoharie Zoning Law adopted as local law no. 1 of 2001, and any amendments thereto.

## 5. GENERAL PROVISIONS

- A. A Building permit shall be required for installation of all Solar Energy Systems. The Town herewith adopts the New York State Unified Solar Permit, as it pertains to solar energy systems with capacity of 25 kW or less, or as it may be modified, and its use is required for eligible solar energy systems. Eligible solar energy systems are specified on the adopted permit documents. For any permit applications for projects of capacity 25 kW or less, completion of the New York State Unified Solar Permit Application is required.
- B. Prior to the issuance of the building permit or final approval of some Tier II and all Tier III or greater project applications by the Planning Board, construction and/or site plan documents must be signed and stamped by a NYS Licensed Professional Engineer or NYS Registered Architect and undergo legal review. Tier I projects do not require legal and engineering review; Not all Tier II projects require legal and engineering review. (Refer to specific requirements for each Tier).
- C. The Planning Board and/or Zoning Board of Appeals, to the extent reasonably practical, may condition their approval of proposed developments on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain economically feasible over time.
- D. Issuance of permits and approvals by the Town and/or Planning Board shall include review pursuant to the State Environmental Quality Review Act and Regulations.
- E. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Uniform Code"), the NYS Energy Conservation Code ("Energy Code"), and the Town's code and requirements.
- F. For Solar Energy Systems subject to site plan and/or special permit review, the Town may impose, and may update by resolution of the Town of Canajoharie Town Board, as appropriate, a schedule of fees to recover expenses associated with engineering, environmental, or legal services determined to be reasonably necessary in the processing of an application under this law, and in order to ensure compliance. These fees shall be in addition to any application fees as may be required for site plan, special use permit, and/or subdivision review and approval. Applicant shall bear the cost of all fees.

- G. Review and written concurrence from the responding fire district shall be provided. At the discretion of the Planning Board, an emergency response plan and/or first responder training may be required.
- H. Final approval or issuance of Special Use and/or Building Permits is subject to the discretion of the Town Board and may be subject to any appropriate and reasonable conditions imposed, to be determined upon circumstances of the application process.

## **6. 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 Town's zoning code 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, when feasible, the following design requirements (exceptions to the following design requirements may be approved by the Code Enforcement Officer):
  - a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface the highest edge of the system.
  - b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
  - c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
  - d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
2. Glare. All Solar Panels shall have anti-reflective coating(s).
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:**

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



## 7. PERMITTING REQUIREMENTS FOR TIER 2 SOLAR ENERGY SYSTEMS

All Tier 2 Ground-Mounted Solar Energy Systems shall be permitted in all zoning districts as accessory buildings and shall be subject to site plan and special permit approval by the Planning Board in accordance with the Town's zoning law at Art. VII, "Special Use Permits," Art. IX, "Site Plan Review," and the requirement set forth in this section. The Town Planning Board may waive any provisions where inapplicable and/or at its discretion. Tier 2 Solar Energy Systems shall adhere to all provisions under the Towns Local Zoning Law and the following standards and requirements:

- A. Application, Special Permit, and Site Plan Review Requirements. Applications for Tier 2 Solar Energy Systems, including materials for Special Use Permit and site plan review, shall include the following:
1. 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.
  2. Name, address, contact information, 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.
  3. Certification from the utility that the interconnection is viable, where applicable.
  4. Nameplate Capacity of the Solar Energy System (as expressed in kW or MW).
  5. Zoning district designation for the parcel(s) of land comprising the Facility Area and other portions of the project site.
  6. Where applicable, any Critical Environmental Overlay Districts and/or Scenic Resources Overlay District.
  7. Property lines and physical features, including roads and slopes, for the project site.
  8. Adjacent land uses on contiguous parcels within a 500-foot radius of the site boundary.
  9. Identification of groundwater conditions in the area and public and private wells within five hundred feet (500') of the proposed site, where applicable.
  10. Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
  11. Erosion and sediment control and storm water management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
  12. A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and

utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all Battery Energy Storage System components if applicable and should include applicable setback and other bulk and area standards.

13. A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, battery energy storage system, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
14. Historic Sites listed on the National and/or State Register of Historic Places; or, those eligible for listing; or, those the Town of Canajoharie has identified as having local, state or federal historic importance--as documented in the Town of Canajoharie Comprehensive Plan or Addendums-- within the site and those within a one air-mile radius of the site.
15. Trails located on the proposed site that are part of the Statewide Snowmobile Trail System.
16. Plans and drawings shall be stamped and signed by a Professional Engineer registered in New York State. (This requirement may be waived by the Planning Board.)
17. Decommissioning plan.
18. Where facility plan includes grazing or other animal activity, a plan for well or other water source for livestock and/or other animals.

