Ripley Supervisor Douglas Bowen
Ripley Town Board
Ripley Town Hall
14 North State Street
Ripley, NY 14775

RE: Proposed Solar Energy Zoning Law Amendments in the Town of Ripley

Dear Supervisor Bowen and Town Board Members,

On behalf of ConnectGen Chautauqua County LLC ("ConnectGen"), which is proposing a solar electric generating facility in the Town of Ripley, New York, ConnectGen would like to offer comments on the Town of Ripley's recently introduced Solar Energy Zoning Law ("Solar Energy Law"). In general, we appreciate the Town's efforts to create synergy between solar energy system development while protecting the historic and rural character of the Town, maintaining the rural style of life, retaining active farm production, developing business, and keeping Ripley an affordable place to live, however, there are several areas where we believe revisions would improve the Town's proposal in terms of clarity, consistency with New York State standards and practices, and feasibility of implementation for large-scale solar projects.

As the Town is aware, ConnectGen recently elected to proceed with siting review and approval under the new Section 94-c permitting process.[1] One of the hallmarks of the new permitting process is comprehensive uniform standards and conditions governing large scale solar projects, such as South Ripley Solar. Thus, one option for the Town would be to allow the uniform standards and conditions implemented by the Office of Renewable Energy Siting and the New York State Building, Fire and Electrical Codes to control the construction and operation of large-scale projects in the Town. The State has gone through extensive rule-making, obtaining thousands of comments and expert evidence on appropriate siting standards for wind and solar projects under both Article 10 and now Section 94-c. Rather than "re-invent the wheel," the Town could rely on the uniform standards that will be adopted by the State to govern large scale solar projects. In this regard, there are many municipalities with provisions of local laws that State, for example:

> For projects regulated under Section 94-c of the Executive Law, any provisions of this Local Law that conflict with Section 94-c of the Executive Law shall be read to mean that the provisions of Section 94-c shall apply.

We recognize that the Town of Ripley's Solar Energy Law has a basis in NYSERDA's model law. The Town's modifications to these model laws, however, are, in some instances, difficult to implement in practice and may be potentially unreasonably burdensome or incapable of satisfaction essentially precluding solar development. These provisions could have the unintended result of causing broader solar panel dispersion within the Town or, worst case, prohibiting solar development completely. For example, the 450' setback requirement severely limits solar panel placement on a parcel potentially necessitating placement of panels on additional parcels

[1] N.Y. Executive Law Section 94-c; 19 NYCRR Part 900 et. seq.

throughout the Town. The tree clearing limitations have the potential to further exacerbate this situation if protected trees are located in the center of a parcel.

ConnectGen respectfully offers these comments on the Town's Solar Energy Zoning Law for your consideration with the hope that, by making these changes, a fair balance between maintaining local character and solar development can be achieved. We believe the revisions proposed below would improve the Town's Solar Energy Law terms of clarity, consistency with New York State standards and practices, and feasibility of implementation for large-scale solar projects.

Following are specific comments on the Solar Energy Zoning Law.

Solar Energy Law

Section 1503 - Definition of Facility Area: The definition of Facility Area currently reads, "[t]he physical area, measured in both square feet and acres, used for any solar energy system Project Site, including any setbacks, buffers, fencing, roads, screening, support facilities, Solar Energy Equipment, and all other components of a solar energy system facility. The facility area shall include, and shall not be limited to, the surface area of any Solar Panel and Solar Energy Equipment."

We recommend removing uncovered space within panel areas, setbacks, buffers, fencing, and screening. By including these areas, the "Facility Area" attempts to regulate areas that are not impacted by project infrastructure needlessly frustrating the ability to meet lot coverage ratio requirements. Maximum lot coverage requirements tend to limit the square-footage of impervious surfaces on a given lot so that there is enough green space to absorb at least some measure of stormwater on-site, rather than eliminating or severely reducing a lot's natural tendency to attenuate such run-off. Considering that the Zoning Law definition of "Lot Coverage" excludes "uncovered porches, terraces and steps," which are presumably pervious surfaces (or at least more pervious than building roofs, carports, and covered porches), we respectfully submit that the Zoning Law suggests a legislative intent that Lot Coverage refers to any Project elements that cover (or in this case, shade) the ground. This understanding is reinforced by the specific requirement that "[t]he surface area covered by Solar Panels shall be included in total lot coverage." (*See* Zoning Law § 620(6)(C)(3)). We also recommend removing "and shall not be limited to" from the definition. Including this language creates uncertainty and does not allow for accurate calculations of lot coverage.

Section 1508 (B) – Setbacks: The provision states that setbacks apply only to land that has been leased or procured to have solar panels on the land. We recommend revising this provision to state that setbacks apply to land in which the developer has obtained the necessary real property interests and is considered a participant in the project. As written, the provision does not allow for other real property agreements or easements.

Section 1508 (C) - Vehicular Paths: The provision requires that roads shall be paved, a minimum of 20 feet wide, and capable of bearing the weight of emergency vehicles. ConnectGen proposes to remove the requirement that roads be paved. Non-paved roads have the same capability of bearing the weight of emergency vehicles. Moreover, paving roads will create additional

impervious surfaces, represents a more significant change to the farming landscape and restoring land at decommissioning will become significantly more difficult and costly. Impervious surfaces are discouraged from a stormwater management standpoint and can exacerbate runoff conditions. Instead, gravel or grass roads are acceptable under the State Fire Code and can be designed to accommodate emergency access if needed. Similarly, the Fire Code allows 16 ft. wide access roads with sufficient passing lanes, thus, we would suggest that this provision be modified to allow less than 20 ft. consistent with the New York Fire Code.

Section 1058 (E) –Glare: The provision states, "Solar panels used in the project must be shown to be manufactured in their as-installed form to be free from any perfluoroalkyl substances ("PFAS"). This includes, but is not limited to, certification that no polytetrafluoroethylene (PTFE) films or similar products were applied to panels after their manufacture." The lack of specificity in the standard ("or similar products") limits the ability of Applicants to adequately identify limitations on equipment or anti-reflective coatings. We request that this provision instead require that projects follow all federal and state guidelines regarding PFAS and polytetrafluoroethylene (PTFE) films.

