MRB Group

Elevating Communities

TIOGA COUNTY

SOLAR POLICY REPORT UPDATE

PREPARED APRIL 2025

ABOUT THIS REPORT

In 2022, MRB Group was commissioned by the Tioga County Economic Development & Planning Department to undertake a number of analyses and make policy recommendations related to renewable energy projects in the County. The ongoing evolution of the renewable energy sector and New York State policies for renewable energy projects has resulted in continued uncertainty, so the Department again engaged MRB Group in 2025 to provide an update to the 2022 report. Tioga County has seen consistent interest from solar developers looking to leverage New York State incentives to build mostly small-scale solar facilities. The State's guidance and requirements, while more detailed than what they were in 2022, still lead to some confusion and lack of consistency, as these projects can be complex and require some level of expertise to understand and facilitate effectively while also protecting the interests of the local community.

This report provides an update on the solar landscape for Tioga County and provides more information on taxation, exemptions, negotiating with developers, and site practices. The information in this report is based on a variety of information, including review of state guidance; local, regional, and national trends; conversations with similar communities and IDAs; and our team's experience assisting communities across New York State with precisely this kind of work. This work was guided and reviewed by Tioga County Planning Department staff and a steering committee made up of county stakeholders and experts.

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TABLE OF CONTENTS

EXECUTIVE SUMMARY

As New York State has continued to incentivize and encourage renewable energy projects, Tioga County—and the Southern Tier region in general—has seen significant interest from solar developers looking for project sites. In 2022, Tioga County engaged MRB Group to write the precursor to this report: "Solar Project Best Practices and Policies for Tioga County Municipalities." That report outlined the need for clear and consistent standards, laws, and procedures that reflect the local community's level of desire to protect agricultural production and community character. This update, written in Spring 2025, provides more information on the taxation landscape, per-megawatt PILOT payments, the negotiation process, site considerations, and policy and regulatory considerations.

Furthermore, the appendices of this update also offer an example of a rubric used to determine per-megawatt PILOT payments for an IDA, as well as template local laws. For ease of use, below is a summary of key findings from each chapter and appendix of this report.

Chapter 1: Taxation Landscape

- The NYS Solar Assessment Tool created in 2022 to standardize assessments for solar projects across the State introduced uncertainty and confusion for those involved in the exemption processes.
- As of this writing, RPTL 575-b, which provided for the Solar Assessment Tool, was ruled unconstitutional. This introduces more uncertainty into the future of solar project assessments and opens municipalities up to assessment challenges, as they must be prepared to defend their assessments.
- Solar developers do not frequently grieve property assessments. When they do, it is in response to special taxing jurisdictions, which are not exempt in PILOTs, or because the PILOT was not tied to the State's Assessment Tool.
- The recapture payment—for properties with solar that formerly received agricultural assessments—equals five times the taxes saved in the most recent year during which the land received an agricultural assessment, plus interest. This interest is equal to 6% of the recapture payment compounded annually for each year the land received an agricultural assessment for up to five years.

Chapter 2: PILOTs and Exemptions

- Determining and verifying project costs and operating cash flows is a challenge for municipalities due to the variety of capital expenditures, tax credits, grants, equity agreements, and financing mechanisms used. When a developer insists upon a PILOT structure that provides a higher level of abatement than is normally provided or allowable by policy, best practice is to have the developer fund a third-party review of provided financial documentation and assumptions.

- IDAs may set per-MW payments on a case-by-case basis or have a standardized rate. Some IDAs charge higher rates for solar projects on prime agricultural land. Sales tax exemptions can provide leverage for IDAs to seek higher PILOT amounts.
- For municipalities, rates vary, but municipalities have been able to negotiate higher (than perhaps thought) payments with developers, especially with a thorough review of financials.
- Upfront payments of Host Community Agreements (HCAs) and escrow accounts are used to mitigate financial risks, ensuring municipalities are compensated even if the project fails or undergoes changes. No communities in Tioga County have implemented HCAs or upfront payments.
- A centralized negotiation point, such as an IDA, could streamline the process, reduce costs, and align priorities for all taxing jurisdictions involved.

Chapter 3: Solar Site Considerations

- Municipalities should require pre-construction soil testing, documentation of site conditions, and periodic soil sampling to monitor changes, especially for projects on agricultural land. Decommissioning plans should require site and soil restoration.
- Solar developers should submit a landscaping plan to buffer solar arrays from roads and residences using native, non-invasive plants. Options include mature (10-14 ft) or immature (6-8 ft) trees with different pros and cons. Periodic site monitoring and maintenance are essential to ensuring long-term landscaping health.
- Best practices for solar projects near municipal wellheads include proper stormwater management, vegetation management, and water infiltration methods. Wellhead protection measures and adequate setbacks (200 feet minimum) should also be considered to protect potable water.
- Municipalities can contract with Tioga County Soil and Water Conservation District to review, monitor, and inspect wellheads and drainage on sites.

Chapter 4: Policy and Regulatory Considerations

- Municipalities should maintain regular communication with local code officers and planning departments to track solar project progress, ensuring timely updates on construction and operational milestones.
- Solar projects must comply with NYS Fire Code requirements, including adequate access roads and emergency response plans. Municipalities should ensure emergency responders are trained and that access roads are kept navigable during construction to ensure safety.
- Municipalities should require periodic updates to decommissioning cost estimates and ensure a decommissioning surety is in place before construction begins. The costs should exclude salvage/recycling values due to their unpredictability.
- Solar projects face uncertainty due to potential freezes in federal funding and tariffs on imported materials. Local authorities should monitor funding sources and ensure projects are financially viable in the long term.

INTRODUCTION

Financial incentives are key to the economic viability of renewable energy projects in New York State. While the State provides some incentives via NYSERDA grants and/or tax credits, Payment in Lieu of Tax (PILOT) agreements are also generally necessary at the local level to abate property taxes for the project. Under Real Property Tax Law 487 (RPTL 487), municipalities that have not opted out of the law are empowered to negotiate PILOTs of up to 15 years in length. Industrial Development Agencies (IDAs) can also provide PILOTs for renewable energy projects. The following report outlines the current taxation landscape for solar projects and examples of per-MW PILOT payments and considerations, as well as considerations for site regulations and ongoing regulatory and policy changes.

CHAPTER 1: TAXATION LANDSCAPE

SOLAR ASSESSMENT TOOL

In 2022, New York State finalized regulations that require assessors to use the specified methodology to assess renewable energy facilities that generate one megawatt or more of energy, which was dubbed the Solar Tax Credit Assessment Tool. The regulation required that assessors use a discounted cash flow approach for wind and solar facilities, which is updated annually. However, at the time of this writing in March 2025, the NYS Supreme Court ruled in *Airey, et al. v. State of New York, et al.* that the solar assessment calculation was unconstitutional. The decision was based on approximately $3.3 million in alleged lost tax revenue in the Town of Sharon as a result of a solar project and differences in assessment values from the Assessment Tool and the Town's assessor.

The decision brings more uncertainty to the realm of solar facility assessments, especially as this year's deadline for publishing assessment rolls looms. Solar developers whose projects were assessed using the State's Assessment Tool could soon face higher real property taxes and higher assessments. Additionally, local taxing jurisdictions may face higher costs associated with legal fees to defend their assessments. For now, the decision is likely to be paused while an appeal is ongoing.

The NYS Department of Taxation and Finance has provided guidance on this methodology, including the discount rates to be used based on the type and size of the system. The discount rates, a model spreadsheet to assist assessors in appraising these installations, and instructions are all available on the

NYS Department of Tax and Finance website here: https://www.tax.ny.gov/research/property/renewable-appraisal.htm.

The Solar Assessment Tool methodology yielded lower assessments than a typical cost or income approach that many assessors previously used. Thus, estimated abatements decreased and some communities have seen developers begin foregoing PILOTs all together as the abatements did not sufficiently outweigh the costs—particularly for IDA-associated PILOTs—or opting to negotiate PILOTS with the taxing jurisdictions directly. With each annual update, however, the Assessment Tool inched closer to the former assessment standard of $1 million per MW.

During this timeframe that the Assessment Tool has been used, some projects still pursued tax exemptions through IDAs for a few reasons:

1) in some communities the IDA PILOTs provided a more predictable schedule than paying taxes on the assessment created by the annually adjusted Assessment Tool;
2) IDAs are able to provide PILOTs beyond 15 years;
3) IDAs can also offer other incentives like sales tax and mortgage recording tax abatements; and/or
4) some developers saw value in negotiating with a single entity (the IDA) rather than each individual taxing jurisdictions. This last reason was also true for some taxing jurisdictions, so in some areas of the State, municipalities directed projects to IDAs rather than negotiating PILOTs themselves. This has never been the case in Tioga County, though, with nearly all solar PILOTs negotiated directly by municipalities.

In Tioga County, this Assessment Tool also led to a number of developers grieving their property taxes, namely those who entered into PILOT agreements prior to the Tool's release, since the Tool estimates a lower property assessment than local assessors' previous assessments. Mostly, these developers have grieved because the PILOT was not tied to the State's assessment. The developers generally lose the grievance and then go on to pursue tax certificates.

MUNICIPAL ASSESSMENTS

Assessment Approaches

Municipalities have struggled with the assessment of solar facilities, particularly in light of ongoing uncertainty surrounding the Solar Assessment Tool. As noted above, assessors have been required by the State to use the Solar Assessment since 2022, replacing the typical cost or income approach that many assessors previously used. Should the Tool be rendered irrelevant, assessors may return to using cost or income approaches for assessing solar developments.