B. Standards. Tier 2 Systems shall adhere to the following standards:

1. In its review of the special permit, the Planning Board shall apply the special permit review procedure and requirements set forth in the Town's Zoning Law, Article VII, as may be amended, governing special permits.
2. Setbacks. The Tier 2 Solar Energy System shall comply with the required setbacks for the underlying zoning district. The Planning Board, however, shall have the ability to vary the setback requirements in connection with its review of the special permit application.
3. Lot coverage. The total surface area of the solar panels of Tier 2 Solar Energy Systems shall constitute Lot Coverage and shall comply with the lot coverage requirements in the underlying zoning district.
4. Screening/Visibility. Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.

5. All solar collectors and related equipment shall be surfaced, designed, and sited so as not to reflect or cast glare onto adjacent properties or roadways. All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color to aid in blending the facility into the existing environment.
  6. Height. The height of Tier 2 Solar Energy Systems shall be no greater than 10 feet in residential districts and 15 feet in height in all other zoning districts.
  7. Environmental Resources
    - a. Tree-cutting. Existing on-site vegetation shall be preserved to the maximum extent practicable. The removal of existing non-invasive trees greater than 6 inches in diameter shall be minimized to the greatest extent possible. Clear-cutting of all native and non-invasive trees in a single contiguous area exceeding 20,000 square feet shall be strongly discouraged, but may be left to the discretion of the Town Planning Board to consider along with best practices guidance from NYS Department of Agriculture and Markets for timber production, agricultural and farm management practices. If, in the discretion of the Planning Board, clear-cutting in excess of 20,000 square feet is most protective of farmland resources, or will advance the state purposes of this local law, the Board may consider clearing in excess of the stated limits.
    - b. To the extent practicable, Tier 2 Solar Energy System Owners shall utilize and maintain native perennial vegetation to provide foraging habitat for pollinators in all appropriate areas within the Facility Area.
    - c. To the maximum extent practical, limit pesticide and herbicide use for long-term operation and site maintenance.
  8. Decommissioning
    - a. The Planning Board may require a written plan that meets the requirements of Section 8(B)(2)(j) of this local law.
    - b. If the owner or operator fails to implement the decommissioning plan, the Town, in accordance with Section 11 of this local law, reserves all rights to pursue decommissioning and payment for such costs and expenses from the owner of the real property on which the installation in question is located. Such costs shall be assessed against the property, shall become a lien and tax upon the property, and shall be enforced and collected with interest by the same officer and in the same manner as other taxes.
- C. Public hearing. In addition to the requirements set forth in the Town's zoning law at Art. VII, Section G, notice of the public hearing and data regarding the substance of the

application shall be provided by the applicant to the owners of all property within five hundred (500) feet of the land involved in such application, as well as adjoining property owners. The Town will provide a copy of the required property owner notice language to the Applicant. The mailing shall not contain any other materials. Notice shall be provided by either certified or registered mail, return receipt requested, at least seven (7) calendar days prior to the hearing, with compliance with this notification procedure certified to by the Applicant and certified mailing receipts must be provided to the Town Clerk and appropriate Board of Review prior to any permissions being granted.

## **8. SUPPLEMENTARY REGULATIONS FOR TIER 3 SOLAR ENERGY SYSTEMS**

### **A. Applicability**

1. The requirements of this Section C.15 shall apply to all Tier 3 Solar Collector Systems permitted, installed, or modified in Town after the effective date of this Local Law, excluding general maintenance and repair.
2. Tier 3 Solar Collector Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Section.
3. Modifications to an existing Tier 3 Solar Collector Systems that increase the Facility Area by from the original Facility Area (exclusive of moving any fencing) shall be subject to this Local Law.

### **B. Permitting Requirements**

All Tier 3 Solar Collector Systems are permitted through the issuance of a special use permit and site plan approval within the Agricultural/Rural Residential District, and subject to site plan and special use permit application requirements set forth in this Section and Article VII and Article IX of the Town of Canajoharie Zoning Law.

