**LOCAL LAW NUMBER No. 4 OF 2024**

**A LOCAL LAW OF THE TOWN OF LINDLEY**

**RELATING TO SOLAR ENERGY SYSTEMS**

**PROPOSED TO BE SITED IN THE TOWN OF LINDLEY, NEW YORK**

The Town Board of The Town of Lindley, New York, pursuant to Resolution dated December 18, 2024, does hereby adopt and pass this Local Law Number No. 4 of 2024, and therefore, be it so enacted as follows:

**SHORT TITLE: –** This local law shall be known as the “Solar Energy Law” or, herein,

as “this local law.”

**SECTION 1 – AUTHORITY:** This local law is adopted pursuant to the authority granted by

§§ 130, 261, and 263 of the Town Law of the State of New York, and Municipal Home Rule

Law § 10, which authorize the Town of Lindley to adopt zoning provisions and local laws that

advance and protect the health, safety and welfare of the community, and individual provisions

rely upon authorizations relating to the protection of public health and the environment as

reflected in, variously but not exclusively, the Environmental Conservation Law, the Executive

Law, the General Municipal Law, the Municipal Home Rule Law, the Parks, Recreation and

Historic Preservation Law, the Statute of Local Governments, the Town Law, and the Vehicle

and Traffic Law, as well as their associated regulations, including the regulations of the

Department of State, Office of Renewable Energy Siting.

**SECTION 2 – PURPOSE:** The purpose of this local law is to facilitate and regulate the

development and operation of certain renewable energy systems based upon the use of sunlight;

to increase employment and business development in the Town of Lindley, to the extent

reasonably practicable, by furthering the installation of Solar Energy Systems; to mitigate the

impacts of such systems upon environmental resources, such as important agricultural lands,

forests, wildlife and other protected resources; and to provide a regulatory scheme for the

designation of properties most suitable for the location, construction and operation of such

systems. It is in the public interest to allow for and encourage controlled development of renewable energy systems in accordance with the Town of Lindley Comprehensive Plan.

**SECTION 3 – APPLICABILITY:** The requirements of this local law apply to all Solar Energy

Systems proposed, modified, or installed after the effective date of this local law. This local law does not apply to such systems that are lawfully permitted or in existence as of the date this local law becomes effective, except for modifications of existing uses or structures as specified in Section 5. Any use which would otherwise be subject to this local law, which has been discontinued for a period of one (1) year or more, shall be subject to the terms of this local law before such use is resumed. Any such system previously permitted but not constructed and for which construction has not substantially commenced, the permit for which hereafter expires or is terminated pursuant to the law under which such system was permitted shall be subject to the terms of this local law upon re-application for a permit. Any use or structure shall be considered to be in existence provided the same has been substantially commenced as of the effective date of this local law and fully constructed and completed within one (1) year from the effective date of this local law. This local law does not invalidate or override provisions or requirements of any other federal, state, or local law or regulations applicable to the subject matter hereof, and where this local law is in conflict with any other such law or regulation, the more restrictive requirements shall apply unless preempted or doing so would invalidate or make a part of this Chapter void or unenforceable; provided, however, that this local law is intended to and shall replace Local Law No. 1 of 2005.

**SECTION 4 – DEFINITIONS:**

**Agricultural Land**—Land area under perennial crops, under permanent pastures, under annual

crops, meadows for mowing or for pasture, and land used for such purposes within the five (5) years prior to the date of submittal of an application under the provisions of this local law.

**Agriculturally Important Area**—Agricultural Land, Prime Farmland, Prime Farmland if

Drained, or Farmland of Statewide Importance.

**Applicant**—A property owner, an entity or individual holding an option or contract to purchase or lease a property, or any other affiliate or operator authorized in writing to act for such persons, who submits an application under the provisions of this local law.

**Building-Mounted** —A system or facility whose components, including mounting hardware, are structurally attached to any legally permitted building or structure, such as vertical facades, skylights, roofing materials and shading over windows.

**Code**—The general and specific regulations and policies of the Town of Lindley embodied in

its local laws, ordinances, policies, Comprehensive Plan, and the requirements of processes,

rules, and procedures attending each of the same.

**Code Officer**—The Town of Lindley Code Enforcement Officer, as well as any hereafter

appointed zoning officer, or other person appointed for this purpose by resolution of the Town

Board.

**Commissioning**—A systematic process that provides documented confirmation that a system

functions according to the intended design criteria and complies with applicable Code

requirements.

**Critical Environmental Area**—Area which has been designated by the Town, county or by a state agency to recognize a specific geographical area and to alert Applicants that special resources or dangers in the area require careful attention.

**Decommissioning**—A systematic process for removing a Solar Energy System and restoring the

land.

**Decommissioning and Site Restoration Plan**—A written plan that specifies how a Solar

Energy System will be Decommissioned, withdrawn from service and disposed of, and how the site occupied by the system will be restored.

**Endangered Species**—Any plant or animal species so designated by the State of New York or United States of America.

**Environmentally Sensitive Area**—Critical Environmental Area, Unique Natural Area, Steep Slope area (as defined in the Zoning Law of the Town of Lindley), federally-designated wetland, or NYS-regulated wetland, water body or stream.

**Facility**—Type 1, Type 2 or Type 3 Solar Energy System, as appropriate for the section.

**Farmland of Statewide Importance**—Land designated as such by the State of New York; such

land may be included in National Resources Conservation Service (NRCS) maps and databases.

**Grid-Tied**—An electrical generation or connected to the electric utility grid owned by a public utility. Grid-Tied systems may be designed to disconnect from the electric utility grid (typically during a power outage) but are intended to primarily operate while connected to the utility electric grid owned by a public utility.

**Ground-Mounted**—A system or facility whose components are attached to a mounting system

anchored to the ground (including by static weighting) and detached from any other structure.

**Important Views**—Distinctive Views and Noteworthy Views as enumerated in the Steuben

County Scenic Resources Inventory and Town of Lindley Scenic Resources Inventory.

**Monitoring Fee**—the fees charged by the Town related to the inspection of a Solar Energy System and the property on which it is operated and any Related Properties during construction of such Solar Energy System.

**Nameplate Capacity**—Manufacturer’s output power rating of the system under industry standard test conditions, typically given in kW or MW.