Section 1508 (F) – Lighting: The provisions reads, "[l]ighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties with full cutoff and should not encroach outside of the fenced perimeter." This provision is more restrictive than any current zoning provisions regarding lighting. Per Section 634: Mobile Home Parks (H) (15) – "Exterior Lighting: Adequate lighting shall be provided with shielded lamps to illuminate internal streets, walkways, driveways and parking spaces for the safe movement of pedestrians and vehicles at night." Per Section 637: Telecommunication Facilities, Towers and Wind Towers (4) - The minimal amount of lighting necessary to meet State and Federal regulations shall be required." Solar projects do not require widespread lighting, with security lighting typically only required at project substations or O&M buildings. ConnectGen requests that this provision reflect other current accepted zoning regulations and instead require that the minimal amount of lighting necessary to meet State and Federal regulations shall be required. Moreover, light encroaching on abutting properties be minimized to maximum extent practicable.

Section 1508 (G) - Tree Cutting: Under the Solar Energy Law, removal of existing trees larger than 6 inches in diameter is prohibited and tree removal, by developer or landowner, shall not to exceed 5% of all existing forested land on any given parcel. In addition, solar panels shall be located no closer than 50 feet to trees. As a general matter, this provision may be inconsistent with the Town's timbering policies and should not place a greater limitation on solar development than on any other industry. This standard limits the amount of available land for development but does not provide any environmental benefit as proximity to trees does not affect the health or viability of the tree. This provision is also in conflict with other sections of the law, which discourage the siting of solar projects on Prime Farmland, for example. Rather than impose such a strict limitation on removal of trees Town-wide, we suggest any restriction of this nature—if one is necessary at all—be more narrowly tailored to removal of trees within certain buffer distances of important viewpoints or other locations where tree removal may result in visual impacts to the community.

For example, the section could be revised to state that where existing forested lands provide visual screening from public highways, or within 500 feet of the residential areas, or within 500 feet of the Village of Ripley, removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible to preserve visual buffers. Alternatively, we propose the Town strike this provision.

Section 1508 (I) - Dielectric Coolants: The provision states "All dielectric coolants used at the site shall be free of petroleum, halogens, silicones, or any other materials not specified above." ConnectGen proposes removing this provision. The design, manufacturing, and operation of electrical equipment that uses dielectric coolants is governed by federal and state electrical and environmental codes and regulations. The specificity of Dielectric coolant material type is not consistent with town zoning regulating other mechanical and electrical equipment, even electrical substation equipment similar to what would be utilized by solar in the town currently. Additionally, the provision as proposed does not provide flexibility if there is not a commercially reasonable or technically viable option to utilize the specific coolants outlined, nor does it consider potential future improvements in coolant types. Finally, the absolute elimination of "petroleum, halogens, silicones, or any other materials not specified above" in "fire-resistant natural ester dielectric coolant specifically formulated from edible vegetable oils and food grade performance enhancing additives" may not be technically feasible. Even fire-resistant natural ester dielectric coolants may contain trace amounts of petroleum, halogens, silicones, or any other materials.

Section 1508 (J) - Noise: The provision states "[o]nce in operation, sound pressure level at property lines outside facility fencing shall not exceed ambient noise by more than 6dB(A). Sound Pressure is the perceived loudness expressed in A-weighted decibel scale dB(A) which is weighted towards those portions of the frequency spectrum, between 20 and 20,000 Hertz, to which the human ear is most sensitive." The concern with a sound measurement based on "ambient" noise is that background sound can change throughout the day/night or over time. Thus, a passing car or if a new commercial or agricultural use is sited near the Project, the ambient levels may change, meaning that the standard for the operation of the Facility changes over time. This is very difficult to demonstrate compliance with an ever-changing baseline ambient noise standard. In addition, it is nearly impossible to predict beforehand the background ambient sound level at all places and all times of the year and into the future.

In addition, we suggest that a specific numerical standard is more reasonable and easier to enforce. This is the approach in the new Section 94-c process, and we suggest that the Town seek consistency with that standard by applying a 45 dBA $L_{eq\text{-}8hr}$ standard measured at the home and 55 dBA $L_{eq\text{-}8hr}$ measured at the property line to solar facilities.

In addition, a property boundary line assessment is difficult because it does not identify a discrete location for testing as compared with testing at the residence. When testing is monitored during operation, testing would need to be conducted at points along the property boundary and difficult and time consuming to monitor.

If the Town still wishes to have a standard relative to the background ambient, then it must include a metric and averaging time, otherwise it is ambiguous. For consistency with NYSDEC guidelines

and Section 94-c, we recommend using the equivalent continuous sound level measured over an eight-hour period.

Section 1508 (K) - Project Construction Hours: We note that these construction hours restrictions apply only to solar project construction and are more restrictive than many other uses that are currently allowed in the Town (for example, farm equipment operation). We do not think these restrictions are necessary for the type of work that will be conducted at the Project site and would request that any construction hour limitations align with the restrictions already imposed by Section 94-c (i.e. Construction and routine maintenance activities on the facility shall be limited to 7 a.m. to 8 p.m. Monday through Saturday and 8 a.m. to 8 p.m. on Sunday and national holidays, with the exception of construction and delivery activities, which may occur during extended hours beyond this schedule on an as-needed basis).

Section 1508 (M) – Security (3)(b): According to this provision, "[i]n the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed. ConnectGen requests that the provision clarify the "conditions" default upon which triggers forfeiture of security, procedures for proper notice, and duration of cure period. ConnectGen also requests that forfeiture of security only occur upon abandonment of the project.

Section 1508 (M) – Security (3)(d): This provision requires that a developer provide a letter of credit or fund an escrow in an amount satisfactory to the Town. ConnectGen respectfully requests that the Town verify that such a requirement is properly within the Town's zoning authority. As written, the requirement is ambiguous and unfettered and does not provide any metrics for calculating the escrow value. Regardless, the provisions in (d) are not necessary given the other provisions in this section of the law. Moreover, we do not understand the Town's basis for rejecting salvage value as a component of the decommissioning, since the materials that will be removed will have value. Any decommissioning, in the unlikely event that this is required to be conducted by the Town, does not require specialized equipment like a wind project and can be done not dissimilarly than any other demolition project. The materials removed from the project have scrap value and that should be included in the decommissioning estimate. ConnectGen suggests that the decommissioning escrow value be determined using a cost estimation for the removal of project infrastructure net of salvage value, to be re-evaluated every 5 years by a licensed Professional Engineer.