1. Applications for the installation of Tier 3 Solar Collector Systems shall be:
  - a. Reviewed by the Planning Board for completeness in accordance with the Town of Canajoharie Zoning Law, including Art. VII Special Use Permits and Art. IX Site Plan Review.
  - b. Subject to a public hearing as required by the Town of Canajoharie Zoning Law. The public hearing shall conform to the requirements set forth in Section B(4) of this Section.
2. Application & Site Plan Review Requirements. Applications for Tier 3 Solar Collector Systems, including materials for site plan and special permit review, shall include the following:
  - a. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Tier 3 Solar Collector System. Such

- information of the final system installer shall be submitted prior to the issuance of building permit.
- b. Name, address, contact information, 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 Tier 3 Solar Collector System.
  - c. Certification from the utility that the interconnection is viable.
  - d. Nameplate Capacity of the Tier 3 Solar Collector System (as expressed in MW).
  - e. Site plan conforming to the requirements set forth at Art. IX of the Town of Canajoharie Zoning Law and also the following requirements:
    - i. Zoning district designation for the parcel(s) of land comprising the Facility Area and other portions of the project site.
    - ii. Any Overlay Districts, including the Critical Environmental and Scenic Resources Overlay Districts applicable to the project site.
    - iii. Adjacent land uses on contiguous parcels within a 1,000' radius of the site boundary, or as otherwise required by the Planning Board.
    - iv. Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees.
    - v. Erosion and sediment control and storm water management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
    - vi. Identification of the groundwater conditions in the area and all public and private wells within 1,000 feet of the site.
    - vii. Trails located on the site that are part of the Statewide Snowmobile Trail System.
    - viii. Historic sites listed on the National and/or State Register of Historic Places, or those Eligible for listing, within the site and those within a 1-air mile radius of the site.
  - f. Site Specific Soil Survey: This document shall field identify the borders of existing site soils in accordance with NRCS standards and shall be performed by an accredited Soil Scientist whose name shall be noted on the drawing. Existing published soil maps and data shall only be used as guideline information by the Soil Scientist. In addition to field identifying site soils the Soil Scientist shall document the depth of the plow layer on the site. This document shall also include mapping of Active Agriculture Lands and Productive Farmland on the parcel(s) comprising the Facility Area.

- g. A three-line electrical diagram detailing the entire Tier 3 Solar Collector System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all Energy Storage Device components, if applicable, and should include applicable setback and other bulk and area standards.
- h. A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, battery energy storage systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- i. A Property Operation and Maintenance Plan that describes continuing site maintenance, anticipated dual-use, and property upkeep, such as mowing and trimming.
- j. A Decommissioning Plan signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant. The decommissioning plan shall address the following:
  - i. The time required to decommission and remove the Solar Energy System and any ancillary structures.
  - ii. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
  - iii. The cost of decommissioning and removing the Solar Energy System, as well as all necessary site remediation or restoration.
  - iv. Removal of all above-ground solar energy equipment, structures and restoration of areas previously used for agricultural production, according to recommendations by the owner, the Soil and Water Conservation District, the Town Engineer, the NYSDAM, and/or other qualified entity; removal of concrete piers, footers, or other supports to a depth of 48 inches below the soil surface; and removal of access roads, unless otherwise specified by the owner and subject to approval during site plan review.
  - v. For solar energy systems constructed on Prime and other Important Farmland and/or Productive Farmland, the restoration of such farmland pursuant to the decommissioning guidelines of the NYSDAM Solar Energy Project Guidance.
  - vi. Restoration of the surface grade and soil after equipment removal and stabilization or revegetation of the site as necessary to minimize erosion.
  - vii. Disconnection of the solar energy system from the utility power grid.