The cost approach involves determining the cost to install the system, adjusted for depreciation based on age and condition of equipment. This method does not reflect potential income of the project and can also lead to the assessment declining to negligible levels over the useful life of an array. The income approach is based on the idea that the value of the property is equal to the present value of its future income stream. Assessors estimate, or are provided with estimates of, the project's annual income for its lifespan and convert it into the present value via a capitalization rate. The challenge for the income approach is accurately estimating future revenues, since the energy landscape and prices are always shifting.

As the municipal assessment landscape continues to change, Tioga County and its component municipalities should work closely with their assessors, the Department of Real Property, and the NYS Assessors Association to determine the best path forward.

Conversion Liability of Parcels That Receive an Agricultural Exemption

When solar arrays are built on farmland, there are possible tax implications for the property owner if the land previously received an agricultural assessment and related reduction in property tax liability. According to the NYS Department of Taxation and Finance, there should be a recapture of foregone taxes when farmland is converted to nonagricultural use (such as renewable energy production). This is only the case for parcels that received an agricultural assessment during the last five years within agricultural districts or during the last eight years outside of agricultural districts.

The recapture payment will equal five times the taxes saved in the most recent year during which the land received an agricultural assessment, plus interest. This interest is equal to 6% of the recapture payment compounded annually for each year the land received an agricultural assessment for up to five years. The

full recapture payment is levied on top of the property taxes and could lead to a tax foreclosure if not paid.[1]

EXAMPLE

A parcel was previously used for agricultural production until three years ago, when the farmer decided to stop farming it. At that time, the parcel was no longer eligible to receive an agricultural exemption, but was not converted to another use, so no recapture was levied. Prior to that, the land had received an agricultural exemption for over 20 years.

Now the farmer is leasing the land to a solar developer, and as such is converting the use of the property to a nonagricultural use. This triggers a recapture of foregone taxes. Four years ago, the last year of the agricultural exemption, the property taxes actually paid were $6,178. If not for the agricultural assessment, the full property taxes would have been $7,132, meaning the property owner saved $954 for that year. The recapture payment levied would be:

- Five times the savings in the last year of the agricultural assessment: $5 * \$954 = \$4{,}770$
- 6% interest compounded annually for up to five years:
  - $Year\ 1 = \$4{,}770 * 6\% = \$286.20$
  - $Year\ 2 = (\$4{,}770 + \$286.20) * 6\% = \$303.37$
  - $Year\ 3 = (\$5{,}056.26 + \$303.37) * 6\% = \$321.57$
  - $Year\ 4 = (\$5{,}359.57 + \$321.57) * 6\% = \$340.87$
  - $Year\ 5 = (\$5{,}681.14\ +\ \$340.87) * 6\% =\ \$361.32$
- Total Recapture = $6,383.33

If only a portion of a property is being converted, the assessor will determine the proportion of the tax savings that are attributable to that piece of the property.

[1] https://www.tax.ny.gov/research/property/assess/valuation/ag_overview.htm

CHAPTER 2: PILOTS AND EXEMPTIONS

ASSESSING PROJECT COSTS & OPERATING CASHFLOW

Local municipalities and IDAs understandably want to balance the needs of the community with the needs of a project. Ideally, a PILOT agreement will only provide the amount of abatement necessary to maintain the project's feasibility over time and avoid abandonment. Under this scenario, the renewable energy facility is able to continue long-term operations and the community is able to maximize property tax revenues. However, creating a PILOT schedule that strikes that balance is challenging. Renewable energy finances are complex and incorporate a variety of capital expenditures, tax credits, grants, equity agreements, and financing. Accurately projecting operating cashflows is also impossible given uncertainty about future market conditions such as electricity rates and costs of maintenance and materials over time. Even more unpredictable is the weather, which impacts generation capacity.

As a result of project-to-project differences and broader industry uncertainties, financial documents outlining future costs and revenue are, in fact, estimates that are subject to change. The key question is whether the assumptions used to generate those estimates are reasonable. Unfortunately, most local municipalities and IDAs are not experts in renewable energy finances and proformas. Therefore, in the case where a developer insists upon figures that support a higher level of abatement than normally provided or typically allowable by policy, best practice is to have the developer fund a third-party review of provided financial documentation and assumptions. The firm doing the review should be selected or agreed upon by the municipality or IDA.

However, at the start of the negotiation process, municipalities and IDAs negotiating PILOTs will want to request a proforma from renewable energy projects that includes both the construction phase expenses and sources of funding, as well as a projected cashflow statement to understand the anticipated year-to-year net income of the facility. The two are connected via mechanisms such as financing and multi-year tax credits. For example, if upfront capital or construction costs are overstated, that will result in a larger estimated loan and higher annual debt service in the projected cashflow statement. This in turn will make it look like the facility can afford to pay less in property taxes. The reverse is also true. Underestimated costs will result in lower anticipated financing and annual debt service, meaning that the project could experience a cash shortfall during the operating phase. Neither scenario is ideal for the community.

For the purpose of being consistent across projects, a municipality or IDA could use a proforma tool for each project to gather financial information from the renewable energy project developer. One such tool is the National Renewable Energy Laboratory (NREL) Cost of Renewable Energy Spreadsheet Tool (CREST).[2] A tool like this provides a consistent framework and language for the developer and local community to utilize in discussions about the project's financials. While developers may question the validity of a tool like this and some of the underlying assumptions and set-ups, the local municipality or IDA can ask the developer to fund a third-party verification of the assumptions they are challenging—similar to if the developer's assumptions need to be verified.

As noted earlier, the proforma analysis will include two components: the construction phase and the operating phase. The construction phase financials include the costs related to development as well as the sources of funding to pay for those costs. Development costs will typically include the following types of costs, although they can be organized into different categories:

- Solar array equipment and materials – panels, wiring, racking, mounting hardware, inverters, etc. and related costs such as installation labor and delivery.
- Construction – labor, equipment, and materials needed for other aspects of the facility, such as sitework, footers, a maintenance building, fencing, access roads, landscaping, etc.
- Soft costs – engineering, architecture, and surveying needed to design the facility and site plan.
- Interconnection and commissioning – costs related to connecting to the main grid, such as a substation, transformer, metering, utility upgrades as needed, commissioning, testing, etc.
- Development costs – other costs involved in developing a project, such as site selection and acquisition, permitting and licensing, legal fees, costs associated with incentives (e.g. administrative or commitment fees), upfront payments for host community agreements, and developer fees/return on investment.
- Financing costs – these are the closing costs and fees associated with any loan, equity, or debt deals, as well as any mortgage recording taxes and interest paid during the construction period.
- Sales tax – if the project is not seeking a sales and use tax exemption from an IDA for all expenditures related to the development, that should also be considered in the construction

[2] https://www.nrel.gov/analysis/crest.html

financials. In New York State, renewable energy production equipment is exempt from state sales tax. This only covers equipment that is directly involved in the production of power, like the solar panels themselves. This exemption does not cover any equipment or materials that otherwise support the facility or transport the resulting power, like racking, site work, fencing, wiring, pavement, plants, etc.

The sources of funding in the construction phase could include, but are not limited to:

- Grants
- Tax credits
- Loans and bonds
- Equity investments

As noted earlier, it is important to make sure that all sources of funding are accounted for to ensure that the annual debt service and tax credit revenue (if any) is appropriately reflected in the operation phase project cashflow.

The operation phase project cashflow will generally consist of operating and nonoperating revenue, as well as operating and nonoperating expenses.

- Operating revenue – primarily the revenue from selling power.
- Nonoperating revenue – might include multi-year incentives or interest earned on investments. It could also include other revenue that is not directly related to selling power, such as if the operator leases a portion of the land for other purposes.
- Operating expenses – facility management, maintenance of the facility and property, repairs, insurance, property and other taxes, land leases, royalties, etc. If the project is selling direct to customers, there could also be marketing/sales costs associated with the project.
- Nonoperating costs – interest payments on debt, any refinancing/restructuring costs, and other items not related to the day-to-day operation of the facility.
- Debt service – principal amounts paid on loans and equity deals
- Depreciation – depreciation expenses serve a tax purpose but are non-cash expenses. As such, they do not directly impact the amount the project can afford to pay in property taxes. However, it

is possible that depreciation could impact financing arrangements, and as such might have an indirect effect.

In the case of a PILOT negotiation, the property tax component of the cashflow projections should be removed prior to considering the amount the project is capable of paying in a PILOT to avoid double-counting that expense. The resulting net income will provide an idea of what is leftover, and then the appropriate level of profit will need to be agreed upon. An internal rate of return between 12% and 15% is fairly common across a variety of industries.

PER-MW PAYMENTS

Industrial Development Agencies

Many Industrial Development Agencies (IDAs) across New York State have been involved in PILOT negotiations for renewable energy PILOTs. While the PILOT structure is often very similar – a per-MW charge with an annual escalator – there are some differences between how IDAs and local municipalities handle these PILOTs. IDAs are regulated under a different section of New York State Law and so must comply with some specific processes, reporting, and requirements that do not apply to towns. Additionally, IDAs are able to provide PILOTs for any length of time; they are not held to the 15-year term that municipalities are limited by under RPTL 487. IDAs range in their per-MW PILOT payments for solar developments. Some have across-the-board policies, while others decide on per-MW rates on a case-by-case basis.