Section 1508 (O) - Special Use Permit Standards (2) Setbacks: Referring to Appendix F of the Town's zoning law, the Solar Energy Law requires that front, side and rear setbacks from property lines in Rural, Rural/Agricultural, and Agricultural Residential Districts each be 450 feet. The setbacks are over 4.5 times the minimum setbacks established under the State's regulations for the Section 94-c process (100 feet from non-participating property lines; 50 feet from road centerline; 50 feet from non-participating non-residential property line; 250 feet from non-participating occupied residences) and could effectively preclude any solar development within the Town

resulting in a *de facto* moratorium of solar development. It is extraordinarily difficult to apply this setback to the South Ripley Project and have **any** developable parcels for solar, let alone to generate 270 MWs of electricity. Please see the included map which demonstrates the impact of 450 feet setbacks from property boundaries. We suggest that the setback requirements be consistent with requirements in the Town's general Zoning Law as there is no basis to distinguish these from other commercial uses. Moreover, at a minimum, there is no reason to distinguish between Tier 3 and Tier 4 solar projects, and the same setbacks that apply to Tier 3 should apply to Tier 4. Just because Tier 4 permits larger projects, doesn't suggest the need for a larger setback due to similar equipment types between Tiers 3 and 4. In the alternative, if the Town determines that additional setback requirements are required beyond those in the general Zoning Law, we recommend setbacks consistent with those in the 94-c regulations. These setbacks are sufficient to mitigate any potential visual concerns and is consistent with reasonable solar laws passed in other municipalities. Additional revisions could include differentiating between setbacks in various zoning districts.

Section 1508 (O) - Special Use Permit Standards (4) Lot Coverage: The Solar Energy Law states that "[l]ot coverage of the Solar Energy System, as defined above, shall not exceed the maximum lot coverage requirement of the underlying zoning district." Lot coverage percentages are found in Appendix B of the Town's Zoning Law. However, it is unclear from Appendix B the category for a solar project and the associated lot coverage maximum. In clarifying this requirement, please take into consideration the comment made above regarding the definition of Facility Area (i.e. removal of setback, buffer, etc.). If the Town does not make the suggested revisions to the definition of Facility Area, any maximum lot coverage restriction will limit the ability of all landowners to utilize their full property for solar. If the recommended changes are made to the definition of Facility Area, we suggest the lot coverage be set at 50%.

Section 1508 (O) - Special Use Permit Standards (5) Fencing Requirements (b): This provision requires that a chain-link fencing be visually screened. This provision is overly broad. We suggest limiting screening to areas where potential visual impacts of historically or culturally sensitive resources have been identified.

Section 1508 (O) - Special Use Permit Standards (5) Fencing Requirements (d): This proposed provision states that the use of barbed wire, razor wire, or electric fencing around solar energy facilities is prohibited. Unless there is a substantial justification for precluding the use of barbed wire, we request the Town reconsider, especially in cases where barbed wire topped chain length fences are required by federal and state electrical codes, such as for project substation facilities.

Section 1508 (O) - Special Use Permit Standards (7) Agricultural Resources (d): The Solar Energy Law proposes that Tier 4 Solar Energy Systems shall not result in conversion of more than 10% of all prime farmland in the Town of Ripley. Converted farmland includes both prime farmland inside any perimeter fencing associated with Tier 4 facilities, and any adjacent prime farmland that is no longer suitable for farming as a result of the Tier 4 facility. Generally, it would be more appropriate for the Town to set standards for review of projects on an individual basis

given that individual applicants do not have any control over the siting of other projects. The 10% limit for the entire industry places a burden on individual developers by setting requirements over which they have no control. Moreover, this provision assumes that prime farmland *near* the Project should also be considered a "permanent conversion" from a farm use. As any farmer in the community is aware, there are a myriad reasons why a farmer may stop farming, more often than not involving commodity prices and the market, than nearby uses. Thus, this requirement that adjacent prime farmland be included in the calculation of converted farmland unnecessarily assumes that farming would be discontinued nearby solely because of the solar project. There is no basis to assume that a solar project will impact farming on adjacent parcels. Moreover, this overly broad requirement allows any adjacent landowner to stimy solar development by making a claim that farming activities are impacted.

Section 1509 – Safety (B): The Solar Energy Law states that "[s]ite access shall be maintained, including snow removal at a level acceptable to the local fire department at all times." In essence, this provision would allow the Fire Department to dictate snow maintenance at the Facility without any restrictions. Additionally, the provision does not provide specifics for notification or guidelines for cure periods. We request that this language referring to fire department approval at all times be removed.

Section 1509 – Safety (D): This provision states that the Town must have full access to the new project owner's security system before or at the time of the change in ownership. This provision is overly broad and potentially violates federal and state policies regarding critical energy infrastructure. ConnectGen suggests this section be removed.

Section l512 (A) and (C) – Reimbursement of Fees: Subsection (A) of the Solar Energy Law requires that an applicant reimburse the Town for any fee or expense incurred in hiring subject matter experts and attorneys to review whether a Solar Energy System proposed for siting pursuant Article 94-c of the Executive Law complies with the law's substantive provisions. Subsection (C) provides that the applicant must also deposit an amount equal to one percent (1 %) of the estimated cost of the project to pay consultants and attorneys engaged by the Town to assist in application review if a local permit is sought, and to pay consultants and attorneys engaged by the Town to assist in review of an Article 10 or Article 94-C Application should awarded intervenor funds be insufficient to fully participate in the Article 10 or Article 94-c Process, or should intervenor funds be otherwise exhausted.

ORES' regulations require that, as part of the 94-c application process, an applicant deposit $1,000 per for each megawatt of project capacity. Accordingly, sufficient funds will be available to the Town for its participation in the application review process and this provision is unnecessary. Moreover, as the provision is written, there is no cap on pre-application costs.

