

1. Title

This Local Law shall be referred to as “A Local Law Regulating Solar Energy Systems”. Schedule A Town of Schoharie Land Use Chart, Article 12 Definitions and Article 4 Section 4.8 of the 2015 Town of Schoharie Zoning Law are hereby amended.

2. Enactment

This Local Law is adopted and enacted pursuant to the authority and power granted by the New York State Municipal Home Rule Law, the New York State Town Law and pursuant to Article 10 of the Town of Schoharie Zoning Law.

3. The 2015 Town of Schoharie Zoning Law, Schedule A: Town of Schoharie Land Use Chart is hereby amended as follows;

- A) Schedule A tables are hereby amended to include Level 1 (Small) Solar Energy System as a Permitted Accessory Use in all zoning districts in the Town of Schoharie. Such systems shall meet all requirements of this local law.
- B) Schedule A tables are hereby amended to include Level 2 (Intermediate) Solar Energy System as a Permitted Use in all zoning districts in the Town of Schoharie. Such systems shall meet all requirements of this local law, including a Site Plan Review.
- C) Schedule A tables are hereby amended to include Level 3 (Large) Solar Energy System as a Permitted Use in all zoning districts in the Town of Schoharie except the Hamlet district. Such systems shall meet all requirements of this local law, including a Special Use permit and a Site Plan Review.
- D) Schedule A tables are hereby amended to include Level 4 (Undetermined) Solar Energy System as a Permitted Use in all zoning districts in the Town of Schoharie except the Hamlet district upon approval of a Special Use Permit by the Town Board, on a case-by-case basis. Such systems shall meet all requirements of this local law, as determined and specified by the Town Board, including a Site Plan Review.
- E) Schedule A tables are hereby amended to delete ‘Solar Farms’.

4. The 2015 Town of Schoharie Zoning Law, Article 12 – Definitions is hereby amended as follows:

The following terms and their definitions as found in Article 12 are deleted:

- Building-Integrated Photovoltaic (BIPV) Systems
- Collective Solar
- Flush Mounted Solar Panel
- Freestanding or Ground-mounted Solar System
- Glare
- Net-metering
- Photovoltaic (PV) Systems
- Qualified Solar Installer
- Rooftop or building mounted solar system
- Small scale solar
- Solar access
- Solar collector
- Solar Energy equipment/system
- Solar Farm or Solar Power Plant

Solar Panel
Solar-Thermal systems

The following terms and definitions are inserted where appropriate in Article 12:

Abandonment – Solar Energy Systems

A solar energy system will be considered to be abandoned if

(1) the owner of the system does not provide to the Code Enforcement Officer (CEO) the most recent yearly certification by the public utility that the system has been providing electricity as proposed in the application: and

(2) an explanation and a proposed remedy for the omission of said certification are not provided to the CEO or are not considered satisfactory by the CEO within one month of the yearly certification date.

Building-mounted Solar Collectors

An array of solar collectors mounted securely to racks attached to roof mounts, or integrated into building materials such as roof tiles, siding, or windows.

Capacity - Solar

The manufacturer's nameplate capacity of the Solar Energy System as measured in kilowatts (kW) or megawatts (MW) AC.

Decommissioning

The process of disassembling and removing from the installation site a solar energy system in a thoroughly safe and complete manner.

Free-standing Solar Collectors

An array of solar collectors attached directly and securely to the ground via poles, racks, or other mounting systems.

Glare

The effect produced by light with intensity sufficient to cause annoyance, discomfort, or loss in visual performance or acuity.

Noise analysis

A technical or professionally prepared analysis of sound generated, sufficient to provide a clear understanding of any auditory impact.

Owner - Solar

The owner of the property on which a Solar Energy System is located or installed, or their lessee, licensee or other person authorized to install and operate a Solar Energy System on the property.

Post-construction

The period of time commencing when the applicant provides to the Code Enforcement officer notification from a certified electrical inspector that the solar energy system has been installed and completed as proposed, and from the public utility that the system has been properly inspected and connected.

Solar Collector

Any panel, film, paint or other device which captures solar radiation.