IDA PER-MW PAYMENT OVERVIEW		
	Payment Range (per MW)	Method
Cortland County IDA	$1,500-$5,500	Case-by-case determination
Wayne County IDA	$6,000	Standard payment for all solar projects
Chemung County IDA	$8,000	Standard payment for all solar projects, set by UTEP
Schuyler County IDA	$4,500-$10,000	Case-by-case determination, aided by scoring rubric

Since both municipalities and IDAs have the ability to negotiate PILOTs, the direction that a solar project actually ends up going often is dictated by a combination of the developers' preferences and/or local culture. Some communities require all or most solar projects to negotiate PILOTs through the IDA, while other communities nearly exclusively pursue municipal PILOTs. Local culture can be influenced by the nature of the relationship between the IDA and municipalities, the IDA's level of activity and/or priorities, municipal willingness to be responsible for PILOTs, and/or the trust and dynamics of control between municipalities and IDAs. In the counties of Tompkins, Lewis, Wayne, Allegany, and Cayuga, most solar projects go to the IDA for PILOTs. Alternatively, in Tioga County, these PILOTs are primarily negotiated at the municipal level.

In similar communities to Tioga County, IDAs that choose to set per-MW payments on a case-by-case basis allow larger-capacity developments to have lower per-MW payments than lower-capacity developments. For example, one such IDA charges $1,500 per-MW for a 20MW+-capacity project, and $5,500 per-MW for a three-MW-capacity project.

In other communities, IDAs set standard per-MW payments, which tend to be higher. One such community recently increased their per-MW PILOT payment from $5,500 to $6,000, regardless of system capacity. This IDA also has valuable agricultural soils, which they protect and preserve by instituting additional PILOT fees based on the quality of soil solar projects are built on. Solar projects on higher-quality soil see more expensive per-MW payments compared to those projects located on poor soils as a result of this policy.

Yet another IDA in a similar community has a Uniform Tax Exemption Policy (UTEP) that stipulates an $8,000 per-MW payment for solar projects. Despite the relative expense compared to other communities, this IDA does not receive significant pushback on the cost. Additionally, they charge a $25,000 up-front fee in lieu of a Host Community Agreement.

Another county IDA historically charged $6,000 per MW, but recently changed to a case-by-case basis for PILOT payments, aided by a rubric scoring system. Projects that score more points and align more closely with community priorities have lower per-MW payments, while projects that score lower have higher per-MW payments. Potential per-MW payments, using this evaluation scale, range from $4,500

per-MW for the highest-scored projects to $10,000 per-MW for the lowest scores.[3] Evaluation criteria include:

- Another available site: if there is another potential site, the project scores a zero. Otherwise, it gets one point.
- Prime farm soils: higher points are awarded for lower percentages of acreage considered prime.
- Viewshed: higher points for less visibility from roads.
- Slope of site: higher points are awarded for more steeply sloped sites.
- Position within the acreage: higher points are awarded for easier site accessibility.
- Unique land and/or land of statewide importance: if the land is considered unique or important, then the project scores a zero; if it is not, then it scores one point.

Municipality

In municipalities that did not opt out of Real Property Tax Law (RPTL) 487, PILOTs may not exceed a duration of 15 years. In communities similar to those in Tioga County, PILOT exemption deals struck between developers and municipalities vary and may be ancillary to HCAs. New York State Energy Research and Development Authority (NYSERDA) used to provide sample per-MW PILOT payment recommendations based on the local energy provider and size of the proposed solar development via their Solar PILOT Calculator.[4] For NYSEG, the energy provider in Tioga County, NYSERDA recommends (as of 2021) a per-MW payment of between $1,700 and $5,000 for a two-MW development. However, this calculation is outdated and is intended to be used for regional/county-level guidance as opposed to project-specific decision making. Based on more recent research of PILOT programs in surrounding counties, we believe that municipalities can request higher PILOT amounts as long as there is willingness and a process in place to negotiate should the amount be a detriment to the project. This process should include a professional review of the project financials and projections, at cost to the developer, to determine a PILOT amount that would result in a reasonable rate of return. Municipalities should check for updated guidance from NYSERDA regularly.

[3] See Appendix A for the full rubric.
[4] No longer active: https://apa.ny.gov/Mailing/2021/05/LocalGov/NYSERDA-Solar-PILOT-Toolkit.pdf

MUNICIPAL PER-MW PAYMENT OVERVIEW		
	Payment Range	Method
Town of Union	$22,000 per MW	Upfront HCA payment stipulated by solar policy, no PILOT
Town of Mt. Morris	~$1,500 per MW	Case-by-case PILOT determination for smaller projects (around 5MW)
Town of Mt. Morris	$240,000 HCA flat fee and $2,700 per MW PILOT	A larger project's agreement. Both HCA and PILOT are paid out over 20-year term, escalated at 1-2% annually.
Town of Avon	$25,000-$35,000 per MW	Case-by-case determination, upfront HCA
Town of Avon	$60,000 HCA flat fee and $750 per MW PILOT	Upfront HCA payment, 15-year PILOT with 3% annual escalation.

In one community, they have strayed from PILOT agreements in favor of Host Community Agreements (HCAs) and the State's discounted cash-flow model (Solar Assessment Tool). While this community does not have a typical per-MW annual payment, they do have a solar policy that stipulates a one-time $22,000 per-MW HCA, to which developers have been mostly agreeable. This means that a five-MW project would result in a $110,000 upfront payment to the town. Annually, the project just pays property taxes based on the assessment determined by the Solar Assessment Tool.

It should be noted that no municipalities within Tioga County have instituted HCAs or upfront payments. However, some level of upfront payment should be considered, especially for HCAs, because it guarantees that the town will receive the full amount, directs additional resources to the town even if there is pro rata distribution of the PILOT, and does not distort annual budgets. HCAs that are paid out annually eventually end, thus creating a revenue cliff that can be problematic if not planned for..

Another town has a mix of small- and large-scale solar developments, with projects ranging from five-MW to 175MW. For the smaller MW projects, the town proceeds with a standard PILOT, charging an average

of $1,500 per MW. They determine per-MW payments on a case-by-case basis and work with the developer to see what is needed to make the project feasible. This town's goal is to be an accessible place for solar development; they do not want to price solar out, so they commit to lower per-MW prices. The town is, however, still cautious of these developers and emphasized the importance of having an escrow account set up where the developer deposits funds to cover legal and other professional service fees the municipality may use throughout the negotiation and monitoring process.

For a larger project, which went through ORES, the town negotiated both a PILOT agreement and an HCA. Because the project is so large, the HCA is a $240,000 annual payment to the town for 20 years, with a 1-2% escalator each year. The per-MW PILOT payment is about $2,700, and the town expects to receive about $60,000 from this project's PILOT this year.

Yet another town regulates acreage for solar developments so that certain types of solar projects must be located on parcels with a minimum lot size of 25 acres. On parcels that are 40 acres or more, the development cannot cover more than 25 of those acres. For projects located on less than 40-acre parcels, the development cannot cover more than 60% of the total parcel size.[5] When all site and construction work is complete, the limited acreage means the projects in this town are all in roughly the 5MW range. The town manages PILOTs in two different ways: through an upfront PILOT payment, or through an annual PILOT and upfront HCA. The town has negotiated upfront PILOT payments of $125,000 to $175,000 ($25,000 per MW to $35,000 per MW). For other projects, the town has negotiated HCAs for three projects to the tune of $60,000 per MW, paid upfront. These HCA projects also have 15-year PILOT payments that begin after project completion, which are $750 per MW annually with a 3% escalator. On top of these upfront payments, the town also requires an application fee of about $25,000.

The town noted that requiring upfront payments secures the town's position even if the project later fails, changes ownership, or does not pay the PILOT. It takes the burden off of the town to chase down money later on.

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[5] This town does not have zoning dedicated solely to solar development, but these regulations are tied to projects—ground-mounted solar energy systems intended to produce energy for offsite sale—that are only allowed in agricultural districts.

NEGOTIATIONS

Negotiating solar PILOTs with multiple taxing jurisdictions—the school district, town or village, and county—can cause delays, confusion, and/or outcomes that are not optimal or consistent. Each jurisdiction has their own goals and needs, which solar developers must navigate individually when no central point of negotiation exists. This is inefficient and results in prolonged approval processes, misaligned priorities, and added costs.

One of the primary issues is the lack of a coordinated strategy or unified framework that addresses the needs of each jurisdiction while fostering effective collaboration. Taxing jurisdictions should work together to streamline negotiations for all involved. This may mean agreeing upon PILOT schedules/structures and distributions as a matter of policy, thus creating consistency across projects. It may also mean designating a single negotiation point, improving communication and collaboration between jurisdictions so that each understands the others' priorities, and ensuring that developers are aware of any agreed-upon negotiation processes or PILOT structures.

Additionally, each jurisdiction may have different ideas for what an acceptable agreement looks like. These diverging opinions can lead to conflicting requirements and regulations, forcing developers to engage in multiple rounds of negotiation, permitting, and compliance with each jurisdiction's specific rules. A decentralized negotiation structure also opens jurisdictions to the risk of covering legal costs of negotiations if they are unprepared for such a process. In comparison, going through a single negotiation contact improves the likelihood that legal and other procedural fees can be placed back onto the developer.

Taxing jurisdictions may also designate a single point of contact or a lead entity for negotiations, which should be familiar with and advocate for the priorities of all jurisdictions. In some cases, this may be the local IDA. IDAs have jurisdiction across municipalities, meaning that they are able to negotiate a PILOT for all affected taxing jurisdictions within their service area without approvals or signoffs from each

municipality.[6] However, municipalities can replicate these efficiencies in other ways, such as agreeing on one municipality taking the lead or collectively deciding on a legal firm, regional partner, or consultant (the cost of which can be passed on to the developer) to take the lead on their behalf.

SALES TAX EXEMPTIONS

Renewable energy projects, including solar developments, are heavily incentivized by State and federal agencies that provide funding and exemptions. When solar developments approach municipalities and local agencies for additional incentives, a frequent challenge the localities face is parsing through the solar developer's financials to determine mutually beneficial levels of exemptions. Part of the challenge is understanding what solar projects already receive exemptions for.