ConnectGen appreciates the opportunity to provide comments on the Town of Ripley's Solar Energy Zoning Law. Please feel free to reach out to our office if you have questions or wish to

discuss our comments further, or if you would like to discuss ConnectGen's proposed solar project, the Section 94-c review process, or other local laws governing solar energy facilities.

Respectfully,

IsAAC pHILLIPS

Isaac Phillips
Project Developer for the South Ripley Solar Project
ConnectGen Chautauqua County LLC

TOWN OF RIPLEY		
Substantive Local Law Requirement	**94-c Requirement**	**94-c Citation**
Section 1508(O) 6) Screening and Visibility Tier 3 and Tier 4 Energy Systems larger than 10 acres shall be required to conduct a visual impact assessment to determine the Solar Energy System's visual impact on public roadways and adjacent properties.	Applicants must submit a Visual Impacts Minimization and Mitigation Plan which shall include proposed minimization and mitigation alternatives based on an assessment of mitigation strategies, including screening (landscaping), architectural design, visual offsets, relocation or rearranging facility components, reduction of facility component profiles, alternative technologies, facility color and design, lighting options for work areas and safety requirements, and lighting options for FAA aviation hazard lighting. In particular, the electrical collection system shall be located underground, to the extent practicable. Structures shall only be constructed overhead for portions where necessary based on engineering, construction, or environmental constraints. In addition, underground utility lines must be four feet below grand in agricultural lands and three feet below grade in non-agricultural lands.	Section 900-2.9(d)(2) Section 900-10.2
Section 1508 (C) - Vehicular Paths Vehicular paths and emergency access ways within the site shall be designed to minimize the extent of impervious materials and soil compaction. Topsoil in the same location as roads shall be stripped and stockpiled. The provision also requires that roads shall be paved, a minimum of 20 feet wide, and capable of bearing the weight of emergency vehicles.	Applicant must submit site plans for the proposed facility including: Extents of proposed access road travel lanes (including indications of any existing access roads to be utilized) and any turn-around areas/temporary road improvements for component deliveries: Approximate limits of disturbance for all facility components (panels, access roads, electric line corridors, etc.) Each proposed permanent point of access or access type shall include a typical installation plan view, cross section and side view with appropriate dimensions (temporary and permanent width(s)) and identification of materials to be used along with corresponding material thickness. Where existing accessways will be used, a description of proposed upgrades for facility construction shall be provided. Additionally, typical details of any other proposed access (e.g., helicopter or barge placement) shall be provided.	Section 900-2.6(f) Section 900-6.4(q)(4) and (6) Section 900-6.4(s)

	In addition, applicants must minimize impacts to waterbodies including: Permanent access roads across wetlands shall use a layer of geotextile fabric and a minimum of six (6) inches of gravel shall be placed in the location of the wetland crossing after vegetation and topsoil is removed. Access roads shall be designed and constructed to adequately support the type and frequency of the anticipated vehicular traffic and include suitable culverting or other drainage infrastructure as needed to minimize the impact to wetland hydrology. The creation, modification or improvement of any permanent road crossing of a NYS-protected waterbody shall meet the following requirements: (i) New culvert pipes that the permittee is required to install shall be designed to safely pass the one (1) percent annual chance storm event; (ii) Culvert pipes shall be embedded beneath the existing grade of the stream channel; (iii) Width of the structure shall be a minimum of one and a quarter (1.25) times the width of the mean high-water channel, as practicable; and (iv) The culvert slope shall remain consistent with the slope of the adjacent stream channel. For slopes greater than three (3) percent, an open bottom culvert shall be used. Moreover, access roads in active agricultural lands must be consistent with the Guidelines for Solar Energy Project-Construction Mitigation for Agricultural Lands	
Section 1508 (D) - Signage o No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said	Advertisements, conspicuous lettering, or logos identifying the facility owner, turbine manufacturer, solar module manufacturer, or any other supplier entity, other than warning and safety signs, shall not be allowed.	Section 900-2.9(d)(1)

information shall be depicted within an area no more than 4 square feet, but no less than square feet. Additional signage shall also be placed at the roadside for first responders to identify the type of project area they are entering and the hazards they can expect to encounter at each site location. The owners name, address and 24 hour contact information shall be displayed at the roadside. All signage should be a light reflective surface. o As required by National Electric Code (NEC), disconnect and other emergency shut-off information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. Multiple remote shut-off locations will be installed to the extent technically feasible and shall be accessible by first responders. **Section 620(6)(C)(4)[1]**		

[1] Please note that certain provisions in Town's existing zoning law appear to conflict with the recently introduced Solar Energy Law. Until such time as the Solar Energy Law is passed and prior inconsistent laws are superseded, ConnectGen is listing all potentially applicable laws.

4) All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. *Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing*.		
Section 1508 (E) – Glare All Solar Panels shall have anti-reflective coating(s). Solar panels used in the project must be shown to be manufactured in their as-installed form to be free from any perfluoroalkyl substances ("PFAS"). This includes, but is not limited to, certification that no polytetrafluoroethylene (PTFE) films or similar products were applied to panels after their manufacture. The Town may request proof of this provision at its discretion before, during, and after the installation of the photo-voltaic panels.	Solar panels shall have anti-reflective coatings and the Visual Impacts Minimization and Mitigation Plan shall include an analysis using Sandia National Laboratories Solar Glare Hazard Analysis Tool (SGHAT) methodology or equivalent, that solar glare exposure at any non-participating residence, airport or public roadway will be avoided or minimized, and will not result in complaints, impede traffic movements or create safety hazards.	Section 900-2.9(d)(7)
Section 1508 (F) – Lighting Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties with full cutoff and should not encroach	Applicants must submit a Visual Impacts Minimization and Mitigation Plan which shall include proposed minimization and mitigation alternatives based on an assessment of mitigation strategies, including screening (landscaping), architectural design, visual offsets, relocation or rearranging facility components, reduction of facility component profiles, alternative technologies, facility color and design, lighting options for work areas and safety requirements, and lighting options for FAA aviation hazard lighting.	Section 900-2.9(d)(9)