Solar Energy System

Solar Energy System: The arrangement, combination and placement of any of the following: collectors, controls, energy storage devices, or other materials, hardware or equipment necessary to the process by which solar radiation is (1) collected and (2) converted into electrical energy, and/or (3) stored, (4) protected from unnecessary dissipation and/or (5) distributed. Only photovoltaic, electricity-generating, systems are included in this definition. Systems for converting solar radiation into any other form of energy, including but not limited to thermal, mechanical, and chemical energy, are not included in this definition.

Level 1 Solar Energy System

Any and all solar energy systems which have up to but not more than a capacity of 25 kW of electric energy; which are proposed as an accessory use for residential or other onsite consumption. These systems require a building permit.

Level 2 Solar Energy System

Any and all onsite solar energy systems which have a capacity of more than 25 kW but not more than 200 kW of electric energy; which are proposed as accessory use for agricultural, multi-family residences, retail, or other commercial operation. These systems require a building permit and a Site Plan Review.

Level 3 Solar Energy System

Any and all solar energy systems which are proposed with a principal use of offsite energy distribution, have a capacity of more than 200 kW and encompass no more than 15 acres. These systems require a building permit, a Site Plan Review, and a Special Use Permit.

Level 4 Solar Energy System

Any and all solar energy systems which are not included in the definitions immediately above of Level 1 and of Level 2 and of Level 3 solar energy systems. These systems require review by the Town Board as set forth in Section 4.8-6.

Solar Panel

A photovoltaic (PV) module; a packaged, encapsulated, usually flat and rectangular, connected assembly of photovoltaic solar cells, which captures solar radiation and converts it into electricity.

5. Article 4 Section 4.8 entitled 'Small Scale Solar Installations' of the 2015 Town of Schoharie Zoning Law is hereby deleted in its entirety and replaced with a new Article 4 Section 4.8 entitled 'Solar Energy Systems' as follows:

Section 4.8 Solar Energy Systems

4.8-1 Purpose and Intent

A. The Town of Schoharie recognizes that solar energy is a clean, readily available, and renewable energy source. It further recognizes that energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.

B. The Town of Schoharie has determined that comprehensive regulations regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents, and its businesses. This section aims to accommodate solar energy systems while balancing the potential impact on neighbors while preserving the rights of property owners to install solar energy systems. This section is intended to promote the effective and efficient use of solar energy resources; set provisions for the placement, design, construction, and operation of such systems to be consistent with the Town of Schoharie Comprehensive Plan; to uphold and protect the public health, safety, and welfare; and to ensure that such systems will not have a significant adverse impact on the environment, and on the aesthetic qualities and character of the Town.

4.8-2 Applicability

A. The requirements of this section shall apply to all solar installations modified or installed after the effective date of this local law.

B. Solar installations for which a valid building permit has been issued, or if no building permit is presently required, for which installation has commenced before the effective date of this local law shall not be required to meet the requirements of this local law.

C. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the State Building Code.

4.8-3 Level 1 Solar Energy Systems

A. No Level 1 solar energy system shall be installed or operated in the Town except in compliance with this section.

B. The installation of a Level 1 solar energy system, including additions to any and all previously installed solar energy systems on the property in question, consisting of a panel or panels of cumulative and total area, including all previously installed solar panels, of more than 20 square feet, whether attached to the main structure, an accessory structure, or as a free standing solar collector permitted as an accessory structure, shall meet all requirements of this sub-section 4.8-3, and shall require building and zoning permits.

C. Level 1 solar energy systems shall not exceed a capacity of 25 kW.

D. All solar energy systems shall be surfaced, designed, and sited so as not to reflect or cast glare onto adjacent properties or roadways.

E. Setbacks for Level 1 Solar Energy Systems: Solar collectors or panels are subject to the minimum setbacks, and other dimensions for whatever zoning district in which they are proposed to be installed. In addition, the installation of free standing solar collectors located in a front yard shall be prohibited.

F. Height limits for solar energy systems mounted on buildings shall be no more than five feet above the existing building height and shall not exceed the maximum permitted building height for the zoning district. No portion of a freestanding solar energy system shall exceed 20 feet in height.