Under Tax Law 1115(a)(12), New York State exempts equipment and machinery used in the *production* of energy from *State* sales tax (but not local sales tax). The Department of Taxation and Finance determined that even if a facility is classified as an energy generating facility, only those components of the facility actively involved in the production of energy would be exempt. Machinery and equipment tied to subsequent processes, like energy distribution and transmission, are not exempt. This means that the actual solar panels would be exempt from sales tax, but not distribution lines.

The sales tax exemptions offered by IDAs simplify these exemptions and improve the solar developer's financials because they can be used of all tangible personal property related to a project, as well as exempt both State and local sales tax. The IDA sales tax exemptions can also provide leverage for IDAs to seek higher PILOT amounts by reducing the upfront costs of the development. IDAs and communities should evaluate the anticipated impact of each solar project to understand if the added benefit is necessary.

[6] Approval is required by each affected taxing jurisdiction only if the PILOT will not be distributed on a pro rata basis.

PROS AND CONS OF AGREEMENT TYPES

	Pros	Cons
IDA PILOT	More attractive for larger-scale projects, predictable costs, additional incentives (like sales tax exemptions), single point of negotiation, flexible PILOT term, can incentivize development choices that align with local priorities (e.g. siting on non-agricultural land)	Administrative fees
Municipal PILOT	Municipal control over negotiations, can incentivize development choices that align with local priorities	Competing taxing jurisdiction priorities, more likely to have longer negotiations, limited PILOT term
PILOT & HCA	Directs additional resources to towns when PILOTs are distributed pro-rata, can incentivize development choices that align with local priorities	Introduces more negotiating complexity, may reduce amount of PILOT payment
Up-front Payment	More secure financial position over the life of the PILOT/absolute certainty that municipality will receive funds, can be wrapped into development costs/financing for developers	Not all developments can finance lump-sum payment
Payment over PILOT Schedule	Offers ongoing revenue, can be easier to manage	Risk of early termination or non-collection in the case of abandonment, revenue collection likely to decline drastically at end of PILOT

CHAPTER 3: SOLAR SITE CONSIDERATIONS

SOIL TESTING GUIDELINES

Municipalities should institute regulations that ensure the restoration of the site to its pre-construction condition as useful and non-hazardous. These regulations should include a specified timeline for site restoration; dictate that developers provide adequate decommissioning and restoration funds upfront; identify the method of and entity responsible for determining pre-construction condition; and define the process/criteria used to make the determination that decommissioning/restoration is confirmed as complete and acceptable.

Pre-construction condition documentation can include, but is not limited to, written and visual records of existing site conditions and pre-construction soil testing. Requirements for and proper implementation of Operations & Management Plans and Decommissioning Plans can support site restoration.

A soil sampling program should be considered to establish a relevant benchmark of soil conditions over representative sections of the lot/parcel on which the solar energy system would be sited and then provide for periodic sampling comparisons to monitor conditions of the soils beneath and around the solar arrays. This is reinforced by recommendations made in the New York State Department of Agriculture and Markets Guidelines for Solar Energy Projects—construction mitigation for agricultural lands and the soil sampling should be consistent with Cornell University's soil testing guidelines.[7] Special Use Permits and/or Site Plan approval can be conditioned upon the applicant's completion of a soil sampling program. This condition should require that the developer of the project must complete soil testing and submit the results to the city/town/village for review at their expense and prior to the issuance of a building permit and the start of construction.

It is recommended that before construction begins, multiple soil testing sites—both inside and outside of the fenced boundary—be determined, and GPS coordinates should be recorded so soil testing

[7] It should be noted that Cornell does not conduct soil testing on private property. However, the Soil and Water Conservation District can be trained to conduct the testing.
https://soilhealth.cals.cornell.edu/manual/

professionals are able to return to exact testing locations over the course of the project's life. The Cornell Soil Health Testing plus heavy metals testing options cover the needs for solar projects, and it is recommended that testing be conducted before construction, about a year after construction, every five years thereafter, and after decommissioning. It should be the responsibility of the solar developer, owner, and/or operator to fund soil testing and remediate any soil issues identified, such as compaction or contamination.

Municipalities should consider requiring a detailed soils classification map of the entire lot(s)/parcel(s) of land. Potential soils data sources could include NYS AGM or NRCS USDA Soils Survey. The municipality may require this map for any application involving land being actively farmed, land located within an established Agricultural District, or lands where the proposed project would involve Prime Farmland or Farmland of Statewide Importance soils.

Municipalities should consider educating landowners and farm operators on the importance of consulting an attorney to consider adding protective language in large-scale solar energy land leases that could safeguard prime agricultural soils and other important natural resources. Lease language can specify owner and applicant responsibilities. The municipality may consider requiring the submission of the landowner lease in any solar application to ensure compatibility with the Decommissioning Plan and other protective measures required by the municipality. Additionally, funding for the soil testing should either be allocated in the lease language, or put in writing to require the solar developer or operator pay for the periodic testing and remediation.

LANDSCAPING BEST PRACTICES

Municipalities should consider requirements for developers of large-scale solar projects to submit a Landscaping Plan that includes buffering between residences and roads and the proposed solar PV system that may block or mitigate potential glare and provide adequate line of sight buffering. A local landscape professional should be consulted to ensure that the proposed buffering/landscaping is sustainable. A variety of native, non-invasive plant species with sizes/heights/planting off-set, such as deciduous and evergreen trees and/or shrubs, can be used to create a natural appearance and protect against possible disease. Ideally, the planting of vegetation should occur in spring or fall when plants have the greatest chance at successfully rooting and surviving. Municipalities may consider stipulating that vegetation be planted in

these seasons - even if construction ends in a different season - to limit needed vegetation replacements, which may occur with higher frequency when planted in winter or summer.

While developing a local law regulating solar development, towns, cities, and villages are faced with the choice of whether to require mature landscaping at the time of planting or to allow immature trees to be planted that will adequately screen the site over time but not necessarily provide a visual buffer at the time the system is put online. The following list evaluates the benefits and challenges associated with requiring mature trees, defined as 10-14 feet in height, or immature trees, defined as 6-8 feet in height.

Mature Trees: 10-14 feet tall at time of planting	
Pros	Cons
• Provides screening and visual impact mitigation in year one • Acts as a better sound buffer • More adequately screens panels that range in 15-20' in height	• Hard and expensive to procure locally • Higher mortality rate than immature trees • Need greater spacing at time of planting • Susceptible to wind damage

Immature Trees: 6-8 feet tall at time of planting	
Pros	Cons
• Higher survivability rate • Easier and cheaper to procure locally • Easier to replace if they die or suffer disease/pests	• Limited screening at time of planting • Slow growth rates (generally 12" per year) • Less buffer for noise and glare

Periodic monitoring (annually or bi-annually) of the site should occur to ensure the health of landscaping and screening. Monitoring also ensures that the site is being maintained in accordance with the Operations and Maintenance Plan and agreement. If it is determined that landscaping is diseased or dying, the

owner/operator of the site shall be required to replace the trees in kind within 90 days at their expense. Any landscaping that is identified for replacement during the winter months (November 1st – April 1st) shall be replaced within 90 days of the following growing season (April 1st – July 1st). These provisions should be detailed in the Operations and Maintenance Plan and as a condition of the Site Plan and/or Special Use Permit approvals. Some communities may want to require the execution of a landscaping or tree maintenance bond that will cover the cost of tree replacement for the first five years of the project to ensure the health and viability of the installed screening measures.

GROUNDWATER PROTECTION AND MUNICIPAL WELLHEADS

Protecting municipal wellheads is critical for a community to ensure that they have a clean and safe potable water supply. It is important for municipalities to evaluate the design of the system so that the quality and amount of stormwater discharge directed toward a municipal wellhead is limited and controlled. Private wellheads should follow similar standards and recommendations by default, although they may be able to be reduced if studied and verified by a professional. The following best practices can serve as guidelines to ensure that solar projects adjacent to municipal wellheads are designed in a way that limits the impact on local drinking water.

1. Stormwater management and drainage design:
    a. Slope the land away from the wellhead to direct runoff to designated areas.
    b. Install proper gutters to channel water away from the well.
    c. Create diversion channels or swales to guide runoff to a collection point.
    d. Analyze the soil type around the well to determine the most suitable infiltration techniques.
    e. Manage soil compaction and bulk density across the site.
    f. Include soil depth (rooting depth) in stormwater modeling and design.
2. Vegetation management:
    a. Install, establish, and maintain appropriate vegetated ground cover between and under the arrays to facilitate infiltration.
    b. Establish a buffer zone around the wellhead with deep-rooted native plants to filter pollutants and absorb water.
    c. Maintain vegetation by regular mowing and trimming to prevent excessive growth that could impede water infiltration.
    d. Limit use of pesticides to avoid contamination of groundwater.
    e. Agrivoltaics offer an alternative to mechanical methods for vegetation management (like mowing) since it can integrate crops and/or livestock grazing which can reduce costs.
3. Infiltration practices:

   a. Create rain gardens or bioretention cells near the well to allow rainwater to percolate into the ground.
   b. Install infiltration trenches filled with gravel to enhance groundwater recharge.
   c. Utilize permeable pavements or surface areas to allow water to seep through the surface.
4. Municipal wellhead protection measures:
   a. Install a well cap with a proper seal to prevent contamination from surface water.
   b. Regularly inspect the wellhead for any signs of damage or deterioration. Incorporate regular inspection procedures into the Operations and Maintenance Plan for the solar energy facility.
   c. Consider a concrete or gravel pad around the wellhead to further protect the area.
5. Setback distances:
   a. Per NYS Department of Health Public Health Law Section 5.5-1, B.7, and general best-practice, it is recommended that there be a minimum 200 feet setback to allow for grading, vegetative, and infiltration management practices to take effect. This distance can be increased or decreased as needed.[8]
   b. If utilizing livestock for vegetative maintenance, setbacks from wells may increase, particularly if contamination sources are located in coarse gravel, and/or are upgrade and in direct path of drainage to a water well.