outside of the fenced perimeter."	In particular, applicants must submit: A lighting plan(s), which shall address: (i) Security lighting needs at substation and switchyard sites, and any exterior equipment storage yards; (ii) (ii) Plan and profile figures to demonstrate the lighting area needs and proposed lighting arrangement and illumination levels to provide safe working conditions at the collection substation site, and any exterior equipment storage yards or other locations; (iii) (iii) Exterior lighting design shall be limited to lighting required for health, safety, security, emergencies and operational purposes and shall be specified to avoid off-site lighting effects as follows: *(a)* Using task lighting as appropriate to perform specific tasks; limiting the maximum total outdoor lighting output based on the lowest allowable OSHA limits; task lighting fixtures shall be designed to be placed at the lowest practical height and directed to the ground and/or work areas to avoid being cast skyward or over long distances, incorporate shields and/or louvers where practicable, and capable of manual or auto-shut off switch activation rather than motion detection; *(b)* Requiring full cutoff fixtures, with no drop-down optical elements (that can spread illumination and create glare) for permanent exterior lighting, , consistent with OSHA requirements and adopted local laws or ordinances, including development standards for exterior industrial lighting, manufacturer's cut sheets of all proposed lighting fixtures shall be provided	
Section 1508(O)(2) 1) Lot Size: The property on which the Tier 3 and Tier 4	Setbacks for solar facilities:	Section 900-2.6

<table>
<tr>
<td>Solar Energy System is placed shall meet the lot size requirements in Appendix F.

(2) Referring to Appendix F of the Town's zoning law, the Solar Energy Law requires that front, side and rear setbacks from property lines in Rural, Rural/Agricultural, and Agricultural Residential Districts each be 450 feet.

Section 620(6)(C)

2) Lot Size. Large-Scale Energy Systems shall be located on lots with a minimum lot size of 1 acre.

3) Lot Coverage. A Large-Scale Solar Energy System that is ground-mounted shall not exceed 50% of the lot on which it is installed. The surface area covered by Solar Panels shall be included in total lot coverage.</td>
<td>
<table>
<tr><th>Setback Type</th><th>Solar Facility Setback</th></tr>
<tr><td>Non-participating residential property lines</td><td>100 feet</td></tr>
<tr><td>Centerline of Public Roads</td><td>50 feet</td></tr>
<tr><td>Non-participating property lines (non- residential)</td><td>50 feet</td></tr>
<tr><td>Non-participating occupied residences</td><td>250 feet</td></tr>
</table>
</td>
<td></td>
</tr>
<tr>
<td>Section 1508(O)

5) Fencing Requirements:

a) All mechanical equipment, including any structure for storage batteries, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.

b) Chain-link fencing be visually screened.

d) The use of barbed wire, razor wire, or electric fencing around solar energy facilities is prohibited.</td>
<td>All mechanical equipment, including any structure for storage of batteries, shall be enclosed by fencing of a minimum height of seven (7) feet with a self-locking gate to prevent unauthorized access.

In addition, Applicants must submit a Site Security Plan for the operation of proposed facility, including site plans and descriptions of the following site security features:
(1) Access controls including fences, gates, bollards and other structural limitations;
(2) Electronic security and surveillance facilities;
(3) Security lighting, including specifications for lighting and controls to address work-site safety requirements and to avoid off-site light trespass;
(4) Lighting of facility components to ensure aircraft safety; and
(5) A description of a cyber security program for the protection of digital computer and</td>
<td>Section 900-6.4(i)

Section 900-2.7(b)</td>
</tr>
</table>

Section 620(6)(C)(4) 4) All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Planning Board. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts.	communication systems and networks that supports the facility demonstrating compliance with current standards issued by a standards setting body generally recognized in the information technology industry, including, but not limited to, the Federal Department of Commerce's National Institute of Standards and Technology, the North American Electric Reliability Corporation, or the International Organization for Standardization, and providing for periodic validation of compliance with the applicable standard by an independent auditor.	
Section 1508(O)(7) b. Tier 3 and Tier 4 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the requirements of the New York State Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Solar Energy Projects. d. Tier 4 Solar Energy Systems shall not result in conversion of more than 10% of all prime farmland in the Town of Ripley. Converted farmland includes both prime farmland inside any perimeter fencing associated with Tier 4 facilities, and any adjacent prime farmland that is no longer suitable for farming as a result of the Tier 4 facility.	Applicants must submit an Agricultural Plan, consistent with the New York State Department of Agriculture and Markets Guidelines to the maximum extent practicable, to avoid, minimize, and mitigate agricultural impacts to active agricultural lands (i.e., land in active agriculture production defined as active three (3) of the last five (5) years) within NYS Agricultural Land Classified Mineral Soil Groups 1 through 4.	Section 900-2.16(c)
Section 1508(O)(7)	Applicants must submit a Vegetation Management Plan, which shall include, at a minimum, the	Section 900-10.2(e)(4)

a. Tier 3 and Tier 4 Solar Energy Systems on Prime Farmland or Farmland of Statewide Importance shall be required to seed 75% of all area within perimeter fencing suitable for seeding with native perennial vegetation, with native perennial vegetation. c. Tier 3 and Tier 4 Solar Energy System owners shall develop, implement, and maintain native vegetation pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. When establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.	following: (i) Vegetation management practices for switchyard and substation yards and for transmission and interconnection facilities, including danger trees (trees that due to location and condition are a particular threat to fall on and damage electrical equipment) around transmission and interconnection facilities, specifications for clearances, inspection and treatment schedules, and environmental controls to avoid off-site effects; (ii) Vegetation management recommendations, based on on-site surveys of vegetation cover types and growth habits of undesirable vegetation species; (iii) Planting of native vegetation, based on on-site surveys of vegetation cover types and growth habits of undesirable vegetation species; (iv) Restoration of disturbed areas, ruts, and rills to original grades and conditions with permanent re-vegetation and erosion controls appropriate for those locations; (v) All proposed chemical and mechanical techniques for managing undesirable vegetation. Herbicide use and limitations, specifications, and control measures shall be included; (vi) Substation fence-line clearances, and overhead wire security clearance zone specifications, indicating applicable safety, reliability and operational criteria; (vii) Inspection and target treatment schedules and exceptions; (viii) Standards and practices for inspection of facilities easements for erosion hazard, failure of drainage facilities, hazardous conditions after storm events or other incidents; (ix) Review and response procedures to avoid conflicts with future use encroachment or infrastructure development; and (x) Host landowner notification procedures.	
Section 1504 (F) All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code	Applicants must identify the city, town, village, county, or State agency qualified by the Secretary of State that shall review and approve the building plans, inspect the construction work, and certify compliance with the New York State Uniform Fire Prevention and Building Code, the Energy Conservation Construction Code of New York State, and the substantive provisions of any applicable local electrical, plumbing or building code. The statement of identification shall include a description of the	Section 900-2.25(e)