G. All Level 1 Solar Energy Systems shall be designed and installed according to New York State Building Code to withstand wind pressures applied to exposed areas by wind from any direction, to minimize the migration of light or sound from the installation and to minimize the development of sight obstructions for adjacent structures or land parcels.

H. Solar collectors that are integrated directly into building materials such as roof shingles, and that are a permanent and integral part of the building or structure shall meet all applicable building codes, shall require a building permit and shall obtain all other necessary permits.

I. In order to ensure firefighter and other emergency responder safety, except in the case when solar panels are installed on an accessory structure less than 200 square feet in area, construction as it pertains to the edge of the roof and along the ridge shall comply with Section 605.11 Solar Photovoltaic Power Systems, 2015 International Fire Code to provide space on the roof for walking around the solar energy system.

J. Free standing solar collectors are permitted as accessory structures in all zoning districts of the Town subject to the following additional conditions:

1) In the Rural Agricultural and Commercial Districts, a lot must have a minimum size of 1 acre in order for free standing solar collectors to be permitted. In the Hamlet District, a lot must have a minimum size of 1/2 acre in order for free standing solar collectors to be permitted.

2) Screening shall be provided where needed to protect adjoining lots from visual impact through the use of architectural features, earth berms, landscaping, fencing, or other screening which will harmonize with the character of the property and surrounding area.

3) The total surface areas of all freestanding solar collectors shall not exceed the area of the ground covered by the building structure of the largest building on the lot measured

from the exterior walls, not including patios and decks. A Level 1 Solar Energy System that exceeds this requirement will be considered a Level 2 Solar Energy System.

4) The installation of free standing solar collectors located in a front yard shall be prohibited.

4.8-4 Level 2 Solar Energy System

A. Applicability

1) Any Level 2 solar energy system erected, constructed, modified, or operated in the Town of Schoharie after the effective date of this local law shall be in compliance with this Subsection. Subsection 4.8-4 is applicable only to Level 2 solar energy systems and shall not apply to Level 1 solar energy systems or Level 3 solar energy systems as defined herein.

2) A Site Plan Review by the Planning Board shall be required for all Level 2 solar energy systems along with building and zoning permits.

B. Applications, Permits and Approvals Required

1) All applications for Level 2 solar energy systems shall be accompanied by an application for a Site Plan Review, and all applicable fees as may be established by the Town Board.

2) In addition to meeting the requirements of Article 7 of the Land Use Law, all Site Plan Review applications for Level 2 solar energy systems shall include the following:

a) Plans and drawings showing the proposed layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation and roads, and the proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the Planning Board's issuance of site plan approval and building and zoning permits are issued by the CEO. Plans and drawings shall be signed by a professional engineer registered in New York State unless waived by the Planning Board.

b) If the Planning Board determines that a review will require engineering, legal, environmental, or planning costs, the applicant shall provide an escrow account to pay for such costs. The escrow account shall be in an amount as determined by the Planning Board and shall be replenished when required by the Planning Board. The escrow account shall be established prior to commencement of any further Planning Board review.

c) The Planning Board may require photo simulations showing the proposed solar energy system in relation to the building/site along with elevation views and dimensions, and manufacturer's specs and photos of the proposed solar energy system, solar collectors, and all other components. Additional simulations may be required that include neighboring properties.

d) A completed Part I of the Full Environmental Assessment Form (SEQRA).

e) If the property of the proposed project is to be leased, legal consent between all parties, specifying use(s) of the land for the duration of the project, including easement, decommissioning, and other arrangements, shall be submitted.

f) Decommissioning plan and description of financial surety that satisfies the Town that all required improvements shall be made for Level 2 solar energy systems. For all Level 2 solar energy systems, the applicant shall submit a decommissioning plan for review and approval as part of the application. The decommissioning plan shall meet the requirements of Article 4 Section 4.8-8.

g) The Planning Board may require a noise analysis to determine potential adverse noise impacts.