Municipalities can contract with Tioga County Soil and Water Conservation District (SWCD) to review, monitor, and inspect wellheads and drainage on sites. The SWCD can also train local code enforcement officers on what to look for.

CHAPTER 4: POLICY AND REGULATORY CONSIDERATIONS

PROJECT MONITORING

It is often difficult to track solar project progress throughout a region due to the irregular linkages from local taxing jurisdictions to the county or broader region. Monitoring these projects effectively allows for more accurate information on project success and energy capacity than would otherwise be available. Having the county stay in regular contact with local code officers and planning departments/boards enables a greater level of oversight and knowledge as to when projects begin construction and operation.

[8] https://www.health.ny.gov/regulations/nycrr/title_10/part_5/docs/subpart_5-1.pdf

New York State has some maps with solar projects' status, locations, permitting, and other high-level data, but these are not regularly updated and thus cannot always be relied upon when looking for accurate information.

The county should consider establishing regular communication channels. Check-ins with local code officers and planning departments will ensure they receive timely updates on project completion and operational start dates. This could include quarterly meetings or monthly email updates, depending on the volume of projects. Additionally, the county can consider documenting project milestones for local projects, and maintain a centralized system or database where those milestones (such as permitting approval, construction completion, and operational start) can be tracked. This system should be regularly updated based on information from local authorities and other sources.

RECENT CHANGES TO THE SOLAR LANDSCAPE

Emergency Management

The New York State Fire Code sets requirements for fire apparatus access roads. Solar facility perimeter fencing reduces the points of ingress and egress for first responders, and it is recommended that a man-gate be provided on at least each side of the fence. Requirements for access road maintenance should be included in the Operations and Maintenance Plan.

The municipality should consider reviewing the NYSERDA Model Solar Law as well as other local laws and resources for additional language regarding site plan and emergency access. Review of required Emergency Response/Operations Plans, including response logistics and site-specific safety training for emergency responders, and Operations and Maintenance Plans should be considered.

- Emergency Response Plan

  The local Fire Chief/Fire Code Official/County Emergency Management Director/County Emergency Medical Services Director should review and approve the Emergency Operations/Response Plan. In addition, the local Fire Chief/Fire Code Official will need to make a final determination on NYS Fire Code compliance. The Emergency Operations/Response Plan should include site-specific conditions in order to provide year-round emergency response access, and a checklist within the Plan should be provided. The Emergency Operations/Response Plan should include emergency responder site-specific training to be provided by the Applicant/Systems

Owner/Operator and which satisfies the municipality. Training should involve both municipal and county responders, and be conducted prior to operation and periodically at intervals as determined by the municipality. Training expenses should be paid by the Applicant/Systems Owner/Operator.

- NYS Fire Code, Section 503

  All projects should be reviewed to ensure that they meet local and fire code requirements, including length and width of access roads to adequately reach the proposed site, turnarounds and bump outs required to allow for emergency vehicle access/passing, and an approved driving surface capable of supporting the heavy weight of fire apparatus. During construction, sediment will build up on access roads, potentially making emergency vehicle access difficult. A maximum depth of sediment on the access roads should be regulated to keep the access roads navigable at all times during construction.

Decommissioning

- Municipalities should consider requirements that the applicant/owner/operator identify potential disposal and recycling sites to ensure removal as applicable for both decommissioning and regular maintenance removals.
- Municipalities should consider eliminating the use of salvage and recycling values as part of the applicant's decommissioning cost estimates, as these costs are difficult to project.
- The decommissioning estimate should be reviewed and revised on a periodic basis throughout the life of the solar energy system to adjust for changes in costs. The municipality should consider requiring an annual or every-fifth-year review of the decommissioning estimate by the applicant and submission of changes to the estimated costs to the local code enforcement officer.
- The decommissioning surety should be provided by the applicant in a form acceptable to the municipality and in the amount approved/accepted by the local reviewing board, attorney, and/or municipal engineer. The decommissioning surety should be filed in the approved amount with the clerk's office prior to construction starting. There are three types of financial surety to consider as recommended by NYSERDA[9]:
  - Decommissioning Trusts or Escrow Accounts: these are dedicated cash accounts or trust funds that can be used for decommissioning costs by the developer, or by the municipality

[9] New York Solar Guidebook - Decommissioning Solar Panel Systems

or landowner in the case of abandonment depending on the terms outlined in the various agreements with the developer. These can be managed by one of the parties involved (although ideally not the developer) or a third-party financial or legal institution. NYSERDA recommends having the developer/operator make cash contributions into this account over the course of multiple years until the full estimated cost of the decommissioning is reached. Requiring full funding of this account upfront may be financially prohibitive to the project, and in some cases this type of surety may be infeasible even if funded over time.

- Removal or Surety Bonds: solar developers can purchase bonds that guarantee funds for system removal. These bonds should be accessible to the municipality or landowner upon abandonment conditions and should cover the full estimated cost of decommissioning. Bonds should be reviewed and renewed, replaced, or updated occasionally to ensure that they continue to be viable and cover the full cost of removal. It would make sense to do this review with each review of the decommissioning cost estimates.
- Letters of Credit: banks provide these letters, which assure landowners payment of up to a specific amount to cover the cost of decommissioning if the developer fails to remove the project. A letter of credit should be clear in stating the conditions under which a landowner or municipality can claim the funds, including any required documentation that will be necessary. It should also provide the expiration date and amount of funds. Letters of credit need to be renewed or replaced regularly and should be updated with the decommissioning cost estimates.

Federal Funding Sources

Due to recent federal funding freezes, the future of solar and other renewable energy projects is uncertain. These projects rely heavily on state and federal funding, and as grant funding, evolving budgets, new legislation, and shifting regulatory priorities come into play, solar projects may become less financially feasible. Additionally, any tariffs could impact these projects since many of their materials for construction and maintenance come from overseas.

In interviews with IDAs and communities who have solar projects, there has been some acknowledgment of the uncertainty of federal grants for solar energy projects. While past funding mechanisms and State priorities have helped support the rapid growth of solar infrastructure, changes in government priorities, budget allocations, and political landscapes could jeopardize ongoing projects and slow down the pace of

solar energy adoption. The potential for tariffs, particularly on solar panels and related equipment, could increase the cost of both maintenance and construction of solar projects.

Those involved in solar development incentives and project approval at the local level should pay close attention to the funding sources provided by solar developers to ensure that the project will be viable in the long term.

APPENDIX A: SOLAR PILOT RUBRIC

PILOT Consideration	Site Details	Point Value
Another Available Site	Yes	0
	No	1
Site Reuse	Brownfield	4
	Industrial	4
	Landfill	4
	Rooftop	4
	None/New Land	0
Prime Farm Soils	0-5%	4
	6-25%	3
	26-50%	2
	51-75%	1
	76-100%	0
Viewshed	Not viewable from any road	4
	Viewable from Town Road	3
	Viewable from County Road	2
	Viewable from State Road	1
Slope of Site	15-20%	4
	8-15%	3
	3-8%	2
	0-3%	1
Position within the Acreage	Along one side with ready access	4
	Along the back of the property with no ready access	3
	Along roadside	2
	In the middle with no ready access	1
Unique Land (and/or) Land of Statewide Importance	Yes	0
	No	1

APPENDIX B: TEMPLATE LOCAL LAWS

To incorporate the following template local laws into existing or drafted solar laws in municipalities:

- Insert *Section III* into the “definitions” section of existing solar law.
- Add *Section IV* as a new section to the existing solar law.
- Add the “Hardship” section to existing local law as a new section, but list the sections within the law where the “hardship” section applies.
    - E.g. “Should any owner of property affected by Sections #, #, #, or # of this Local Law suffer an unnecessary hardship…”

DISCLAIMER:

THE LOCAL LAWS PROVIDED MAY BE UTILIZED AS TEMPLATES, BUT THE REVIEW AND MODIFICATIONS OF THE TOWN, VILLAGE, OR CITY ATTORNEY SHOULD BE PROVIDED.

LOCAL LAW TEMPLATE – SOLAR MORATORIUM

TOWN / VILLAGE / CITY OF _____

LOCAL LAW # __ OF 202_

VERSION NUMBER: ___

Be it enacted by the Town Board / Village Board of Trustees / City Council of the _____ as follows:

SECTION I: TITLE AND AUTHORITY

A. **Title.** This local Law shall be known and titled as "Local Law to Impose a Moratorium on the Review, Approval, Permitting, and/or Construction of Large-Scale Solar Energy Systems."
B. **Authority.** The Town Board / Village Board of Trustees / City Council of the Town / Village / City of _____, pursuant to the authority of Municipal Home Rule Law of the State of New York, hereby enacts said article as follows.

SECTION II. PURPOSE AND INTENT

The purpose of this local law is to extend the temporary land use moratorium which prohibits large-scale solar energy system installations in the Town / Village / City of _____ for twelve (12) months, pending the further development and adoption of local laws and/or ordinances.

The Town Board / Village Board of Trustees / City Council recognizes and acknowledges that the Town / Village / City needs to continue to study and analyze the many considerations that affect the preparation of local legislation to regulate large-scale solar energy system installations.

In the coming months, the Town / Village / City will continue working towards the development of regulations that will address, in a careful manner, the establishment, placement, construction, enlargement, and erection of large-scale solar energy system installations on a comprehensive,

community-wide basis and the adoption of land use regulations for provisions to specifically regulate same.