**Non-Participating Property**—Any property not owned or exclusively operated by the owner or operator of a Solar Energy System where the owner of such property has not agreed in writing with the owner or operator of a Solar Energy System to allow certain uses to be sited adjacent to or in proximity to such Non-Participating Property.

**Non-Participating Residence**—Any residence, building or structure expected or intended for

human occupation or use, including as a workplace, church or school, not owned or exclusively operated by the owner or operator of a Solar Energy System where the owner of such residence, building, or structure has not agreed in writing with the owner or operator of a Solar Energy System to allow certain uses to be sited adjacent to or in proximity to such non-participating structure.

**NYS**—New York State

**NYSAGM—**New York State Department of Agriculture and Markets

**NYSDEC**—New York State Department of Environmental Conservation

**Participating Residence**—Any residence or building or structure expected or intended for

human occupation or use, including as a workplace, where the owner of such residence, building,

or structure has agreed in writing with the owner or operator of a Solar Energy System to allow

certain uses to be sited adjacent to or in proximity to such participating structure. Such an

agreement (which may be a lease, license, or easement) may grant access to or restrict interference with wind, light or air; or waive any noise, setback, or zoning requirements.

**Permit**—Specifically, this term means any building permit approval, any permit

approval granted under this local law, and any site planning approval for solar facilities or improvements. Generally, this term includes the above matters, along and together with all other approvals and permits issued in relation to the same, including but not limited to land or subdivision approvals, land disturbance permits or approvals, aquifer or wellhead permits and approvals, road use construction and maintenance permits and approvals (including any road use agreements), flood plain permits, and local and state stormwater approvals and permits, including SPDES general permits.

**Permittee**—An Applicant who has been granted a permit under the provisions of

this local law, or a site planning approval under this local law.

**Permit Fee**—The building permit fees, the permit fees under this local law, Site Plan Planning fees (including as based upon the size and classification of the project), which fees may include other Planning fees and related chargeable costs as set forth in this local law.

**Practicable**—Capable of satisfying the overall project purposes, after taking into consideration

cost, time, technology and logistics.

**Prime Farmland**—Land designated as such by the United States Department of

Agriculture/National Resources Conservation Service (NRCS) in NRCS maps and databases.

**Prime Farmland if Drained**—Land designated as such by the United States Department of

Agriculture/National Resources Conservation Service (NRCS) in NRCS maps and databases.

**Planning Board**—The Town of Lindley Planning Board.

**Right-Of-Way**—The total width of any land reserved or dedicated as a thoroughfare, alley,

pedestrian or bicycle way, railway, waterway, or utility line.

**Screen Planting Plan**—A plan describing and illustrating the locations and species to be

planted. The intent of screen plantings is to improve the visual appearance of a Solar Energy

System by screening all or part of the system from view.

**SEQR**—State Environmental Quality Planning, established under Article 8 of the New York

Environmental Conservation Law.

**Site Plan Planning Law**—as set forth in the Town of Lindley Zoning law or successors to that law, as appropriate.

**Solar Panel**—A man-made device capable, on its own or as part of a system, of collecting and/or converting solar energy into electrical energy or heat.

**Solar Energy System**—An energy system (such as a Solar Photovoltaic System, Solar Thermal Power System, or based on any other technology) that converts solar energy into electrical energy or heat. Such system includes the solar energy collection devices, related balance of system equipment, and other associated infrastructure regulated under this local law or the Code.

**Solar Photovoltaic System or Solar PV System**—An energy collection system that consists of one or more photovoltaic collection devices, solar energy related balance of system equipment, and other associated infrastructure with the primary intention of generating electricity, storing

electricity, or otherwise converting solar energy to a different form of energy.

**Solar Thermal Power System**—An energy collection system that consists of one or more reflectors, receivers, and related balance of system equipment to collect and concentrate sunlight to produce high temperature heat which is then used to generate electricity or heat one or more structures.

**Species of Special Concern**—Any plant or animal species so designated by the State of New

York.

**Type 1 –** A Solar Energy System of sixty square feet or less.

**Type 2 -** A Solar Energy System whose components are greater than 60 square feet and less than two thousand square feet.

**Type 3** - A Solar Energy System whose components cover an area of two thousand square feet or more.

**Threatened Species**—Any plant or animal species so designated by the State of New York.

**Visual Impact Assessment**—A report prepared by a registered Landscape Architect or other

qualified professional that includes a Visual Assessment Form pursuant to SEQR, and

visually illustrates and evaluates the relationship of proposed new structures or alterations to

nearby natural landscapes and to pre-existing structures in terms of visual character and

intensity/scale of use (e.g., scale, materials, color, door and window size and locations, setbacks,

roof and cornice lines, and other major design elements). Such an assessment also includes an

analysis of the visual impacts on neighboring properties from the proposed development and

alterations, and of the location and configuration of proposed structures, parking areas, open

space, and gradient changes. Photo-simulations and a 3D rendering will be required as part of the

Visual Impact Assessment.

**SECTION 5 – SOLAR ENERGY SYSTEMS, IN GENERAL:**

**5.1** The Town Board shall by resolution periodically set a fee schedule for a Permit Fee for the

Planning and processing of Site Plan applications for Solar Energy Systems and a Monitoring

Fee for the inspection of such systems during construction and until Commissioning of the

system.

**5.2** The requirements of this local law apply to all Solar Energy Systems proposed, modified, or

installed upon any lands or structures within the Town, excluding routine or minor general maintenance and repair. However, “routine or minor general maintenance and repair” shall not in any one situation or case involve the replacement or repair of 50% or more of the area or square

footage of land occupancy of the use, or 50% of the value of the facility. The determination

as to whether a given action or application qualifies as “routine or minor general maintenance and repair” shall be determined in each case and for all lands, parcels, and uses, by the Code Officer by written opinion, duly filed.

**5.3** If a modification or expansion of an existing Solar Energy System is such that it would

cause a change in Type as defined in Section 4, the modification or expansion requires Site Plan Planning as set forth below for the applicable new Type.

**5.4** If a modification or expansion of an existing Type 2 or Type 3 Solar Energy System is such that the originally-approved area occupied by the Facility is increased by 15% or more, the modification or expansion requires Site Plan Planning and approval.