("Building Code"), the NYS Energy Conservation Code ("Energy Code"). **Section 1509 – Safety:** A. Solar Energy Systems and Energy Equipment shall be certified under the applicable electrical and/or building codes as required.	preliminary arrangement made between the applicant and the entity that shall perform the review, approval, inspection, and compliance certification, including arrangements made to pay for the costs thereof including the costs for any consultant services necessary due to the complex nature of such facilities.	
Section 1509 A. Solar Energy Systems and Energy Equipment shall be certified under the applicable electrical and/or building codes as required. B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department at all times. **Section 1508 (H) – Blasting** Any and all types of blasting should be prohibited at all stages of the project. **Section 620 (6)(B)(4)** 4) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.	Permittees shall operate the facility to abide by applicable rules and regulations of the PSL and 16 NYCRR with respect to matters such as enforcement, investigation, safety and reliability. The permittee shall abide by standard Good Utility Practice, and abide by all rules, guidelines and standards of the serving utilities, the New York Independent System Operator (NYISO), the Northeast Power Coordinating Council (NPCC), the New York State Reliability Council (NYSRC), the North American Electric Reliability Corporation (NERC) and successors. In addition, the permittee shall have an annual inspection program for its facilities. An annual inspection report shall summarize maintenance and inspection activities performed and include details of any repairs undertaken. Reports shall identify any major damage, defects or other problems, or indicate that no such damage, defect or problem was found. Reports shall be made readily available upon request by the NYSDPS or the Office. Applicants must also submit an identification of potential approach and departure routes to and from the facility site for police, fire, ambulance and other emergency vehicles. Applicant must also evaluate, identify and describe all efforts made to avoid and minimize potential adverse impacts of the construction and operation of the facility, interconnections and related facility on the environment, public health and safety. This includes identifying site control measures and safety response protocols. The Safety Response Plan must include:	Section 900-6.5(c)-(e) Section 900-2.17(b)(3) Section 900-2.7(c)

	1) An identification of contingencies that would constitute a safety or security emergency; 2) Emergency response measures by contingency; 3) Evacuation control measures by contingency; 4) Community notification procedures by contingency; 5) A description of all on-site equipment and systems to be provided to prevent or handle fire emergencies and hazardous substance incidents in compliance with the fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law; 6) A description of all contingency plans to be implemented in response to the occurrence of a fire emergency or a hazardous substance incident; and 7) A requirement to conduct training drills with emergency responders at least once per year.	
Section 1509 A. Solar Energy Systems and Energy Equipment shall be certified under the applicable electrical and/or building codes as required. B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department at all times	Applicants must submit a list of engineering codes, standards, guidelines and practices that the applicant has or intends to conform with when planning, designing, constructing, operating and maintaining the wind turbines, solar arrays, electric collection system, substation, transmission line, inter connection, energy storage systems (a summary of correspondence with local fire department representatives shall accompany proposals of such systems), and associated structures. In addition, the permittee must submit any updated information regarding the design, safety and testing for the wind turbines, solar panel, inverters, substation, transformer, and battery storage equipment to be installed during construction as well as information regarding the design, safety, and testing for any equipment installed during facility operation as a replacement of failed or outdated equipment shall be filed within fourteen (14) days of completion of all final post-construction restoration. Furthermore, applicants are required to submit a Decommissioning and Site Restoration Plan which	Section 900-2.6(f)(4) and (5) Section 900-2.24

	must address disposal and recycling of facility components.	
Section 1508 (J) - Noise Once in operation, sound pressure level at property lines outside facility fencing shall not exceed ambient noise by more than 6dB(A). Sound Pressure is the perceived loudness expressed in A-weighted decibel scale dB(A) which is weighted towards those portions of the frequency spectrum, between 20 and 20,000 Hertz, to which the human ear is most sensitive.	Applicants are required to submit a comprehensive Noise and Vibration analysis and must conform to the following design criteria: (i) A maximum noise limit of forty-five (45) dBA Leq (8-hour), at the outside of any existing non-participating residence, and fifty-five (55) dBA Leq (8-hour) at the outside of any existing participating residence; (ii) A maximum noise limit of forty (40) dBA Leq (1-hour) at the outside of any existing non-participating residence from the collector substation equipment; (iii) A prohibition on producing any audible prominent tones, as defined by using the constant level differences listed under ANSI S12 .9-2005/Part 4 Annex C (sounds with tonal content) (see section 900-15.1(a)(1)(iii) of this Part), at the outside of any existing non- participating residence. Should a prominent tone occur, the broadband overall (dBA) noise level at the evaluated non-participating position shall be increased by 5 dBA for evaluation of compliance with subparagraph (i) and (ii) of this paragraph; and (iv) A maximum noise limit of fifty-five (55) dBA Leq (8-hour), short-term equivalent continuous average sound level from the facility across any portion of a non-participating property except for portions delineated as NYS-regulated wetlands pursuant to section 900-1.3(e) of this Part and utility ROW to be demonstrated with modeled sound contours drawings and discrete sound levels at worst-case locations. No penalties for prominent tones will be added in this assessment.	Section 900-2.7
Section 1508 (M) – Decommissioning (2) A decommissioning plan signed by the owner and/or operator of the Solar Energy	Applicants must submit a Decommissioning and Site Restoration Plan for site restoration in the event the facility cannot be completed or after end of the useful life of the facility (to be identified) which shall, at a minimum, address the following:	Section 900-2.24