The Town Board / Village Board of Trustees / City Council is concerned with the potential impacts of future large-scale solar systems and believes it to be in the best interest of the Town / Village / City of _____ to establish a Local Law create a temporary twelve (12)-month moratorium on the installation of any large-scale solar energy systems.

SECTION III. DEFINITIONS

"Solar Energy System" is defined as "Any installation of solar panels, equipment and/or buildings or structures undertaken with an intention of generating power from the sun and converting such power into electricity for resale to or by a third party."

"Large-Scale Solar Energy Systems" are defined as "A ground-mounted solar energy system intended to produce energy for off-site sale to and consumption by one or more customers." Any installations by, or undertaken on behalf of, individual landowners, householders, businesses, or farmers primarily for the purpose of offsetting their own electric energy use is not a Large Scale Solar Energy System and shall be specifically exempted from this moratorium. However, any such exempted solar energy systems or generating improvements shall not generate in excess of 110% of the average annual consumption of such individual landowner, householder, business, or farmer.

SECTION IV. SCOPE OF CONTROLS

A. During the effective period of this Local Law:
   1. The Town Board / Village Board of Trustees / City Council shall not grant any approvals that would have as the result the establishment, placement, construction, enlargement or erection of Large-Scale Solar Energy Systems within the Town / Village / City.
   2. The Town / Village / City Planning Board shall not grant any preliminary or final approval to a subdivision plan, site plan, special use permit, or other permit that would result in the establishment, placement, construction, enlargement or erection of a Large-Scale Solar Energy System within the Town / Village / City.
   3. The Town / Village / City Zoning Board of Appeals shall not grant any variance or other permit for any use that would result in the establishment, placement, construction, enlargement or erection of a Large-Scale Solar Energy System within the Town / Village / City.
   4. The Building Inspector/Code Enforcement Officer of the Town / Village / City shall not issue any permit that would result in the establishment, placement,

construction, enlargement, or erection of a Large-Scale Solar Energy System within the Town.

B. The Town Board / Village Board of Trustees / City Council reserves the right to direct the Town / Village / City Building Inspector/Code Enforcement Officer to revoke or rescind any building permits or certificates of occupancy issued in violation of this Local Law.
C. The provisions of this local law shall apply to all real property within the Town / Village / City of _____, and all land use applications for the siting or creation of Large-Scale Solar Energy Systems within the Town / Village / City of _____.

SECTION V. NO CONSIDERATION OF NEW APPLICATIONS

While the moratorium is in effect, no applications shall be accepted and no permits issued or approvals given by any Board, agency or official of the Town / Village / City of _____ for the siting or creation of a Large-Scale Solar Energy System.

SECTION VI. TERM

The moratorium imposed by this Local Law shall be in effect for a period of twelve (12) months from the effective date of this Local Law.

SECTION VII. PENALTIES

Any person, firm, or corporation that shall establish, place, construct, enlarge or erect any commercial solar energy conversion devices/farm in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be subject to:

A. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules, and regulations of the Town / Village / City for violations; and
B. Injunctive relief in favor of the Town / Village / City to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction that may have taken place in violation of this Local Law.

SECTION VIII. VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION IX. HARDSHIP

A. Purpose.
Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner of said property may apply to the Town Board / Village Board of Trustees / City Council of _____ in writing for a variation from strict compliance with this Local Law upon submission of proof

of such unnecessary hardship. For the purposes of this Local Law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special permit, site plan, subdivision, or other permit during the period of the moratorium imposed by this Local Law.

B. Procedure.
   1. Upon submission of a written application to the Town / Village / City Clerk by the property owner seeking a variation of this Local Law, the Town Board / Village Board of Trustees / City Council shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days' written notice in the official newspaper of the Town / Village / City.
   2. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board / Village Board of Trustees / City Council shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this Local Law.
   3. If the Town Board / Village Board of Trustees / City Council determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board / Village Board of Trustees / City Council shall vary the application to this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

SECTION X. REPEAL

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

SECTION XI. SEVERABILITY

In the event that any work phrase of part of this local law shall be declared unconstitutional, the same shall be severed and separated from the remainder of this local law and shall not impact the remainder of said local law which shall remain in full force and effect.

SECTION XII. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided in section 27 of the Municipal Home Rule Law.

Template Resolution – Solar Moratorium

TOWN / VILLAGE / CITY OF _____
RESOLUTION NO. 202_ - ____

ADOPTING A LOCAL LAW TO IMPOSE A MORATORIUM ON THE REVIEW, APPROVAL, PERMITTING, AND/OR CONSTRUCTION OF LARGE-SCALE SOLAR ENERGY SYSTEMS

The following resolution was presented by _____, moved by _____, seconded by_____,

WHEREAS, the Town Board / Village Board of Trustees / City Council of the _____ (hereinafter "Town Board / Village Board of Trustees / City Council") is considering the adoption of a local law to impose a twelve (12)-month moratorium on the review, approval, permitting, and/or construction of large-scale solar energy systems (the "Local Law"); and

WHEREAS, at its regularly scheduled meeting on Month Day, Year the Town Board / Village Board of Trustees / City Council adopted Resolution Year-___ by which the Town Board / Village Board of Trustees / City Council set a public hearing for the Local Law to be held on Month Day, Year at _:__ p.m. at the Location; and

WHEREAS, the Town / Village / City Clerk duly advertised said public hearing in accordance with applicable law; and

WHEREAS, on Month Day, Year at _:__ p.m. the Town Board / Village Board of Trustees / City Council conducted a public hearing on the Local Law; and

WHEREAS, adoption of a moratorium on land development or construction are Type II Actions under the New York State Environmental Quality Review Act (SEQRA) and therefore no further action is required under SEQRA; and

NOW THEREFORE BE IT RESOLVED that the Town Board / Village Board of Trustees / City Council, after due deliberation, finds that it is in the best interests of the Town / Village / City Of _____ and the community to adopt said Local Law; and

BE IT FURTHER RESOLVED that the Town Board hereby adopts Local Law # __ of the Year 202_; and

BE IT FURTHER RESOLVED, that the Town Board / Village Board of Trustees / City Council directs the Town / Village / City Clerk to enter Local Law # __ of the Year 202_ in the minutes of

this meeting, and in the Local Law Book of the Town / Village / City Of _____, and to file said Local Law # __ of the Year 202_ with the New York State Secretary of State.

VOTE – AYES _____ NAYS_____

Town Clerk Certification

STATE OF NEW YORK:
COUNTY OF TIOGA: ss
TOWN / VILLAGE / CITY OF _____:

I, _____, Town / Village / City Clerk of the Town / Village / City of _____, Tioga County, New York, do hereby certify that I have compared the foregoing resolution duly adopted by the Town Board / Village Board of Trustees / City Council of the _____ on the ___ day of _____, 202_, with the original thereof now on file in my office, and the same is a correct and true copy of said resolution and the whole thereof.

DATED: _____, 202_

(SEAL)

_____

Name
Town / Village / City Clerk

TEMPLATE RESOLUTION – SETTING A PUBLIC HEARING FOR A SOLAR MORATORIUM

TOWN / VILLAGE / CITY OF _____
RESOLUTION NO. 202_ - ____

SETTING A PUBLIC HEARING FOR A LOCAL LAW TO IMPOSE A MORATORIUM ON THE REVIEW, APPROVAL, PERMITTING, AND/OR CONSTRUCTION OF LARGE-SCALE SOLAR ENERGY SYSTEMS

The following resolution was presented by _____, moved by _____, seconded by_____,

WHEREAS, the Town Board / Village Board of Trustees / City Council of the _____ (hereinafter "Town Board / Village Board of Trustees / City Council") is considering the adoption of a local law to impose a twelve (12)-month moratorium on the review, approval, permitting, and/or construction of large-scale solar energy systems (the "Local Law"); and

WHEREAS, the Town Board / Village Board of Trustees / City Council would like to hear from members of the public about the proposed moratorium; and

WHEREAS, the Town Board / Village Board of Trustees / City Council wishes to refer the proposed moratorium to the Tioga County Planning Board for its review pursuant to New York State General Municipal Law; and

WHEREAS, the proposed moratorium is a Type II Action under the New York State Environmental Quality Review Act (SEQR) and therefore requires no further action; and

NOW THEREFORE BE IT RESOLVED the Town Board / Village Board of Trustees / City Council hereby establishes a public hearing for the proposed moratorium to be held on Month Day, Year at _:__ p.m. to be held via videoconferencing and/or at the Location; and

BE IT FURTHER RESOLVED, that the Town Board / Village Board of Trustees / City Council directs the Town / Village / City Clerk to publish notice of said public hearing as required by law; and

BE IT FURTHER RESOLVED, that the Town Board / Village Board of Trustees / City Council directs the Town / Village / City Clerk to refer the proposed moratorium to the Tioga County Planning Board.

VOTE – AYES _____ NAYS_____

Town Clerk Certification

STATE OF NEW YORK:
COUNTY OF TIOGA: ss
TOWN / VILLAGE / CITY OF _____:

I, _____, Town / Village / City Clerk of the Town / Village / City of _____, Tioga County, New York, do hereby certify that I have compared the foregoing resolution duly adopted by the Town Board / Village Board of Trustees / City Council of the _____ on the ___ day of _____, 202_, with the original thereof now on file in my office, and the same is a correct and true copy of said resolution and the whole thereof.

DATED: _____, 202_

(SEAL)

_____

____

Name
Town / Village / City Clerk

DISCLAIMER:

THE LOCAL LAW PROVIDED MAY BE UTILIZED AS A TEMPLATE, BUT THE REVIEW AND MODIFICATIONS OF THE TOWN, VILLAGE, OR CITY ATTORNEY SHOULD BE PROVIDED.