**5.5** In no case may a project be divided up or segmented for the purpose or with the effect of avoiding Site Plan Planning of the project as a whole. Separate simultaneous applications from the same applicant will only be allowed if the applications are for significantly discontiguous regions of the Town. The Planning Board shall use its discretion in determining “significantly discontiguous.”

**5.6** All Solar Energy Systems shall be designed, erected, and installed in accordance with all

applicable codes, regulations, and industry standards as referenced in the New York State

Uniform Fire Prevention and Building Code, the New York State Energy

Conservation Construction Code, and Town of Lindley Codes.

**5.7** In addition to the requirements of Section 5.6, Type 3 Solar Energy Facilities shall be designed by a NYS licensed architect or licensed engineer and installed in conformance with the applicable International Building Code, International Fire Code, and National Fire Protection Association (NFPA) 70 Standards. All Solar Panels must be located in compliance with NYSDEC and federal wetland and flood plain regulations and specifications as they pertain to waterways, water bodies, and designated wetlands. If one acre or more of land is to be disturbed, inclusive of all roadways, grubbing and borings, the Applicant shall also submit a Stormwater Pollution Prevention Plan consistent with NYSDEC requirements. Blueprints signed by a Professional Engineer or Registered Architect showing the layout of the Facility shall be required. Plans shall show the proposed layout of the entire Facility along with a description of all components, whether on site or off site, including existing vegetation, existing or proposed access, gates, parking areas, mounting systems, inverters, panels, fencing, proposed clearing and grading of all sites involved, as well as proposed buffering and screening. These requirements complement, but do not replace, requirements listed in the Site Plan Planning Law.

**5.8** The installation of any Solar Energy System does not carry with it any right to a clear line

of sight to the sun. It is understood that an Applicant, installer, or developer has the responsibility to make sure that the Solar Energy System(s) are positioned in such a way that they will achieve the optimal energy production Practicable. It is the responsibility of the Applicant, installer, or developer to obtain any and all rights, easements, or agreements as are or may be necessary to acquire and maintain a line of sight to the sun, if necessary.

**5.9** No Solar Energy System or required screening shall be located in a manner that will unreasonably reduce or impede the amount of sunlight available to any adjacent lot.

**5.10** No Solar Energy System shall be located in a manner as to reduce or impede the function of

any other pre-existing Solar Energy System or any radio or microwave communication device.

**5.11** No Grid-Tied Solar Energy System shall be installed until the Applicant has provided a copy of an interconnection agreement with the applicable local utility company.

**5.12** All Building-Mounted Solar Energy Systems, larger than Type 1, will require a Building Permit (whether or not they are exempted in Section 6 from other provisions of this local law).

**5.13** The Code Officer is authorized to issue Stop Work orders during the construction of Solar

Energy Systems.

**SECTION 6 – TYPE 1 SOLAR ENERGY FACILITIES**

**6.1** Type 1 Solar Energy systems do not require a permit but shall be constructed in conformance with New York State Uniform Fire Prevention and Building Code.

**SECTION 7 – TYPE 2 SOLAR ENERGY FACILITIES**

**7.1 Site Plan Planning.** All Type 2 Solar Energy Facilities require Site Plan review and approval by the Zoning Officer. Site Plan review will follow the procedures and requirements of the Site Plan Review Law, augmented as described in this section.

**7.2 Application Requirements.**

(a) **Sketch Plan.** The Sketch Plan shall include the requirements set forth in the Site Plan

Review Law plus any additional materials deemed necessary by the Zoning Officer.

(b) **Preliminary Site Plan Planning.** The Permit Fee is due at the time materials are

submitted for a preliminary Site Plan Review. Materials for the preliminary Site Plan Review shall include those set forth in the Site Plan Review Law, any additional materials deemed necessary by the Zoning Officer, and the following:

(i) Part 1 of a State Environmental Quality Review Act environmental assessment form (short form or full form, as appropriate), with accompanying data, schedules and mappings, each as reasonably requested by the Town.

(ii) If the property of the proposed project is to be leased, copies of the legal consent between all parties, including easements and other agreements, specifying the use(s) of the land for the life of the project. The life of the project herein means from the beginning of construction until the end of decommissioning and site restoration, presuming the exercise of all available options and extensions.

**7.3 Design Guidelines for Type 2 Solar Energy Facilities**

(a) **Height and setback requirements** shall be pursuant to the Density Control Schedule found in the Zoning Law of the Town of Lindley.

(b) **Building-Mounted Systems.** If the Type 2 Solar Energy System is Building-

Mounted the system must:

(i) Be mounted or integral to a lawfully-permitted building or structure.

(ii) To the maximum extent Practicable, not obscure architectural details or features.

**SECTION 8 – TYPE 3 SOLAR ENERGY FACILITIES**

**8.1 Site Plan Planning.** All Type 3 Solar Energy Systems require a issuance of a conditional use permit consistent with the requirements of this local law and the Code and Site Plan Planning and approval by the Planning Board. Site Plan Review will follow the procedures and requirements of the Site Plan Review Law, augmented as described in this section.

**8.2 Community Concept Meeting.** No less than thirty (30) days before the date on which an Applicant files materials for a preliminary Site Plan Review, the Applicant shall conduct at least one meeting for community members who may be impacted by the siting of the Facility. The purpose of the meeting is to educate the public about the proposed project, including the anticipated application date and likely construction timetable. The Applicant shall provide all landowners within a one (1)-mile radius of the location of the proposed Facility with notice of the meeting no sooner than twenty-one (21) days and no later than seven (7) days prior to the meeting.

**8.3 Reimbursement for Costs of Review of Type 3 Solar Energy Systems by Town Designate Engineer and Lawyer.**

(a) The Applicant for a special use permit for a Type 3 solar energy system shall be responsible for reimbursing the Town for the cost of the engineering review by the Town Designated Engineer and Lawyer.

(b) The Planning Board may use the Town Designated Engineer (TDE) and Lawyer and retain consultants and/or experts necessary to assist the Town in reviewing and evaluating the application at the expense of the Applicant.