- viii. The plan to dispose or recycle all waste generated from the decommissioning of the solar energy system pursuant to local, state, and federal solid waste regulations.
  - ix. The provision of a decommissioning security, whether cash, an irrevocable letter of credit or another form acceptable to the Town, which shall adhere to the following requirements:
    - a. The deposit, executions, or filing with the Town Clerk of cash or other form of financial security acceptable to be held in escrow by the Town, subject to the approval of the Town attorney and/or Engineer. The estimated cost of implementing the decommissioning plan will be certified by a licensed professional engineer and reviewed by the Town Engineer and shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal.
    - b. The amount of the bond or security shall be 150% of the cost of removal and site restoration for the Tier 3 Solar Collector System and shall be revisited every 3 years and updated as needed to reflect any changes (due to inflation or other cost changes). Salvage value of the Solar Energy System shall not count toward the decommissioning security.
    - c. In the event of default upon performance of such conditions, 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 financial security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
  - k. Ancillary materials. Other relevant studies, reports, certifications, and approvals as may be reasonably requested by the Town of Canajoharie to ensure compliance with this local law, the Town of Canajoharie Zoning Law, and SEQRA.
3. Reimbursable Costs. The Planning Board may, under Art. IX Section F and Section L of the Town of Canajoharie Zoning Law, obtain necessary consulting services, the costs of which are to be paid by the Applicant, in accordance with Town of Canajoharie requirements.
4. Public hearing. In addition to the requirements set forth in the Town of Canajoharie Zoning Law at Art. IX Section G, notice of the public hearing and data regarding the substance of the application shall be provided to the owners of all property within two hundred (200) feet of the land involved in such application. The Town will provide a copy of the required property owner notice language to the Applicant. The mailing shall not contain any other materials. Notice shall be provided by either certified mail, return

receipt requested, at least seven (7) calendar days prior to the hearing, with compliance with this notification procedure certified to by the Applicant and certified mailing receipts must be provided to the Town Clerk and Planning Board prior to any permissions being granted.

5. Special Use Permit Standards.

The Planning Board may issue a special use permit for a Tier 3 Solar Collector System only after it has found that all the following standards and conditions have been satisfied:

- a. **Underground Requirements.** All utility lines located outside of the Facility Area shall be placed underground to the maximum extent feasible and as permitted by the serving utility, with the exception of any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
- b. **Vehicular Paths.** Vehicular paths within the Facility Area shall be designed in compliance with Uniform Code requirements and NYSDAM guidance to ensure emergency access, while minimizing the extent of impervious materials and soil compaction.
- c. **Signage.**
  - i. 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 acceptable to the Planning Board.
  - ii. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- d. **Glare.** Solar Panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways. All Solar Panels shall have anti-reflective coating(s). The applicant shall demonstrate that any glare produced does not have significant adverse impact on neighboring properties or roadways. The Planning Board may require submission of a Glare Study.
- e. **Lighting.** Lighting of the Solar Energy Equipment/Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties (dark sky compliant).
- f. **Multiple lots.** At the discretion of the Planning Board, where a Tier 3 Solar Collector System's Facility Area comprises multiple lots (regardless of ownership by an individual or multiple participating landowners), the combined lots may be



treated as a single lot for the purposes of applying specific standards and requirements, including but not limited to lot size and setback requirements.

- g. Lot size. The minimum lot size of the property on which the Tier 3 Solar Collector System is placed shall be 20 acres.
- h. Setbacks. Tier 3 Solar Collector Systems shall maintain the required setback of five hundred feet (500') from a neighboring property boundary line. Exceptions are at the discretion of the Town Planning Board upon consideration of the entire application. Fencing, collection lines, access roads and landscaping may occur within the setback.
- i. Height. The height of the Solar Energy Equipment/System shall not exceed 17 feet. Height is measured from the lowest adjacent grade to the highest point of the structure, including any attachments (such as a lightning-protection device).
  - i. This height requirement can be modified by the Planning Board if the panels are being raised to accommodate continued or new agricultural activities.
- j. Noise levels from the Solar Energy Equipment/System must be shown to not have adverse or unreasonable noise impacts on surrounding homes or other sensitive receptors. The 1-hour average noise generated from the Solar Energy Equipment/System shall not exceed a noise level, as measured at the outside wall of any non-participating residence or occupied community building, based on current (45dBA) or future recommendations from the World Health Organization. Equipment and component manufacturers' noise ratings may be submitted to demonstrate compliance. The Town may require Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the Solar Energy Equipment/System in order to demonstrate compliance. Existing background noise levels shall be taken before there is any modeling of projected noise levels.
- k. Lot coverage. The surface area of Tier 3 Solar Collector Systems shall not exceed 80% of the total parcel area.
- l. Fencing Requirements. All mechanical equipment, including any structure for Energy Storage Device components, shall be enclosed by fencing of a minimum height of 7-feet, as required by NEC, with a self-locking gate to prevent unauthorized access. This height requirement shall supersede other local requirements which may be in conflict. The use of woven wire fencing or other fencing types that permit wildlife passage shall be required unless otherwise prohibited by local, state, and/or federal standards.
- m. Screening and Visibility. Tier 3 Solar Collector Systems shall be required to:

- i. Conduct a visual assessment of the visual impacts of the Solar Energy Equipment/System on public roadways, historic resources, scenic resources, important corridors, adjacent properties, and other sensitive receptors as may be identified pursuant to the application requirements and overlays, maps, and/or as identified by the Planning Board. The visual assessment shall generally conform to the most current NYSDEC policy on Assessing and Mitigating Visual and Aesthetic Impacts (“Visual Policy”). 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. The Planning Board may waive or modify the requirements set forth in this section for Solar Energy Equipment/System with a Facility Area smaller than 10 acres.
- ii. Submit a screening & landscaping plan, prepared by a licensed landscape architect, to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment/Systems shall be minimized as reasonably practical from public roadways and adjacent properties to the maximum extent feasible.
- iii. The screening & landscaping plan should demonstrate that the landscaped buffer will provide year-round screening so that, to the maximum extent practicable, the Solar Energy Equipment/System is not visible from roadways and adjacent nonparticipating properties. The plan shall specify the locations, elevations, height, plant species and/or materials that will comprise the landscaping, berms, grading, structures, architectural features, or other screening methods that will harmonize with character of the property and surrounding area, mitigate adverse aesthetic effects, and screen the system from important views or vistas. The plan shall use native and non-invasive plant species to promote habitat for native wildlife species and foraging habitat beneficial to game birds, songbirds, and pollinators. Evergreen tree plantings may be required to screen portions of the site from residential properties, roadways, and other important natural resources, viewsheds, and/or receptors, as may be identified by the Planning Board. If the buffer utilizes vegetative planting, the plantings shall consist of noninvasive evergreen trees or bushes, deer and weather resistant plant species, or other noninvasive species as otherwise recommended by the landscape architect, planted with sufficient spacing, dependent on the type of species of plantings used, to facilitate for healthy tree growth and at least four feet tall at time of planting, or as otherwise required by the Board or as may be recommended as part of the visual impact assessment. The buffer shall obtain a height of at least 10 feet within five

growing seasons. Invasive species shall not be planted as part of the landscape buffer.

- iv. The Planning Board may elect to waive certain screening and landscaping requirements in select locations based on an applicant's demonstration of non-impact or impact mitigation on adjacent parcels.
- v. The vegetation management plan shall ensure that any landscaping and trees that die off will be replaced by the following growing season with the approved plantings from the screening and landscape plan.
- vi. The Planning Board may require a Landscaping Maintenance Financial Security in the form of cash bond or other form acceptable to the Town to ensure the proper maintenance of the landscaping surrounding the solar site.
- n. A Tier 3 Solar Collector System proposed within 1 mile of an existing or proposed Tier 3 Solar Collector System shall be reviewed with the additional consideration of the cumulative visual impacts and impacts to the aesthetic resources of the Town.
- o. Environmental Resources
  - i. Tree-cutting. Existing on-site vegetation shall be preserved to the maximum extent practicable. The removal of existing non-invasive trees greater than 6 inches in diameter shall be minimized to the greatest extent possible. Clear-cutting of all native and non-invasive trees in a single contiguous area exceeding 20,000 square feet shall be strongly discouraged, but may be left to the discretion of the Town Planning Board to consider along with best practices guidance from NYS Department of Agriculture and Markets for timber production, agricultural and farm management practices. If, in the discretion of the Planning Board, clear-cutting in excess of 20,000 square feet is most protective of farmland resources, or will advance the state purposes of this local law, the Board may consider clearing in excess of the stated limits.
  - ii. Tier 3 Solar Collector System owners and/or operators shall develop, implement, and maintain native vegetation to the extent practicable, pursuant to a vegetation management plan, by providing Native Perennial Vegetation and foraging habitat beneficial to game birds, songbirds, and Pollinators.
    - a. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the Owner shall use native plant species and seed mixes and seed all appropriate areas within the Facility Area. Any project which is designed to incorporate agricultural or farm-related activities or uses within the Facility Area may be excluded from this requirement based on the amount of space actually occupied by the agricultural use(s). This exclusion will only be allowed based on the