TEMPLATE RESOLUTION - IMPOSE A CUMULATIVE CAP ON LARGE-SCALE SOLAR ENERGY SYSTEMS

TOWN / VILLAGE / CITY OF _____

*LOCAL LAW # __ OF 202_*

VERSION NUMBER: ____

Be it enacted by the Town Board / Village Board of Trustees / City Council of the _____ as follows:

SECTION I: TITLE AND AUTHORITY

A. Title. This local law shall be known and titled as "Local Law to Impose a Cumulative Cap on Large-Scale Solar Energy Systems."

B. Authority. This solar energy chapter is adopted pursuant to §§ 261 through 263 of the Town Law and § 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town Board / Village Board of Trustees / City Council of the Town / Village / City of _____ to adopt zoning provisions that advance and protect the health, safety, and welfare of the community.

SECTION II. PURPOSE AND INTENT

This solar energy chapter is adopted to advance and protect the public health, safety, and welfare of the Town / Village / City of _____ by creating regulations for the installation and use of solar-energy-generating systems and equipment, with the following objectives:

A. To take advantage of a safe, abundant, renewable, and nonpolluting energy resource.
B. To mitigate the impacts of solar energy systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources.

C. To create synergy between solar and other stated goals of the community.
D. To improve public health.
E. To encourage a sense of pride in the community.
F. To encourage investment in public infrastructure supportive of solar, such as generation facilities, grid-scale transmission infrastructure, and energy storage sites.
G. To improve and modernize an aging electrical grid to ensure it can meet the needs of current and future populations.

SECTION III. DEFINITIONS

"Solar Energy System" is defined as "Any installation of solar panels, equipment and/or buildings or structures undertaken with an intention of generating power from the sun and converting such power into electricity for resale to or by a third party."

"Large-Scale Solar Energy Systems" are defined as "A ground-mounted solar energy system intended to produce energy for off-site sale to and consumption by one or more customers." Any installations by, or undertaken on behalf of individual landowners, householders, businesses or farmers, primarily for the purpose of offsetting their own electric energy use is not a Large-Scale Solar Energy System and shall be specifically exempted from this moratorium. However, any such exempted solar energy systems or generating improvements shall not generate in excess of 110% of the average annual consumption of such individual landowner, householder, business, or farmer.

SECTION IV. ACREAGE CAPS

Large-Scale Solar Energy System projects shall not result in the cumulative conversion of more than 200 acres of land in the Town / Village / City of _____ from any land use as part of Large-Scale Solar Energy Systems permitted after the effective date of this local law.

SECTION V. MEGAWATT CAP

Large-Scale Solar Energy Systems shall not result in the cumulative generation of more than 35 megawatts AC of electricity within the Town / Village / City of _____ as part of Large-Scale Solar Energy Systems permitted after the effective date of this local law.

SECTION VI. PENALTIES

Any person, firm, or corporation that shall establish, place, construct, enlarge, or erect any commercial solar energy conversion devices/farms in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be subject to:

A. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules, and regulations of the Town / Village / City for violations; and

B. Injunctive relief in favor of the Town / Village / City to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction that may have taken place in violation of this Local Law.

SECTION VII. VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION VIII. HARDSHIP

A. Purpose.
Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner of said property may apply to the Town Board / Village Board of Trustees / City Council of _____ in writing for a variation from strict compliance with this Local Law upon submission of proof of such unnecessary hardship.

B. Procedure.

1. Upon submission of a written application to the Town / Village / City Clerk by the property owner seeking a variation of this Local Law, the Town Board / Village Board of Trustees / City Council shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days written notice in the official newspaper of the Town / Village / City.
2. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board / Village Board of Trustees / City Council shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this Local Law.
3. If the Town Board / Village Board of Trustees / City Council determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board / Village Board of Trustees / City Council shall vary the application to this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

SECTION IX. SEVERABILITY

In the event that any work phrase of part of this Local Law be declared unconstitutional, the same shall be severed and separated from the remainder of this Local Law and shall not impact the remainder of said Local Law which shall remain in full force and effect.

SECTION X. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided in section 27 of the Municipal Home Rule Law.

DISCLAIMER:

THE LOCAL LAW PROVIDED MAY BE UTILIZED AS A TEMPLATE, BUT THE REVIEW AND MODIFICATIONS OF THE TOWN, VILLAGE, OR CITY ATTORNEY SHOULD BE PROVIDED.

LOCAL LAW TEMPLATE – EMERGENCY RESPONSE PLAN

TOWN / VILLAGE / CITY OF _____

LOCAL LAW # __ OF 202_

VERSION NUMBER: ___

Be it enacted by the Town Board / Village Board of Trustees / City Council of the _____ as follows:

SECTION I: TITLE AND AUTHORITY

C. **Title.** This local Law shall be known and titled as "Local Law to Require the preparation of an emergency response plan for large scale solar energy systems.
D. **Authority.** The Town Board / Village Board of Trustees / City Council of the Town / Village / City of _____, pursuant to the authority of Municipal Home Rule Law of the State of New York, hereby enacts said article as follows.

SECTION II. PURPOSE AND INTENT

The purpose of this local law is to require owners, operators and developers of large-scale solar energy systems in the Town / Village / City of _____ to prepare and emergency response plan.

The Town Board / Village Board of Trustees / City Council recognizes and acknowledges that the Town / Village / City needs to maintain the health, safety, and wellbeing of its residents and first responders.

SECTION III. DEFINITIONS

“Solar Energy System” is defined as “Any installation of solar panels, equipment and/or buildings or structures undertaken with an intention of generating power from the sun and converting such power into electricity for resale to or by a third party.”

" Large Scale Solar Energy Systems" are as defined as "A Ground-Mounted Solar Energy System intended to produce energy for off-site sale to and consumption by one or more customers." Any installations by, or undertaken on behalf of individual landowners, householders, businesses or farmers, primarily for the purpose of off-setting their own electric energy use is not a Large Scale Solar Energy System and shall be specifically exempted from this moratorium. However, any such exempted solar energy systems or generating improvements shall not generate in excess of 110% of the one year average annual consumption of such individual landowner, householder, business or farmer.

SECTION IV. EMERGNECY RESPONSE PLAN GUIDELINES

D. The owners, operators and developers of large-scale solar energy systems shall prepare an Emergency Operations/Response Plan which includes emergency responder site specific training, to be provided by the Applicant/Systems Owner/Operator, and that meets the satisfaction of the Town / Village / City. Training should involve both Municipal and County responders, and be conducted prior to operation, and periodically at intervals as determined by the Municipality. Training expenses should be paid by Applicant/Systems Owner/ Operator. The emergency operations plan should include the following information:

1. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
2. Procedures for inspection and testing of associated alarms, interlocks, and controls.
3. Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
4. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous

conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.

5. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
6. Procedures for dealing with solar energy system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
7. Other procedures as determined necessary by the municipality to provide for the safety of occupants, neighboring properties, and emergency responders.
8. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.
9. Requirements for access road maintenance

E. The Local Fire Chief/Fire Code Official/County Emergency Management Director/County Emergency Medical Services Director comments on the Emergency Operations/Response Plan shall be provided to the Town Board/Planning Board/Zoning Board for review. In addition, the Local Fire Chief/Fire Code Official will need to make a final determination on NYS Fire Code compliance. The Emergency Operations/Response Plan should include site-specific conditions in order to provide year-round emergency response access, and a checklist within the Plan should be provided.

F. Consideration of NYS Fire Code, Section 503 for Fire Apparatus Access Roads should be given. The Applicant should ensure that the proposed access roads meet Local and Fire Code requirements, including length and width of access roads to adequately reach the proposed site, turnarounds and bump outs required to allow for emergency vehicle access/passing, and an approved driving surface capable of supporting the heavy weight of fire apparatus.

G. During construction, sediment will build up on access roads, potentially making emergency vehicle access difficult. A maximum depth of sediment on the access roads should be regulated to keep the access roads navigable at all times during construction. The Local Fire Chief/Fire Code Official should be consulted regarding this and further clarified within the Operations and Maintenance Plan.

H. In order to maintain open use of the access road for fire and emergency vehicles, proposed Site Plans should identify a proposed permanent parking space for maintenance personnel.

I. In order to facilitate emergency access, Final Site Plans should address posting and maintaining up to date safety and emergency contact signage and requiring lock box

access for key Municipal and County personnel and should be in place prior to construction.

J. The Town Board / Village Board of Trustees / City Council reserves the right to direct the Town / Village / City Building Inspector/Code Enforcement Officer to revoke or rescind any building permits or certificates of occupancy issued in violation of this Local Law.

K. The provisions of this local law shall apply to all real property within the Town / Village / City of _____, and all land use applications for the siting or creation of Large Scale Solar Energy Systems within the Town / Village / City of _____.

SECTION V. VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION VI. HARDSHIP

C. Purpose.

Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner of said property may apply to the Town Board / Village Board of Trustees / City Council of the _____ in writing for a variation from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. For the purposes of this Local Law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special permit, site plan, subdivision, or other permit during the period of the moratorium imposed by this Local Law.

D. Procedure.

4. Upon submission of a written application to the Town / Village / City Clerk by the property owner seeking a variation of this Local Law, the Town Board / Village Board of Trustees / City Council shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days written notice in the official newspaper of the Town / Village / City.
5. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board / Village Board of Trustees / City Council shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this Local Law.

6. If the Town Board / Village Board of Trustees / City Council determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board / Village Board of Trustees / City Council shall vary the application to this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

SECTION X. REPEAL

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

SECTION XI. SEVERABILITY

In the event that any work phrase of part of this local law shall be declared unconstitutional, the same shall be severed and separated from the remainder of this local law and shall not impact the remainder of said local law which shall remain in full force and effect.