(c) An Applicant shall deposit with the Planning Board funds sufficient to reimburse the Town for all reasonable costs of TDE and Lawyer and Consultant evaluation and consultation in connection with the review of any application. An initial deposit of no less than $5,000.00 (the “Initial Deposit”) shall be deposited with the Town at the time of submission of the application. The Town will deposit the Initial Deposit in and maintain a separate escrow account for all such funds. The Town’s consultants/experts shall invoice the Town for their services in reviewing the application on no greater than a monthly basis. If at any time during the process the escrow account has a balance of less than $3,000.00, the Applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of no less than $5,000.00. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the Town’s review processes, the remaining balance shall be promptly refunded to the Applicant. The amount of the Initial Deposit shall be commensurate with the scale of the project and determined by the Town.

(d) The total amount of the funds needed may vary with the scope and complexity of the project, the completeness of the application and other information may be needed to complete the necessary review, analysis and inspection of any construction or modification. In the event the Planning Board determines that the Initial Deposit will be insufficient for review of the application, the Planning Board shall notify the Applicant, and the Applicant shall supplement the escrow fund within thirty (30) days of notice from the Building Inspector of the estimated amount of the review fees necessary to process the application.

**8.4 Application Requirements.**

(a) **Sketch Plan.** The Sketch Plan shall include the requirements set forth in the Site Plan

Review Law plus any additional materials deemed necessary by the Planning Board.

(b) **Preliminary Site Plan Review.** The Permit Fee is due at the time materials are

submitted for a preliminary Site Plan Review. Materials for the preliminary Site Plan Review shall include those set forth in the Site Plan Review Law, any additional materials deemed necessary by the Planning Board, and the following:

(i) Part 1 of a State Environmental Quality Planning Act environmental assessment form (Short form or Full form, as appropriate), with accompanying data, schedules and mappings, each as reasonably requested by the Town.

(ii) If the property of the proposed project is to be leased, copies of the legal consent between all parties, including easements and other agreements, specifying the use(s) of the land for the life of the project. The life of the project herein means from the beginning of construction until the end of decommissioning and site restoration, presuming the exercise of all available options and extensions.

(iii) An emergency response plan.

(iv) A description of all on-site equipment and systems to be provided to prevent or handle fire emergencies and hazardous substance incidents in compliance with the fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law.

(v) Site drawings showing any potential shading of and from nearby structures or

vegetation.

(vi) Documentation of solar collector type including but not limited to equipment

specification sheets for all Solar Panels and collection lines, significant components, mounting systems, and inverters that are to be installed, and a calculation of the Nameplate Capacity.

(vii) In addition to features specified in the Site Plan Review Law, maps of

Environmentally Sensitive Areas and Important Views as defined in this local law.

(viii) If construction will occur in an Environmentally Sensitive Area, a document

explaining why construction in that area could not be avoided. The document should reference the best practices that will be followed and the mitigation measures that will be implemented to minimize the impact of the Facility to the maximum extent Practicable.

(ix) A survey of the area that will be disturbed during construction to identify any

Threatened Species, Endangered Species or Species of Special Concern. The survey is to be conducted by a professional or professionals qualified to do such work and may draw on existing public information on species occurrence in addition to field surveys, as required.

(x) If it is determined that Threatened Species, Endangered Species or Species of Special Concern visit or occupy some of the area that will be disturbed by construction, a document explaining why construction in that area could not be avoided. The document should contain a mitigation plan detailing how impacts on the Threatened Species, Endangered Species or Species of Special Concern will be minimized to the maximum extent Practicable. Steps should include but are not limited to stopping or delaying work to avoid important breeding, nesting, spawning and fledging (as appropriate to the affected species) times.

(xi) A Screen Planting Plan.

(xii) An operation and maintenance plan, including description of continuing Solar Energy System maintenance and property upkeep, safe access to the installation, as well as general procedures for operational inspections and maintenance of the installation.

(xiii) A Decommissioning and Site Restoration Plan.

(c) **Final Site Plan Planning.** Any Monitoring Fee and securitization for the Decommissioning and Site Restoration Plan (as further set forth in Section 8.8 and Section 9) are due at the time materials are submitted for the final Site Plan Planning.

**8.5 Community Benefits.** The Permittee shall provide tangible community benefits, such as

Payment in Lieu of Taxes (PILOT) agreements, host community agreement, other payments pursuant to an agreement with the Town of Lindley, or support of other community organizations as agreed to by the Town of Lindley. The Town may impose a tax lien on the property on which the Facility is sited in the amount of any payments not made by the Permittee within six (6) months of the due date to the Town and after thirty (30) days’ notice of such non-payment from the Town Clerk delivered in writing to the last known contact address for the Permittee, and any permits and approvals given by the Town in connection with the Facility shall immediately become void and revoked and the Facility shall be deemed abandoned and Decommissioned pursuant to Section 9 of this local law.

**8.6 Design Requirements for Type 3 Solar Energy Facilities**

(a) **Facility Location.** To the greatest extent Practicable, the Facility should be located so as to reduce fragmentation of any remaining grassland and shrubland habitat. The intent is to minimize the Facility’s impact on area-sensitive grassland and shrubland species.

(b) **Hedgerows**. To the greatest extent Practicable, the Facility should avoid disturbance

of existing hedgerows and trees lines between fields, pastures and meadows.

(c) **Setbacks.** Solar facilities shall meet the setback requirements listed below. Compliance with these setbacks shall be shown in the materials submitted for the preliminary Site Plan Review. Fencing, collection lines, access roads and landscaping may occur within the setbacks.

1. Centerline of Public Roads: 50 feet.
2. Non-Participating Property lines (nonresidential): 50 feet.
3. Non-Participating Property lines of parcels containing a single or multi-family residence: 200 feet.
4. Non-Participating Residence (unless permanently abandoned): 250 feet.
5. Participating Property line: 0 feet
6. Parcel adjacent to a parcel with a similar-scale solar facility: 0 feet.

(d) **Lot coverage.** Type 3 Solar Projects shall be permitted to use all area within the setback boundaries

(e) **Height.** Solar collection devices shall have no components that exceed 20 feet above

finished grade when the system is oriented at maximum tilt from horizontal.

(f) **Appurtenant structures.** All appurtenant structures of the Facility, including but not

limited to equipment structures, storage facilities, transformers, and substations, must be architecturally compatible with each other. Whenever Practicable, structures should be screened from view by vegetation and joined or clustered to avoid or minimize adverse visual impacts.