C. General Provisions

All applications for Level 2 solar energy systems shall be in accordance with the following:

- 1) All Level 2 solar energy systems shall adhere to all applicable New York State and International Building Codes and National Electrical Codes in use at the time the application is submitted.
- 2) Level 2 solar energy systems shall not exceed a capacity of 200 kW.
- 3) There shall be a minimum 100 foot setback between any component of the Level 2 solar energy system and the parcel boundary line. The Planning Board is authorized to adjust the width of this setback after analysis of site conditions and adjacent land uses. Free-standing solar collectors in front yards of residential properties shall be prohibited.
- 4) Previously cleared or disturbed areas are preferred locations for the solar energy system.
- 5) Native grasses and vegetation shall be planted and maintained below and around the solar collectors.
- 6) The solar energy system, including any proposed off-site infrastructure, shall be located and screened in such a way as to avoid significant negative visual impacts. A berm, landscape screen, or other opaque enclosure, or any combination thereof acceptable to the Planning Board capable of fully screening the site, may be required. A Level 2 solar energy system proposed within 1 mile of an existing Level 2 solar energy system or a Level 3 solar energy system shall be reviewed with the additional consideration of the cumulative impacts.
- 7) 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.
- 8) All transmission lines and wiring associated with a solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and utility company requirements. The Planning Board may recommend waiving the requirement for burial if sufficient engineering data is submitted by the applicant to demonstrate that underground transmission lines are not feasible or practical. The applicant is required to

show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.

9) Artificial lighting of solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.

10) Any signage used to advertise the solar energy system shall be in accordance with the Town's signage regulations. The owner's identification, appropriate warning signage and emergency contacts shall be posted at the site and clearly visible.

11) The owner/operator shall coordinate with local emergency responders to clarify on-site safety procedures. Identification and appropriate warning signage shall be posted at the site and be clearly visible. Solar energy equipment shall be marked with weather resistant marking in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. The marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the disconnect lever is operated.

12) No part of the solar energy system shall exceed the permitted building height of the zoning district as specified in the Town of Schoharie Land Use Law.

13) Following construction of a Level 2 solar energy system, any disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low-growing vegetation capable of preventing soil erosion and airborne dust.

14) Any post-construction changes or alterations to the solar energy system shall only be done by amendment to the approved Site Plan and subject to the requirements of this Section 4.8-4.

15) Verification by the utility company that the Level 2 solar energy system is creating electricity within the customary range of a properly operating system of its capacity shall be provided annually by the Owner to the Town of Schoharie Code Enforcement Officer.

4.8-5 Level 3 Solar Energy Systems

A. Applicability

1) Any Level 3 solar energy system erected, constructed, modified, or operated in the Town of Schoharie after the effective date of this local law shall be in compliance with this Section. Subsection 4.8-5 is applicable only to Level 3 solar energy systems and shall not apply to Level 1 solar energy systems or Level 2 solar energy systems as defined herein.

2) A Special Use Permit and Site Plan Review by the Planning Board shall be required for all Level 3 solar energy systems, along with building and zoning permits.

B. Applications, Permits and Approvals Required

1) All applications for Level 3 solar energy systems shall be accompanied by applications for a Special Use Permit and a Site Plan Review, and all applicable fees as may be established by the Town Board.

2) In addition to meeting the requirements of Article 7 of the Land Use Law, all Site Plan Review applications for Level 3 solar energy systems shall include the following:

- a) Plans and drawings of the Level 3 solar energy system installation signed by a professional engineer registered in New York State showing the proposed layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of site plan approval and issuance of building and zoning permits by the CEO.
- b) A site specific electrical diagram detailing the complete solar energy system installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices identified.
- c) Documentation of access to the project site(s), including location of all access roads, gates; parking areas, etc.
- d) Plan for clearing and/or grading of the site.
- e) A Storm Water Pollution Prevention Plan as per NYS DEC requirements to detail storm water runoff management and erosion control plans for the site.
- f) When the Planning Board determines that a review will require engineering, legal, environmental, or planning costs, the applicant shall provide an escrow account to pay for such costs. The escrow account shall be in an amount as determined by the Planning Board and shall be replenished when required by the Planning Board. The escrow account shall be established prior to commencement of any further Planning Board review.
- g) Photo simulations shall be included showing the proposed solar energy system in relation to the building/site along with elevation views and dimensions, and manufacturer's specs and photos of the proposed solar energy system. Additional simulations may be required that include views from neighboring or nearby properties.
- h) Part I of the Full Environmental Assessment Form (SEQRA) completed.