SECTION XII. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided in section 27 of the Municipal Home Rule Law.

DISCLAIMER:

THE LOCAL LAW PROVIDED MAY BE UTILIZED AS A TEMPLATE, BUT THE REVIEW AND MODIFICATIONS OF THE TOWN, VILLAGE, OR CITY ATTORNEY SHOULD BE PROVIDED.

LOCAL LAW TEMPLATE – LANDSCAPING PLAN

TOWN / VILLAGE / CITY OF _____

*LOCAL LAW # __ OF 202_*

VERSION NUMBER: ___

Be it enacted by the Town Board / Village Board of Trustees / City Council of the _____ as follows:

SECTION I: TITLE AND AUTHORITY

E. **Title.** This local Law shall be known and titled as "Local Law to Require landscaping and visual buffering for scale solar energy systems.**"**
F. **Authority.** The Town Board / Village Board of Trustees / City Council of the Town / Village / City of _____, pursuant to the authority of Municipal Home Rule Law of the State of New York, hereby enacts said article as follows.

SECTION II. PURPOSE AND INTENT

The purpose of this local law is to require owners, operators and developers of large-scale solar energy systems in the Town / Village / City of _____ to provide landscaping and vegetative buffering.

The Town Board / Village Board of Trustees / City Council recognizes and acknowledges that the Town / Village / City needs to limit the visual impacts of large scale solar energy systems.

SECTION III. DEFINITIONS

“Solar Energy System” is defined as “Any installation of solar panels, equipment and/or buildings or structures undertaken with an intention of generating power from the sun and converting such power into electricity for resale to or by a third party.”

" Large Scale Solar Energy Systems" are as defined as "A Ground-Mounted Solar Energy System intended to produce energy for off-site sale to and consumption by one or more customers." Any installations by, or undertaken on behalf of individual landowners, householders, businesses or farmers, primarily for the purpose of off-setting their own electric energy use is not a Large Scale Solar Energy System and shall be specifically exempted from this moratorium. However, any such exempted solar energy systems or generating improvements shall not generate in excess of 110% of the one-year average annual consumption of such individual landowner, householder, business or farmer.

SECTION IV. LANDSCAPING PLAN AND VISUAL SCREENING GUIDELINES

L. The owners, operators and developers of large-scale solar energy systems shall submit an Operations & Maintenance (O&M) Plan that includes, but is not limited to, the following:
    1. Potential/proposed pesticide/herbicide/fertilizer use
    2. Potential/proposed water usage, especially with any fire suppression systems
    3. Vegetative abatement and maintenance procedures
    4. Practices to adhere to applicable local, state and federal regulations
    5. Practices to minimize impacts to pollinator habitat, on site wetlands and any potential future agricultural co-location practices. Alternatives to chemical treatments should be prioritized

M. The owners, operators or developers shall submit a Landscaping Plan, including NYS native non-invasive species to be used for vegetative screenings. For pollinator plantings, the highest-grade pollinator plant seed mixes, providing a greater percentage of pollinator plants over grasses, should be utilized. A licensed landscape professional/biologist or botanist shall be used to assist with site-appropriate native non-invasive landscaping plant and seed mix selections and any future plant replacements. Municipality expense should be paid by the Applicant.

N. A variety of native, non-invasive plant species, sizes/heights/planting off-set, deciduous and evergreen trees and/or shrubs can be used to create a natural appearance and protect against possible disease. Details should be noted on the Landscaping Plan and be approved by the Planning Board and/or the Zoning Board of Appeals.

O. the Applicant is to provide a viewshed/line of site analysis, with scaled color visual renderings to demonstrate the adequacy of proposed buffering/screening of the Solar Energy System. Visual renderings shall include: after construction, and five (5) and ten (10) years after completion of the System (intervals to be set by the Municipality). The Planning and/or Zoning Board of Appeals may require the analysis/renderings from multiple angles or perspectives as deemed appropriate.
P. The Town Board / Village Board of Trustees / City Council reserves the right to direct the Town / Village / City Building Inspector/Code Enforcement Officer to revoke or rescind any building permits or certificates of occupancy issued in violation of this Local Law.
Q. The provisions of this local law shall apply to all real property within the Town / Village / City of _____, and all land use applications for the siting or creation of Large Scale Solar Energy Systems within the Town / Village / City of _____.

SECTION V. VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION VI. HARDSHIP

E. Purpose.

Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner of said property may apply to the Town Board / Village Board of Trustees / City Council of the _____ in writing for a variation from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. For the purposes of this Local Law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special permit, site plan, subdivision, or other permit during the period of the moratorium imposed by this Local Law.

F. Procedure.
    7. Upon submission of a written application to the Town / Village / City Clerk by the property owner seeking a variation of this Local Law, the Town Board / Village Board of Trustees / City Council shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days written notice in the official newspaper of the Town / Village / City.
    8. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be

heard, and the Town Board / Village Board of Trustees / City Council shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this Local Law.

9. If the Town Board / Village Board of Trustees / City Council determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board / Village Board of Trustees / City Council shall vary the application to this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

SECTION X. REPEAL

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

SECTION XI. SEVERABILITY

In the event that any work phrase of part of this local law shall be declared unconstitutional, the same shall be severed and separated from the remainder of this local law and shall not impact the remainder of said local law which shall remain in full force and effect.

SECTION XII. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided in section 27 of the Municipal Home Rule Law.

DISCLAIMER:

THE LOCAL LAW PROVIDED MAY BE UTILIZED AS A TEMPLATE, BUT THE REVIEW AND MODIFICATIONS OF THE TOWN, VILLAGE, OR CITY ATTORNEY SHOULD BE PROVIDED.

LOCAL LAW TEMPLATE – SOIL TESTING

TOWN / VILLAGE / CITY OF _____

*LOCAL LAW # __ OF 202_*

VERSION NUMBER: ___

Be it enacted by the Town Board / Village Board of Trustees / City Council of the _____ as follows:

SECTION I: TITLE AND AUTHORITY

G. **Title.** This local Law shall be known and titled as "Local Law to Require Soil Testing for large scale solar energy systems."
H. **Authority.** The Town Board / Village Board of Trustees / City Council of the Town / Village / City of _____, pursuant to the authority of Municipal Home Rule Law of the State of New York, hereby enacts said article as follows.

SECTION II. PURPOSE AND INTENT

The purpose of this local law is to require owners, operators and developers of large scale solar energy systems in the Town / Village / City of _____ to conduct baseline and parodic soil testing on a representative sample of the site on which the SES is located.

The Town Board / Village Board of Trustees / City Council recognizes and acknowledges that the Town / Village / City needs to preserve and protect soil, groundwater and surface water resources.

SECTION III. DEFINITIONS

“Solar Energy System” is defined as “Any installation of solar panels, equipment and/or buildings or structures undertaken with an intention of generating power from the sun and converting such power into electricity for resale to or by a third party.”

" Large Scale Solar Energy Systems" are as defined as "A Ground-Mounted Solar Energy System intended to produce energy for off-site sale to and consumption by one or more customers." Any installations by, or undertaken on behalf of individual landowners, householders, businesses or farmers, primarily for the purpose of off-setting their own electric energy use is not a Large Scale Solar Energy System and shall be specifically exempted from this moratorium. However, any such exempted solar energy systems or generating improvements shall not generate in excess of 110% of the one year average annual consumption of such individual landowner, householder, business or farmer.

SECTION IV. SOIL SAMPLING GUIDELINES

R. Prior to the issuance of a building permit and construction beginning, soil sampling results shall be provided to the Town Board / Village Board of Trustees / City Council and Code Enforcement Officer.
S. The owners, operators and developers of a large-scale solar energy system shall conduct a soil sampling program to establish a relevant benchmark of soil conditions over representative sections of the lot/parcel on which the solar energy system would be sited and then provide for periodic sampling comparisons to monitor conditions of the soils beneath and around the solar arrays.
T. Soil sampling should be consistent with Cornell University’s soil testing guidelines.
U. A detailed soil classification map of the entire lot(s)/parcel(s) of land shall be provided. Potential soils data source shall include NYS AGM, or NRCS USDA Soils Survey.
V. The Town Board / Village Board of Trustees / City Council reserves the right to direct the Town / Village / City Building Inspector/Code Enforcement Officer to revoke or rescind any building permits or certificates of occupancy issued in violation of this Local Law.
W. The provisions of this local law shall apply to all real property within the Town / Village / City of _____, and all land use applications for the siting or creation of Large Scale Solar Energy Systems within the Town / Village / City of _____.

SECTION V. VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION VI. HARDSHIP

G. Purpose.

Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner of said property may apply to the Town Board / Village Board of Trustees / City Council of the _____ in writing for a variation from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. For the purposes of this Local Law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special permit, site plan, subdivision, or other permit during the period of the moratorium imposed by this Local Law.

H. Procedure.

10. Upon submission of a written application to the Town / Village / City Clerk by the property owner seeking a variation of this Local Law, the Town Board / Village Board of Trustees / City Council shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days written notice in the official newspaper of the Town / Village / City.
11. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board / Village Board of Trustees / City Council shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this Local Law.
12. If the Town Board / Village Board of Trustees / City Council determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board / Village Board of Trustees / City Council shall vary the application to this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

SECTION X. REPEAL

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

SECTION XI. SEVERABILITY

In the event that any work phrase of part of this local law shall be declared unconstitutional, the same shall be severed and separated from the remainder of this local law and shall not impact the remainder of said local law which shall remain in full force and effect.

SECTION XII. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided in section 27 of the Municipal Home Rule Law.