(g) **Visual Effect**. The Facility must have the least visual effect reasonably Practicable on

the surroundings, as determined by the Planning Board. The determination must be based on site specific conditions including topography, adjacent structures, and roadways. The Planning Board will require that a Visual Impact Assessment be submitted. Solar panels shall have non-PFAS-containing anti-reflective coatings. An appropriate methodology will be used to ensure that solar glare exposure at any Non-Participating Residence, airport or public roadway will be avoided or minimized, and will not result in complaints, impede traffic movements or create safety hazards.

(h) **Agriculturally Important Areas.** If any part of the Facility is sited on an Agriculturally Important Area, the maintenance plan of the Facility should be designed to maintain or improve the quality of the soil in the Agriculturally Important Area. The Permittee may be required to seed up to twenty percent (20%) of the total surface area on the lot between and around the panels with native perennial vegetation designed to attract pollinators.

(i) **Fencing.** Fences not exceeding eight (8) feet in height, including open-weave and solid fences, shall be permitted for the purpose of screening or enclosing the Facility. If utilized, fences should draw on the agricultural aesthetic of the Town, for example by using livestock fencing and wooden posts. Chain link, barbed, razor, and concertina wires, electrically charged wire, railroad ties, concrete masonry units, scrap metal, tarped, and cloth fences and accessory parts are strongly discouraged. Temporary interior electric fences for the purpose of managing grazing animals according to a grazing plan approved by the Town are acceptable. Warning signs with the owner’s name and emergency contact information must be placed on any access point to the Facility.

(j) **Signage.** If the system is fenced, signs with the installer’s or Facility operator’s

identification, emergency contact information, and appropriate warning signage shall be

posted at any access point to the system. If the system is not fenced, signs with the installer’s or Facility operator’s identification, emergency contact information, and appropriate warning signage shall be posted at the site in a manner that makes the signs clearly visible. Solar equipment shall not be used for displaying any advertising. All signs, flag, streamers, or similar items, both temporary and permanent, are prohibited on solar equipment except:

(a) manufacturer’s or installer’s identification;

(b) appropriate warning signs and placards;

(c) signs that may be required by a federal agency; and

(d)signs that provide a 24-hour emergency contact phone number and warning of any danger.

(k) **Lighting.** Motion-activated or staff-activated security lighting may be installed in the

Solar Energy System, provided that such lighting conforms to the “Five Principles for Responsible Outdoor Lighting” developed by the International Dark-Sky Association (IDA) and Illuminating Engineering Society of North America (IES), 2020 version or an updated version. Lighting must use IDA-approved fixtures or equivalent and fixtures should have a backlight, upplight and glare rating calculated based on the Joint IDA-IES TM-15-11 (“Luminaire Classification System for Outdoor Luminaires”). Lighting levels should be in keeping with the rural character and small residential communities of Lindley; examples include the LZ0 (no ambient lighting) and LZ1 (low ambient lighting) levels as described in the IDA Model Lighting Ordinance. If the system is fenced, such lighting should only be activated when the area within the fenced perimeter has been entered; if not fenced, when the area that might reasonably have

been fenced has been entered.

(l) **Noise.** The Facility shall be designed to meet the following maximum noise limits:

(i) Forty-five (45) dBA Leq (8-hour) at the outside of any existing Non-Participating Residence

(ii) Fifty-five (55) dBA Leq (8-hour) at the outside of any existing Participating

Residence

(iii) Fifty-five (55) dBA Leq (8-hour) across any portion of a Non-Participating

Property

(m) **Screen Plantings**. Native species are preferred. A mix of deciduous and evergreen

varieties is preferred.

(n) **Revegetation and Vegetation Maintenance.** Land underneath Solar Panels should be maintained as vegetative cover. The Town encourages the use of non-invasive, native ground cover under and between the rows of Solar Panels. Vegetative cover shall be low-maintenance, drought-resistant, nonfertilizer-dependent and, to the extent Practicable, shall be pollinator-friendly to provide habitat for bees. Species used for vegetative cover should be non-toxic to animals that might likely be used for site maintenance via grazing (for example, fescue species with endosymbionts should not be used as they are toxic to sheep). Preferred vegetation maintenance methods are, in order of preference, (1) grazing and (2) mowing or other mechanical means. General use of herbicides or other chemical methods of vegetation control is strongly discouraged; spot application for controlling the establishment of

harmful invasive species is acceptable.

(o) **Stormwater Management.** The Solar Energy System shall be designed with a ground cover pervious to the maximum extent Practicable so that stormwater moves as sheet flow (i.e. not channelized) across the system and infiltrates the soil. The following criteria should be met in order to establish a pervious cover:

(i) panels must be positioned to allow water to run off their surfaces.

(ii) soil with adequate vegetative cover must be maintained under and around the panels.

(iii) the area around each panel must be adequate to ensure proper, sufficient and effective vegetative growth under and between the panels.

(p) **Utilities.** Practicable efforts, as determined by the Planning Board, shall be made to place all utility connections for the Facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. When aboveground cables and transmission lines must cross agricultural fields, utility poles that provide longer spanning distances should be located on field edges to the greatest extent Practicable to avoid poles being situated in agricultural lands. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

(q) **Ingress and Egress.** Any new on-site vehicular paths within the site shall be designed

to minimize the extent of impervious materials and soil compaction; they should not be more than sixteen (16) feet in width, except for passing and turnaround areas required under the New York State Uniform Fire Prevention and Building Code and should be constructed at grade. If a locked gate at the intersection of the accessway and a public road is required to obstruct entry by unauthorized vehicles, such gate must be located entirely upon the lot and not on the public Right-of-Way. Any gates or other locked or secured or publicly inaccessible areas require a key box for emergency and fire access as required by the New York State Uniform Fire Prevention and Building Code.

**8.7 Construction Requirements for Type 3 Solar Energy Systems**

(a) **Notice.** At least fourteen (14) business days prior to the Permittee’s commencement of construction date, the Permittee shall notify the public of the intended construction as

follows:

(i) Provide notice by mail in plain language reasonably understandable to the average person to host landowners and landowners within one (1) mile;

(ii) Provide notice in plain language reasonably understandable to the average person, to local Town and County officials and to emergency personnel.