- Planning Board's determination that these lands are being used for actual agricultural uses.
- b. Use of pesticides (including herbicides) for long-term operation and site maintenance shall be limited or avoided entirely, and the rationale for any proposed pesticide use shall be thoroughly documented by the Operator, subject to Planning Board approval.
  - iii. Slopes. Development on Steep Slopes, and Very Steep Slopes shall be avoided to the maximum extent practical. Development on Excessively Steep Slopes is prohibited.
  - iv. Compliance with applicable overlay district standards, including the Critical Environmental and Scenic Resources Overlay Districts.
- p. Agricultural Resources. Tier 3 Solar Collector Systems for which the Facility Area includes lands consisting of Prime and other Important Farmlands, or is proposed on a site with Active Agricultural Land, shall adhere to the following requirements:
- i. When proposed on Active Agricultural Land located within an Agricultural District designated under Section 303 of the NYS Agricultural and Markets Law, a Tier 3 Solar Collector System components, equipment, and associated impervious surfaces shall occupy no more than 20% of any Prime and other Important Farmlands, but in no case shall it exceed 15 acres of such Prime and other Important Farmlands. Tier 3 Solar Collector Systems shall, to the maximum extent practical, avoid impacts to Active Agricultural Land and Productive Agricultural Land.
  - ii. To the maximum extent practicable, Tier 3 Solar Collector Systems located on Prime and other Important Farmlands shall be constructed, monitored, and decommissioned in accordance with the NYSDAM's "Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands."
- q. 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 decommissioning plan. A new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator within 30 days of the ownership change. Failure to provide this notice will result in forfeiture of all or a portion of the certificate of occupancy, special permit, and/or deposit/decommissioning fee.
- r. After completion of a Tier 3 Solar Collector System, the owner or operator shall provide documentation, certified to the Town, from a professional engineer registered in New York State that the project complies with applicable codes and industry practices, and has been constructed and is operating according to the

design plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected.

- s. Annual Report. The Tier 3 Solar Collector System owner shall, on a yearly basis, provide the Code Enforcement Officer a report showing the rated capacity of the system and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve-month period. The report shall also identify any change in ownership of the Tier 3 Solar Collector System and/or the land upon which the system is located and shall identify any change in the party responsible for decommissioning and removal of the system upon its abandonment. The annual report shall be submitted no later than 45 days after the end of the calendar year. Every third year, to coincide with the filing of evidence of financial security, the annual report shall also include a recalculation of the estimated full cost of decommissioning and removal of the Tier 3 Solar Collector System. The Code Enforcement Officer may require an adjustment in the amount of the surety to reflect any changes in the estimated cost of decommissioning and removal. Failure to submit a report as required herein shall be considered a violation subject to the penalties of the Town of Canajoharie Zoning Law.
  - t. The Tier 3 Solar Collector System approval shall include appropriate conditions to mitigate adverse impacts of the solar energy system, including, but not limited to:
    - i. The decommissioning plan shall run to the benefit of the Town of Canajoharie and be executed by the operator as well as the owners and such signatures shall be notarized in a format that allows the plan to be recorded at the Office of the Montgomery County Clerk. This document shall be recorded as an irrevocable deed restriction indexed against the property upon which the solar energy system is to be constructed.
    - ii. Initial and annual site-specific training shall be provided for the Code Enforcement Officer, fire department, emergency response, Montgomery County emergency management system, and police department, with expenses for such training covered by the operator.
    - iii. The operator shall identify a responsible person with contact information for public inquiries from the commencement of construction of the solar energy system until the completion of the decommissioning plan.
    - iv. A certificate of Comprehensive General Liability coverage Insurance Policy with minimums of at least \$300,000.00 to \$500,000.00, naming the property owner, or to the satisfaction of the reviewing Board.
6. Compliance with Site Plan and Special Use Permit
- a. Inspection of Improvements