System shall be submitted by the applicant. (3)(d) Security - Notwithstanding the forgoing, any Tier 4 solar energy system and any associated battery energy storage systems sited pursuant to Article 10 of the Public Service Law or Article 94-c of the Executive Law shall be required to obtain a letter of credit or fund an escrow in an amount satisfactory to the Town of Ripley, to ensure the removal of the systems, their components, and associated structures, fixtures, equipment, fencing, sub-surface components or other improvements, and the remediation of the site. The amount of the letter of credit shall not be reduced by the salvage value of facility components. **Section 620(6)(B)(5)** Decommissioning Plan. To ensure the proper removal of Large-Scale Solar Energy Systems, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this Section. The Decommissioning Plan must specify that after the Large-Scale Solar Energy System can no longer be used, it shall be removed by the applicant or any subsequent owner. The plan	1) Safety and the removal of hazardous conditions; 2) Environmental impacts; 3) Aesthetics; 4) Recycling; 5) Potential future uses for the site; 6) Funding; and 7) Schedule. The Decommissioning and Site Restoration Plan for site restoration will include a net decommissioning and site restoration estimate to be allocated between the Towns based on the estimated costs associated with removal and restoration of the facilities within each Town. The decommissioning estimate will include a fifteen (15) percent contingency and will be reduced by the estimate salvage value of the Facility. The decommissioning security will be updated every five years and adjusted for inflation or other cost increases.	Section 900-6.6

shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. Cost estimations shall take into account inflation. Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan. If the Large- Scale Solar Energy System is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality.		
Section 505, Visibility at Intersections: In order to help promote traffic safety, it is necessary to limit development that could make it hard to see at intersections. Therefore, plants, hedges, new fences, new walls or other new roadside structures cannot	Applicants must describe and study impacts of the Facility construction and operation on local traffic and roads, and any airports, railroads, buses or other mass transit systems if applicable.	Section 900-2.17

be more than 3 feet tall within 50 feet of the corner.		
Section 507, Topsoil Excavation: During construction of any building, general excavation or other extensive excavation, the property owner is responsible for assuring that run-off onto neighboring property is avoided or does not cause erosion, and that steep slopes aren't created. Topsoil must be available to replenish the site within 6 months of when construction is completed.	Applicants must study impacts on ground water and surface waters and implement various minimization and mitigation requirements to avoid and mitigate impacts to such resources. Applicants must also submit a Stormwater Pollution Prevention Plan for the collection and management of stormwater discharges from the facility site during construction. Applicants must also describe spill prevention and control measures, implement an Invasive Species Control and Management Plan and obtain a Water Quality Certificate if applicable.	Section 900-2.14
Section 1508 (I) - Dielectric Coolants Dielectric coolants used in any power transformers, voltage regulators, sectionalizing switches, transformer rectifiers, electromagnets, and voltage supply circuits installed on the SEPGS shall be a fire-resistant natural ester dielectric coolant specifically formulated from edible vegetable oils and food grade performance enhancing additives for use in distribution and power transformers. All dielectric coolants used at the site shall be free of petroleum, halogens, silicones, or any other materials not specified above.	N/A- addressed in Exhibit 6 generically.	
Additional 94-c Requirements		
Topic Area	**Brief Description**	**Citation**

Safety Response	Applicant must evaluate, identify and describe all efforts made to avoid and minimize potential adverse impacts of the construction and operation of the facility, interconnections and related facility on the environment, public health and safety. This includes identifying site control measures and safety response protocols. The Safety Response Plan must include: 1) An identification of contingencies that would constitute a safety or security emergency; 2) Emergency response measures by contingency; 3) Evacuation control measures by contingency; 4) Community notification procedures by contingency; 5) A description of all on-site equipment and systems to be provided to prevent or handle fire emergencies and hazardous substance incidents in compliance with the fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law; 6) A description of all contingency plans to be implemented in response to the occurrence of a fire emergency or a hazardous substance incident; and A requirement to conduct training drills with emergency responders at least once per year.	Section 900-2.7(c)
Location of Facility and Surrounding Land Use.	Applicants must submit a series of maps and present a qualitative assessment of the compatibility of the facility, including any off-site staging and storage areas, with existing, proposed and allowed land uses, and local and regional land use plans, located within a one (1)-mile radius of the facility site. In addition, applicants must provide a description of community character in the area of the facility, an analysis of impacts of facility construction and operation on community character, and identification of avoidance or mitigation measures that will minimize adverse impacts on community character.	Section 900-2.4

Site Plans and Design Drawings.	Applicants must submit detailed site plans and design drawings for all Facility components.	Section 900-2.6
Cultural Resources.	Applicants must study the impacts of construction and operation of the facility on archeological and cultural resources.	Section 900-2.10
Geology, Seismology and Soils.	Applicant must conduct a study of the geology, seismology, and soils impacts of the facility consisting of the identification and mapping of existing conditions, an impact analysis, and proposed impact avoidance and mitigation measures.	Section 900-2.11
Terrestrial Ecology.	Applicant must identify and describe plant and animal communities on the facility site and analysis the impacts of the facility on vegetation and animals and where impacts are unavoidable design minimization measure regarding those impacts.	Section 900-2.12
NYS Threatened and Endangered Species.	Applicants must prepare a wildlife site characterization report and confirm any occupied habitat for T&E species on site. For a facility that would adversely impact any NYS threatened or endangered species or their habitat, Applicants must prepare a Net Conservation Benefit Plan which includes mitigation for impacts including payment into an established mitigation fund.	Section 900-2.13
Wetlands.	Applicants must delineate all federal, state and locally regulated wetlands and adjacent areas present on the facility site and within one hundred (100) feet of areas to be disturbed by construction, including the interconnections. If impacts can't be avoided, Applicants must describe all minimization efforts and where required implement compensatory mitigation.	Section 900-2.15
Consistency with Energy Planning Objectives.	Applicants must demonstrate the degree of consistency of the construction and operation of the facility with New York State energy policies, including CLCPA targets and long range energy planning objectives and strategies contained in the most recent State Energy Plan.	Section 900-2.18
Socioeconomic Effects.	Applicants must estimate of the average construction work force, the annual construction payroll, the number of jobs and the costs to local school and municipalities. In addition Applicant must describe	Section 900-2.19