(b) **Construction Hours.** Construction and routine maintenance activities on the facility

shall be limited to 7 a.m. to 8 p.m. Monday through Saturday and 8 a.m. to 8 p.m. on Sunday and national holidays, with the exception of construction and delivery activities, which may occur during extended hours beyond this schedule on an as-needed basis. If, due to safety or continuous operation requirements, construction activities are required to occur beyond the allowable work hours, the Permittee shall notify the affected landowners and the Code Officer. Such notice shall be given at least twenty-four (24) hours in advance, unless such construction activities are required to address emergency situations threatening personal injury, property, or severe adverse environmental impact that arise less than twenty-four (24) hours in advance. In such cases, as much advance notice as is practical shall be provided.

(c) **Flagging.** At least two (2) weeks before tree clearing or ground disturbing activities,

the Permittee shall stake or flag the planned limits of disturbance (LOD), the boundaries of any Environmentally Sensitive Areas and known archeological sites in the LOD, the edges of all access roads whether on or off the ROW, limits of areas to be cleared and other areas needed for construction, including, but not limited to, solar array work areas, proposed infiltration areas for post-construction stormwater management, and laydown and storage areas. In addition, archeological sites shall be surrounded with construction fencing and a sign stating restricted access.

(d) **Preservation of Vegetation.** Tree and vegetation clearing shall be limited to the

minimum necessary for facility construction and Practicable operation. All Practicable efforts must be made to preserve natural vegetation during the construction process, unless vegetation removal is required to minimize the shading of solar collectors.

(e) **Dig Safely.** Prior to the commencement of construction, the Permittee shall become a

member of Dig Safely New York. The Permittee shall require all contractors, excavators, and operators associated with its facilities to comply with best practices for protecting underground facilities.

(f) **Air Emissions.** To minimize air emissions during construction, the Permittee shall:

(i) Prohibit contractors from leaving generators idling when electricity is not needed and from leaving diesel engines idling when equipment is not actively being used.

(ii) Implement dust control procedures to minimize the amount of dust generated by construction activities.

(iii) Use construction equipment powered by electric motors where feasible, or by

ultra-low sulfur diesel fuel.

(iv) Dispose or reuse cleared vegetation in such a way that it minimizes greenhouse gas emissions (e.g., lumber production or composting).

(g) **Construction Debris.** Any debris or excess construction materials shall be removed to a facility duly authorized to receive such material. No burying of construction debris or excess construction materials is allowed.

(h) **Environmentally Sensitive Areas.** The mitigation plan required by Section 8.3(b)(viii) shall be implemented. If the Code Officer determines that the mitigation plan is not

being adequately followed, an Environmental Monitor, paid for by the Permittee, will be hired to ensure future compliance. If deemed necessary by the Code Officer, a Stop Work order will be issued until an Environmental Monitor is in place.

(i) **Threatened Species, Endangered Species, Common Birds in Steep Decline and**

**Species of Special Concern.** The mitigation plan required by Section 8.3(b)(x) shall be implemented. If the Code Officer determines that the mitigation plan is not being adequately followed, an Environmental Monitor, paid for by the Permittee, will be hired to ensure future compliance. If deemed necessary by the Code Officer, a Stop Work order will be issued until an Environmental Monitor is in place.

(j) **Agriculturally Important Areas.** If construction of the Facility temporarily or permanently affects an Agriculturally Important Area, the Facility shall be constructed consistent with the NYSAGM “Guidelines for Solar Energy Projects-Construction Mitigation for agricultural Lands,” revision dated 10/18/2019, as amended or updated. If the Code Officer determines that the NYSAGM guidelines are not being adequately followed, an Agricultural Monitor, paid for by the Permittee, will be hired to ensure future compliance. If deemed necessary by the Code Officer, a Stop Work order will be issued until an Agricultural Monitor is in place.

(k) **Environmental Monitor and Agricultural Monitor.** The Environmental Monitor and the Agricultural Monitor are each authorized to issue Stop Work orders. If both an

Environmental Monitor and an Agricultural Monitor are needed, the same individual may do both jobs if he or she is qualified to do both kinds of monitoring; however, neither may be an employee of any engineering company having an ongoing relationship with the Permittee or any of its affiliates such that they may have a conflict of interest in the reasonable judgment of the Town.

(l) **Hazardous Materials.** The Permittee will handle and store all hazardous materials in

accordance with applicable law and industry best practices.

(m) **Contact Information.** Prior to the completion of construction, the Permittee shall

provide the Code Officer with the contact name, telephone number, email and mailing address of the facility operations manager.

(n) **Restoration Requirements.** If the Facility is located in an Agriculturally Important

Area, prior to commissioning post-construction site restoration shall take place as described in the NYSAGM “Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands”, revision dated 10/18/2019, as amended or updated. The Permittee shall provide the Town with photographs of the entire site in its condition prior to beginning construction to facilitate confirmation of restoration at the end of Decommissioning.

**8.8 Operation Requirements of Type 3 Solar Energy Facilities**

(a) The Permittee will inform the Code Officer when the Facility is completed and submit a signed commissioning report to the Town.

(b) Permittee shall notify the Code Officer if for any reason there has been a lack of

production for six (6) consecutive months after the Facility is connected to the grid according to the Permittee’s interconnection agreement with the applicable local utility. Notification shall occur within two (2) weeks of passing the six-month mark. Failure of Permittee to begin substantial construction within twelve (12) months of issuance of the last Permit or site plan approval for the Facility by the Town shall be deemed an abandonment of the Facility, and any such approval and any related approval shall be void and Permittee shall be required to pursue all new approvals.

(c) In the event of any catastrophic incident involving the Facility and its associated

equipment, the Permittee shall notify the Code Officer no later than twelve (12) hours following such an event.

(d) Noise levels and light levels should be monitored periodically, and at least annually, to ensure compliance with the limits listed in Sections 8.5(j) and 8.5(k) or the Site Plan Planning Law, whichever applies. Remedial action shall be taken to attain compliance if the measured levels exceed the allowed levels.

(e) The Permittee shall retain a qualified landscape architect, arborist, or ecologist to

inspect the screen plantings for two (2) years following installation to identify and replace any plant material that did not survive, appears unhealthy, and/or otherwise needs to be replaced.