3) In addition to meeting the requirements of Article 6 of the Land Use Law, all Special Use Permit applications for Level 3 solar energy systems shall include the following:

- a) If the property of the proposed project is to be leased, legal consent between all parties, specifying use(s) of the land for the duration of the project, including easement, decommissioning, and other arrangements, shall be submitted.
- b) Certification from the utility that the interconnection is viable.
- c) Decommissioning plan and description of financial surety that satisfies the Town that all required improvements shall be made for Level 3 systems. For all Level 3 solar energy systems, the applicant shall submit a decommissioning plan for review and approval as part of the special use permit application. The decommissioning plan shall meet the requirements of Article 4 Section 4.8-8.

d) The Planning Board shall require a noise analysis to determine potential adverse noise impacts.

C. General Provisions

All applications for Level 3 solar energy systems shall be in accordance with the following:

- 1) All Level 3 solar energy systems shall adhere to all applicable New York State and International Building Codes and National Electrical Codes in use at the time the application is submitted.
- 2) A minimum parcel size of 15 acres is required for Level 3 solar energy systems with no more than 50% of the parcel occupied by the solar energy system.
- 3) The solar energy system shall not exceed 15 acres.
- 4) Development and operation of a solar energy system shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town of Schoharie or other federal or state regulatory agencies. Applicant site maps shall delineate sensitive environmental features along with other site information to identify and describe how the proposed Level 3 solar energy system shall avoid or mitigate adverse impacts to these resources. Lands which have the highest ecological values as evidenced by large, contiguous areas of forest, undisturbed drainage areas, wetlands, or NYS DEC identified critical habitats or rare plant and animal populations shall be avoided.
- 5) There shall be a minimum 100 foot setback between any component of the Level 3 solar energy system and the parcel boundary line. The Planning Board is authorized to adjust the width of this setback after analysis of site conditions and adjacent land uses.
- 6) Previously cleared or disturbed areas are preferred locations for solar energy systems. The clearing of additional lands to accommodate a proposed Level 3 solar energy system may be permitted, provided the percentage of newly cleared land on any parcel does not exceed 30% of the existing woodlands on that parcel and that grading does not significantly alter the topography.
- 7) Solar energy systems and agriculture. In accordance with the Comprehensive Plan, the Town of Schoharie does not support conversion of productive farmland to support solar energy systems. When proposed on an active farm located within an Agricultural District designated under Section 303 of the NYS Agricultural and Markets Law, a Level 3 solar energy system may occupy up to 20% of any farmed parcel but in no case shall it exceed 15 acres. Solar energy systems shall be located on a parcel in such a manner as to avoid, to the maximum extent feasible, soils classified as prime farmland by the USDA, NYS or NRCS.
- 8) Native grasses and vegetation shall be planted and maintained below and around the solar collectors.
- 9) The solar energy system, including any proposed off-site infrastructure, shall be located and screened in such a way as to avoid significant negative visual impacts. A Level 3 solar energy system proposed within 1 mile of an existing Level 2 solar energy system or a Level 3 solar energy system shall be reviewed with the additional consideration of the cumulative impacts. A berm, landscape screen, or other opaque enclosure, or any

combination thereof acceptable to the Planning Board capable of fully screening the site, may be required.

10) All solar energy systems 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.

11) All transmission lines and wiring associated with a solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and utility company requirements. The Planning Board may recommend waiving the requirement for burial if sufficient engineering data is submitted by the applicant to demonstrate that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.

12) Artificial lighting of solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.

13) Any signage used to advertise the solar energy system shall be in accordance with the Town's signage regulations. The owner's identification, appropriate warning signage and emergency contacts shall be posted at the site and clearly visible.