- i. The Planning Board's designated engineer, or another responsible party as may otherwise be determined by the Planning Board, shall be responsible for the overall inspection of site improvements, including coordination with the Code Enforcement Office and other officials and agencies, as appropriate.
    - ii. The Planning Board may impose, as a condition of site plan approval, that the Developer and/or Owner reimburse the Town for inspection of improvements services provided in accordance with this Section.
  - b. Performance Guarantee
    - i. As a condition to the approval the Developer and/or Owner may be required to post financial security to insure the completion and the proper performance of the improvements with the Town. The Planning Board shall determine the adequacy of the amount sufficient to cover the cost of the required improvements. The Planning Board may consult with its designated engineer as part of determining adequacy and sufficiency of the financial security.
    - ii. Such financial security shall be in a form acceptable to the Town and approved by the Town Attorney as to form, sufficiency, surety, and manner of execution.
    - iii. Such performance bonds shall run for a term to be fixed by the Town, but in no case for a longer term than three (3) years.
    - iv. If the Planning Board shall decide at any time during the term of the performance bond that certain improvements are no longer warranted, or that some improvements have been installed, or that additional improvements are necessary, the amount of the financial security may be reduced or increased by an appropriate amount to cover the estimated cost of the incomplete improvements or the additional improvements required by the Board.
    - v. In the event that any improvements have not been installed as required by the Planning Board within the term of such financial security, the Planning Board may thereupon declare the holder of the financial security to be in default and collect the sum remaining payable thereunder; upon receipt of the proceeds thereof, the Town may install the improvements covered by such financial security which are commensurate with the extent of the development of the subject site plan that has taken place, but not exceeding in cost the amount of such proceeds.
    - vi. If the Planning Board, or an appropriate Town officer appointed by it, shall find upon inspection that any of the required improvements have not been constructed in accordance with the site plan and conditions approved and specified by the Planning Board, then the Developer and/or Owner and the bonding company (if any) shall be severally and jointly liable for the costs of completing said improvements as originally specified by the Planning Board.

## **9. SUPPLEMENTARY REGULATIONS FOR TIER 4 SOLAR ENERGY SYSTEMS**

All Solar Energy Systems which are regulated under Section 94-C [Executive Law Chapter 18, Article 6, Section 94-C], shall be subject to any and all applicable provisions of this law and additional Tier 3 provisions. The Town intends that the intent, purpose, and provisions of this Local Law be reviewed by any siting and/or regulating Boards, as the Town is desirous of maintaining its unique character and quality as a historic, agricultural community greatly reliant upon tourism.

## **10. PERMITTING REQUIREMENTS FOR ON-FARM SOLAR ENERGY SYSTEMS**

All On-Farm Solar Energy Systems shall be permitted in Agriculturally Zoned districts, as an Accessory Building & Use to an Agricultural/Farm Land Use, as defined in the Town's zoning code, and if installed as a Ground-Mounted Solar Energy System, shall be subject to the following conditions for each type of Solar Energy System:

### **A. Permit requirements.**

1. All Building-Integrated and Roof-Mounted Solar Energy Systems shall be subject to the requirements for Tier 1 Solar Energy Systems.
2. All Ground-Mounted Solar Energy System portions of On-Farm Solar Energy System—so long as they are a part of the “farm operation”—shall be permitted as a Farm and Accessory Building & Use, as defined in the Town's zoning code and shall be subject to the following standards, which are contained in the NY Department of Agriculture's Model streamlined site review process for solar devices. All On Farm Ground-Mounted Solar Energy Systems Applications shall undergo expedited review by the Town Planning Board.
3. Determination that the scope of the project will not exceed 110% of the anticipated annual farm electrical energy consumed by the farm operation, as determined by a Qualified Energy Audit completed for a period of 12 months to account for seasonal energy needs.

### **B. Building Permit Application for On-Farm Solar Energy Systems shall include the following:**

1. Sketch of the parcel on a location map (e.g., tax map) showing boundaries and dimensions of the parcel of land involved and identifying contiguous properties and any known easements or rights-of-way and roadways.
2. Show the existing features of the site including land and water areas, water or sewer systems, utility lines, and the approximate location of all existing structures on or immediately adjacent to the site.
3. Show the proposed location and arrangement of the solar device on the site.
4. Include copies of plans or drawings prepared by the manufacturer.

5. Provide a description of the project and a narrative of the intended use of the proposed solar device, including any anticipated changes in the existing topography and natural features of the parcel to accommodate the changes. Include the name and address of the applicant and any professional advisors. If the applicant is not the owner of the property, provide authorization of the owner.
  6. A legible electrical diagram using unique line characteristics and standard symbols to clearly describe the solar device as it will be installed. The diagram must show all major system components from the solar device to the utility meter.
- C. Standards for On-Farm Solar Energy Systems involving Ground-Mounted Solar Energy Systems.
1. In its review of the application materials the Planning Board shall apply an expediated review process.
  2. The location of the Solar Energy System meets all applicable setback requirements of the zone in which they are located, except that the required side and rear setbacks shall be 50'. The Planning Board, however, shall have the ability to vary the setback requirements in connection with its review of the special permit application.
  3. The height of the Solar Energy System shall be no greater than 10 feet in residential districts and 15 feet in height in all other zoning districts. This height requirement can be modified by the Planning Board if the panels are being raised to accommodate continued or new agricultural activities.
  4. The Town Planning Board shall ensure the Solar Energy System does not present a health or safety concern and integrates safely with farm operations.
  5. Solar Energy Equipment shall be designed and located in a way so as to prevent reflective glare toward any inhabited buildings on adjacent properties, or roads.
  6. If a Solar Energy System is in disrepair or ceases to generate solar energy for more than nine consecutive months, the property owner shall remove the Solar Energy Equipment within 90 days after the end of the nine-month period.
  7. Portable solar array (e.g., flower) units with a total panel surface area of 100 square feet or greater must adhere to the guidelines for Ground-Mounted On-Farm Solar