(f) Equipment and vehicles not used in direct support, renovations, additions or repair of the Facility must not be stored or parked on the Facility site.

(g) Permittee shall notify the Town at least sixty (60) days in advance of beginning any substantial renovations or repowering of the Facility and shall work with the Town in good faith to manage traffic and other impacts to the community from such operations. Permittee shall notify the Town at least thirty (30) days in advance of use of any unmanned aerial vehicle in the operation, maintenance or inspection of the Facility.

(h) Promptly upon the Town’s request, the Permittee shall provide any reasonable information requested by the Town pertaining to the operation, production, maintenance, and construction of the Facility; provided that the Town shall provide reasonable assurances to Permittee that any trade secret information shall be kept confidential.

(i) Permittee shall promptly notify the Town of any change to its contact information during the life of the Facility and shall provide the Town with an immediate point of contact with respect to the Facility that shall be kept current.

**8.9 Abandonment and Decommissioning**. A Decommissioning and Site Restoration Plan

shall be submitted with each application in accordance with Section 9. The Decommissioning and Site Restoration Plan must meet the approval of the Planning Board.

**SECTION 9 – ABANDONMENT AND DECOMMISSIONING OF SOLAR ENERGY**

**FACILITIES**

**9.1** A Decommissioning and Site Restoration Plan is for full or partial Facility decommissioning and site restoration in the event all or a material portion of the Facility cannot be completed, is considered abandoned, is no longer operating, or after the end of the useful life of the Facility.

**9.2** A Decommissioning and Site Restoration Plan shall, at a minimum, contain the following

elements and should describe how the following requirements will be met:

(a) Specify when and what constitutes an event requiring decommissioning, including

abandonment of the facility which, in the absence of approval by the Town to the contrary, shall be defined as a lack of production for six (6) consecutive months. In all cases the violation of any Permit or site plan conditions, the lack of a current Permit or site plan approval, a violation or lack of maintenance of any required insurance or decommissioning bond or security, shall be an event requiring decommissioning.

(b) Specify the form and type of notice required to the Town in the event of any abandonment, decommissioning, sale, transfer, partial transfer, assignment, or occurrence of any event which may result in an act or partial order requiring partial or complete decommissioning of the site.

(c) All components of the Facility are to be removed as described in the NYSAGM “Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands”, revision dated 10/18/2019, as amended or updated, and the site restored, as near as Practicable, to a state the average person would consider at least as good as pre-Facility conditions. Access roads shall be removed and the road area restored, unless a separate agreement is reached with the Town and/or landowner, as appropriate. The Planning Board may authorize the owner or operator in writing to leave landscaping, designated below-grade foundations, enclosures other than container structures, or concrete pads in place to minimize erosion and disruption to vegetation on a case-by-case basis.

(d) The Town of Lindley strongly encourages that all reusable and recyclable components

be sold for reuse or recycled to the greatest extent Practicable. The Decommissioning and Site Restoration Plan should discuss recycling and reuse opportunities; if something is reusable or recyclable but the Applicant decides not to reuse or recycle it, the Decommissioning and Site Restoration Plan should provide a valid rationale for that choice. It is understood that reuse and recycling options will change over time and hence it is expected that the reuse and recycling plan will need to be updated at the time of Decommissioning.

(e) All non-reusable and non-recyclable solid and hazardous waste shall be disposed of in

accordance with local, state, and federal waste disposal regulations, including the removal of any damaged or contaminated soils. No designation of any facilities by a ‘beneficial use declaration’ shall be permitted to vary this clean-up and remediation/disposal rule unless approved by the Planning Board at the time of the application.

(f) Agriculturally Important Areas shall be restored in accordance with the NYSAGM

“Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands”, revision dated 10/18/2019, as amended or updated. If, at the time of Decommissioning, NYSAGM has further revised its guidelines, the Planning Board may, at its discretion, require compliance with the further revised guidelines.

(g) Soil and vegetation shall be remediated to return the parcel to its original condition prior to construction, including an adequate layer of topsoil where existing topsoil has been

removed or eroded. Restoration may require decompacting and regrading soil, repair of drainage structures, and mitigation of any topsoil deficiency, as necessary to restore the site after Decommissioning.

(h) An expected timeline for execution of the Decommissioning and Site Restoration Plan

shall be described, together with a cost estimate detailing the projected cost of executing the plan, duly prepared and sealed by a Professional Engineer. Cost estimations must take inflation into account over the expected life of the project and have a mechanism to ensure the periodic updating and securitization of decommissioning and restoration costs. Cost estimates and securitization shall not be net of salvage, scrap, recycle or residual value.

**9.3** Removal of Solar Energy Facilities must be completed in accordance with the

Decommissioning and Site Restoration Plan to the satisfaction of the Code Officer. If the

Facility is not fully decommissioned after being considered abandoned, the municipality

may remove the Facility and restore the property using the security required by Section 9.4

and impose a tax lien on the property to cover any remaining costs to the municipality to

complete the actions required under the Decommissioning and Site Restoration Plan, and the Town shall be entitled to dispose of any equipment or personal property removed from the property at auction or to any third party, and the value of such disposition shall offset any tax lien or remaining costs borne by the Town in excess of the security required by Section 9.4. The Town shall notify the Permittee of any amounts remaining after such offset, and such amount shall be considered forfeit to the Town in the event the Permittee fails to claim such amounts and direct their payment within ninety (90) days of such notice.

**9.4** An Applicant required to submit a Decommissioning and Site Restoration Plan shall provide a form of surety, either through escrow agreement, bond (including as co-obligee with any property owner pursuant to a written agreement between such property owner, Permittee, and the Town), letter or credit, or like form approved by the Planning Board, to cover all costs of decommissioning and removal calculated at a minimum of 125% of the approved estimated cost of decommissioning and restoration. The estimate of costs shall be prepared by a licensed engineer and be sealed accordingly, and the annual cost shall take into account New York State prevailing wage rules and any inflationary rise in surety amounts covered, contain an evergreen clause, or otherwise account for increases in the cost of decommissioning and restoration in a manner as approved by the Planning Board. At a minimum, at least once every 3 years after any approval or Permit is issued by the Town, the Applicant or then future or successor owner or operator of the facility shall provide an updated certified cost estimate for decommissioning, removal, and restoration, and if the resulting 125% cost requirement shows that the existing security or bond is monetarily insufficient, then the owner shall update such bond or undertaking, or see to its replacement or supplementation in an amount to equal such updated minimum 125% of cost number. The amount of such bond or undertaking shall not be net of salvage, scrap, recycle or residual value.