14) The owner/operator shall coordinate with local emergency responders to clarify on-site safety procedures. Identification and appropriate warning signage shall be posted at the site and be clearly visible. Solar energy equipment shall be marked with weather resistant marking in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. The marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the disconnect lever is operated.

15) No part of the solar energy system shall exceed the permitted building height of the zoning district as specified in the Town of Schoharie Land Use Law.

16) Following construction of a Level 3 solar energy system, any disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low growing vegetation capable of preventing soil erosion and airborne dust.

17) Any post-construction changes or alterations to the solar energy system shall only be done by amendment to the Special Use Permit and Site Plan and subject to the requirements of this Subsection 4.8-5.

18) The applicant shall provide post-construction certification 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.

4.8-6 Level 4 Solar Energy Systems

Applications for approval of any and all Level 4 solar energy systems shall be reviewed and voted upon by the Schoharie Town Board as a Special Use Permit. The Town Board may refer such application to the Planning Board for a report and recommendation. If the Town Board issues a Special Use Permit for a Level 4 application, the matter shall then be referred to the Planning Board for Site Plan Review. All Level 4 applications shall address with due diligence any and all sections of this Local Law and of the Town of Schoharie Comprehensive Plan, which the Town Board may stipulate upon receiving a request for review by the Applicant. The Town Board, at its sole discretion, may add further requirements for review and/or approval of Level 4 applications on a case by case basis.

4.8-7 Operation and Maintenance of Level 3 Solar Energy Systems

A. The applicant shall submit an Operation and Maintenance Plan, which shall describe continuing solar energy system maintenance and property upkeep, such as mowing and trimming.

B. Failure to comply with the conditions of the Operation and Maintenance plan will result in revocation of the certificate of occupancy.

C. Verification by the utility company that the Level 3 solar energy system is operating in accordance with the Operation and Maintenance plan shall be provided annually to the Town of Schoharie Code Enforcement Officer.

4.8-8 Abandonment or Decommissioning of Level 2 or Level 3 Solar Energy Systems

A. Applicability and purpose. This section governing abandonment and decommissioning shall apply to Level 2 and Level 3 non-residential free standing solar energy systems with a rated capacity of more than 25 kW.

It is the purpose of this section to provide for the safety, health, protection and general welfare of persons and property in the Town of Schoharie by requiring abandoned Level 2 and Level 3 solar energy systems to be removed pursuant to the decommissioning plan. Abandoned Level 2 and Level 3 systems may become unsafe by reason of their energy producing capability, serve as an attractive nuisance, and create a negative visual impact on the Town.

B. Level 2 and Level 3 solar energy systems which have not been verified to be in active and continuous service for the prior year shall be removed at the owner's or operator's expense. Notification shall be provided by the Code Enforcement Officer (CEO) to the owner/operator that the decommissioning must commence.

C. Decommissioning and removal of a Level 2 or Level 3 solar energy system shall be completed within 120 days from receipt of the CEO's notice and shall consist of:

- 1) Physical removal of all above-ground and below-ground equipment, structures and foundations, including but not limited to all solar arrays, buildings, security barriers, fences, electric transmission lines and components, roadways and other physical improvements to the site;

- 2) Disposal of all solid and hazardous wastes in accordance with local, state and federal waste disposal regulations;
- 3) Restoration of the ground surface and soil;
- 4) Stabilization and revegetation of the site with native seed mixes and/or plant species (excluding invasive species) to minimize erosion.

D. The Planning Board shall require a cash escrow account to be established to ensure the removal of any Level 2 or Level 3 solar energy system. The amount of the escrow account shall be 150% of the cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the solar energy system using prevailing wage rates, and in an amount satisfactory to the Planning Board. In the event that the solar energy system is not removed within 120 days and the site restored as required, the Town of Schoharie, after notice and hearing, may cause the same to be removed and the site restored using the funds in such escrow account.

Validity

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or in the application thereof to other persons or circumstances, and the Town Board of the Town of Schoharie hereby declares that it would have passed this local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Severability

The invalidity of any clause, sentence, paragraph or provision of this Local Law shall no invalidate any other clause, sentence, paragraph or part thereof.

Effective Date

This Amendment to Local Law shall take effective immediately upon the filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law