## **11. SAFETY**

- A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
- B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Solar Energy System is located in an ambulance district, the local ambulance corps.



- C. If Energy Storage Devices 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, and any applicable federal, state, or county laws or regulations.
- D. Where deemed necessary by the Planning Board, the Applicant shall ensure emergency access to the Facility Area for local first responders by installing an emergency lock box or similar device, in a location subject to approval by the Code Enforcement Officer and responding fire department(s).
- E. First Responder Training; In the discretion of the responding fire district, prior to issuance of a building permit, funding sufficient to provide training from an industry-recognized trainer or firm specializing in first response to Solar Energy and Battery Energy Storage System emergencies and other events requiring response by fire district, police, and/or other first responders, as may be determined by the Town, shall be provided in a form acceptable to the Town. The Town may, from time to time, require training of new personnel, and funding, or other mechanism to cause such training to be provided, as determined by the Town, which shall be provided by the Facility Owner and/or Operator upon request by the responding fire district. Should any additional equipment or training be required at any time during the installation, commission, operation, or decommission phases, all related costs shall be borne by the Facility Owner/Operator.

## **12. PERMIT TIMEFRAME AND ABANDONMENT**

- A. The Special Use Permit and site plan approval for a Tier 3 Solar Collector System shall be valid for a period of 36 months, provided that construction is commenced within that timeframe. In the event construction is not commenced in accordance with the final site plan – as may have been amended and approved – as required by the Planning Board, within 36 months, the applicant may request to extend the time to commence construction for 12 months. Approval of a request to extend the time to complete commence construction shall not be unreasonably withheld by the Town. If having, commenced construction, the owner and/or operator fails to complete construction within 36 months after having commenced construction, the approvals shall expire and a new application begun and any fees resubmitted prior to any construction recommencing. If the owner or operator fails to perform, the Town may notify the owner or operator to implement the decommissioning plan. In such instance, the decommissioning plan must be completed within 150 days of notification by the Town.
- B. Cessation of electricity being generated for a period of twelve months constitutes abandonment of the Tier 3 Solar Collector System project, unless an agreement was previously reached between the Town and the owner/operator and/or construction company in question. Upon cessation of electricity generation of a Tier 3 Solar Collector

System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of Tier 3 Solar Collector System to implement the decommissioning plan. The decommissioning plan must be completed within 12 months of notification.

- C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Tier 3 Solar Collector System and restoration of the site in accordance with the decommissioning plan. Notwithstanding the foregoing, the Town shall first attempt to secure payment for such costs and expenses from the security made with the Town as set forth herein. In the event the costs incurred by the Town to implement the decommissioning plan are not obtained from the security, the Town shall next attempt to secure payment for such costs and expenses from the operator; however, in the event the Town is not made whole following reasonable attempts to collect such costs and expenses from the operator of the installation, the Town reserves all rights to pursue payment for such costs and expenses from the owner of the real property on which the installation in question is located. Such costs shall be assessed against the property, shall become a lien and tax upon the property, and shall be enforced and collected with interest by the same officer and in the same manner as other taxes.
- D. With the consent of the owner, the Code Enforcement Officer, along with the Town Engineer and the Planning Board, may allow the operator to implement the decommissioning plan while allowing the landscaping to remain.

### **13. 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 Canajoharie.

### **14. REPEAL OF LOCAL LAWS**

Local Law No. 2 of the year 2017, a local law "to Establish Town-Wide Solar Energy Systems Rules and Regulations Rules and Regulations..." and any moratorium on the permitting or placement of solar facilities within the Town, as well as Local Law No.: 2 of 2024, which was originally passed in October of 2023, but due to clerical error was refiled in February of 2024, are, upon passage of this Local Law, hereby repealed in their entirety.

### **15. 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.