**SECTION 10—TRANSFERS OF PERMITS AND APPROVALS, OR CHANGES IN**

**FACILITY OWNERSHIP:**

**10.1** Approvals and Permits are issued to specific users for specific operations, and approvals

and Permits shall not be assigned, transferred or sold to a new owner, new user, different premises, or to a new or changed operation or operator, including any direct or indirect change in control or parent, except in accordance with the provisions of this section. A Permit Fee may apply to the Planning of any assignment or transfer by the Code Officer or Planning Board. In the sole discretion of the Code Officer, any Planning may be transferred to the Planning Board when unique issues or concerns are presented.

**10.2** General building and Permits may be transferred to new owners, along with any certificates of occupancy or compliance, at the time of transfer of land titles when recorded in the Steuben County Clerk’s Office. No special language is required and the transfer of title to the solar fixtures and improvements shall be deemed merged with the transfer of fee title.

**10.3** A Type 2 Solar Energy System Permit or approval may be transferred to a new owner of the land or facilities after the new owner or operator has agreed in writing to be bound and abide by all requirements of such Permit or approval, in such form as may be reasonably required by the Code Officer.

**10.4** A Type 3 Solar Energy System Permit or approval may only be transferred if there is no material violation of, or non-compliance with, all agreements with the Town, Permit and approval conditions, and the new owner applies for approval of the transfer of such Permit(s) or approval(s) by the Planning Board, specifying, in each case, how compliance with the Permit or approvals will be maintained, including but not limited to how the new owner or operator, including as a proposed new Permittee, plans to document or verify:

(i) the lawful assumption of all liabilities and all obligations for the site, including its obligation under any agreement with the Town, operation and maintenance, general site management, and compliance with industry, utility, and Town Permit and approval conditions;

(ii) assumption or replacement of the Operation and Maintenance Plan for each site;

(iii) assumption or replacement of Decommissioning and Site Restoration Plan;

(iv) replacement of any required deposits or sureties for the Decommissioning and Site Restoration Plan, including any Restoration Requirements.

(v) assumption or replacement of contracts or agreements with any Environmental Monitors or Agricultural Monitors including, as or when applicable, the identification of new monitors, together with their qualifications and other information reasonably requested by the Planning Board.

**10.5** When undertaking any Planning, the Code Officer and Planning Board shall act in their

discretion relative to any Plannings or approvals of assignments or transfers of Permits or approvals and, in all cases, such officers may request additional relevant materials, verify

that the proposed transfer, assignment, or other conveyance is to a fiscally solvent individual or organization that has the knowledge, experience, creditworthiness, personnel or capability to operate and manage the site in accordance with legal requirements and all Permit or approval requirements. The Code Officer or Planning Board may require the transferor or transferee to certify that transferee meets this requirement, together with documentation as to why such certification is accurate and not speculative.

**10.6** Any transfer, conveyance, or assignment of any Facility or any Permit or approval that is

not undertaken and approved (when so required) by these provisions shall be a violation of

this local law, and no such transfer, conveyance or assignment shall relieve the Permittee from its liabilities or obligations under this local law. Despite such violation, acceptance of any transfer, conveyance, or assignment of any Facility or any Permit or approval constitutes for all purposes the acceptance by such new owner of all of the obligations, terms, limitations and conditions agreed to by the original owner, as fully and effectually as if such transferee-new owner were a Permittee or the original Permittee.

**10.7** Any transfer, conveyance or assignment of any Facility, Permit, or approval that has been

revoked or has expired shall require a Planning of such Permit renewal and transfer, conveyance, and assignment as if the same were a new application.

**SECTION 11—ENFORCEMENT:** Any violation of this local law shall be enforced in

accordance with this Chapter, the Code, or applicable law. All provisions of New York State law

generally applicable to misdemeanors shall apply to any criminal proceeding brought under this

Chapter, and any misdemeanor shall be deemed an unclassified misdemeanor. For purposes of

this Chapter, the Town's Justice Court is hereby vested and imbued with jurisdiction to issue

administrative and other warrants in compliance with the New York Criminal Procedure Law

and administrative codes of the State of New York, as well as to hear and adjudicate claims and

allegations relating to the criminal or civil violation of this Chapter and thereafter, if appropriate,

impose any fine, penalty, or sanction.

**11.1** Any person or entity that violates any of the provisions of this Chapter shall be guilty of a

criminal violation and subject to a fine of not more than $2,500, or subject to a civil penalty of not more than $5,000 to be recovered by the Town in a civil action. Each week that any noncompliance or violation continues is and may be charged as a separate violation.

**11.2** The application or pursuit of any civil or criminal fine, sanction, or penalty shall not

preclude the pursuit of any other remedy by the Town, or be deemed an election of remedies, including but not limited to the right to seek equitable relief. The rights and remedies provided by this Chapter shall not be in lieu of, and shall be in addition to, any other right or remedy available to the Town, whether sounding in enforcement or otherwise.

**11.3** Whenever the Town shall believe from evidence satisfactory to it that there is a violation of

this Chapter, the Town may bring an action to enjoin and restrain the continuation of such violation, or to compel compliance with this Chapter and with law. In such action preliminary and final relief may be granted under Article 63 of the Civil Practice Law and Rules and, in connection therewith, the Town shall not be required to:

(i) post any bond or undertaking.

(ii) prove that there is, or will likely be, irreparable harm; or

(iii) demonstrate that the Town has no adequate remedy at law. In such action, the court may also award any damages or other relief requested, including declaring the rights and interests of any parties and imposing any civil penalties.

**SECTION 12—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 must

not affect the validity or enforceability of any other section, subsection, paragraph, sentence,

clause, provision, or phrase, which must remain in full force and effect.

**SECTION 13—EFFECTIVE DATE:** This local law shall take effect immediately upon filing with the New York Secretary of State.