	the host community benefits to be provided, including an estimate of the incremental amount of annual taxes (and payments in lieu of taxes, benefit charges and user charges) it is projected would be levied against the post-construction facility site, its improvements and appurtenances, payments to be made pursuant to a host community agreement or other project agreed to with the host community.	
Environmental Justice.	Applicants must identify and evaluate any significant and adverse disproportionate environmental impacts of the facility on an Environmental Justice (EJ) area, if any, resulting from its construction and operation.	Section 900-2.20
Electric System Effects and Interconnection.	Applicants shall provide a detailed description of the proposed electric interconnection, including a system reliability impact study and an evaluation of the potential significant impacts of the facility and its interconnection to transmission system reliability at a level of detail that reflects the magnitude of the impacts.	Section 900-2.22
Electric and Magnetic Fields.	Applicants must perform an EMF study for every ROW segment having unique electric and magnetic field (EMF) characteristics due to structure types and average heights, ROW widths, and co-location of other transmission facilities in the ROW and provide a demonstration that the facilities, including interconnection transmission lines, will conform with the Public Service Commission's Interim Policy Standard for Electromagnetic Field levels at the proposed ROW edges.	Section 900-2.23
Other Permits and Approvals.	Applicants must identify any Federal or federally delegated permit, consent, approval or license that will be required for the construction or operation of the facility, which shall specify the date on which an application for any such approval was made or the estimated date on which it will be made.	Section 900-2.26

Local Law___of 2021

Town of Ripley Solar Energy Zoning Law

Section 1. Purpose and legislative intent.

In light of recent changes in State energy policy, the creation of the Office or Renewable Energy Siting, and aggressive state targets for new solar power generation and battery energy storage system capacity, the Town of Ripley anticipates an increase in proposals for solar energy and battery energy storage facilities of all sizes in the Town. The Town of Ripley desires to amend its zoning law to further align solar energy zoning provisions with the goals and objectives set forth in the Comprehensive Plan for the Town of Ripley, adopted January 12, 2017. The modifications to the law set out herein support state energy policy by promoting appropriate solar development while further protecting existing community character, valuable farmland, and other exceptional local resources.
The enactment of this law also evinces the Town's intent for state siting bodies to strictly apply all substantive provisions in the Town of Ripley Zoning Law.

Section 2. Enacting authority.

This Solar Energy Law is adopted pursuant to New York State Municipal Home Rule section 10(ii)(a)(12) which authorizes the Town of Ripley to adopt and amend local laws that are not inconsistent with the State Constitution nor general law and that are related to the government, protection, order, conduct, safety, health, and well-being of persons or property of the Town. In the alternative, this Solar Energy Law is adopted pursuant to the Town's general power to enact local laws relating to the government, protection, order, conduct, safety, health, and well-being of persons or property within a municipality granted directly to local governments by the People of the State of New York through Article IX, Sections l(a), 2(c), and 3(c) of the New York State Constitution. The law is also adopted pursuant to the supersession authority granted by New York Municipal Home Rule Law, § 10, Subdivision (1)(ii)(d)(3).

Section 3. Article XVI is hereby added to the Town of Ripley Zoning Law, including new Sections 1501 through 1514. The new Article XV of the Town of Ripley Zoning Law supersedes and replaces the requirements of Article VI, Section 620 of the Town of Ripley Zoning Law as Section 620 pertains to the siting of Solar Energy Systems. Section 620 of the Town of Ripley Zoning Law remains in force to the extent it regulates the siting of Wind Systems. Article XV of the Town of Ripley Zoning Law is created and reads as follows:

ARTICLE XV
Town of Ripley Solar Energy Zoning Law

Section 1501 Title

Article XV of the Town of Ripley Zoning Law is known and may be cited as "The Town of Ripley Solar Energy Zoning Law".

Section 1502 Purpose

A. Statement of Purpose
This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of the Town of Ripley by creating regulations for the installation and use of solar energy generating systems and equipment, withthe following objectives:

1. To create synergy between solar energy system development while protecting the historic and rural character of the Town, maintaining the rural style of life, retaining active farm production, developing business, and keeping Ripley an affordable place to live.

2. To maintain the rural character of the town;

3. To preserve the agricultural base of land and farm operations;

4. To avoid, or if avoidance is impossible, mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, waterways, unique views and other protected resources;

5. To encourage sense of pride in the community and allow local residents, farms, businesses, and government to take advantage of the potential financial benefits of solar energy systems;

6. To increase employment and business development in the Town of Ripley by furthering the installation of appropriately sited Solar Energy Systems;

7. To diversify personal and community energy resources; and

8. To decrease the use of fossil fuels to produce electricity, thereby reducing the carbon footprint of electricity produced in New York State.

Section 1503 Definitions

APPLICANT: The individual/individuals or entity/entities that apply for any federal, state, or local government permit or permission for installation of a Solar Energy System.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

FACILITY AREA: The physical area, measured in both square feet and acres, used for any solar energy system Project Site, including the surface area of any ~~setbacks, buffers, fencing, roads,~~

~~screening, support facilities,~~ Solar Energy Equipment, and all other components of a solar energy system facility. ~~The facility area shall include, and shall not be limited to, the surface area of any Solar Panel and Solar Energy Equipment~~ Uncovered spacing within panel areas, such as setbacks, buffers, fencing, and screening, shall not be included in the measurement of Facility Area.

FARMLAND OF STATEWIDE IMPORTANCE: Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

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

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or off-site consumption.

NATIVE PERENNIAL VEGETATION: native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

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

PRIME FARMLAND: Land, designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

PROJECT SITE: The physical area needed for a Solar Energy System including any setbacks, buffers, fencing, roads, screening, support facilities, and Solar Energy Equipment.

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

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

SOLAR ENERGY SYSTEM: A system of components intended for the collection, inversion, storage, and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical, or other usable energy. A solar energy system consists of, but is not limited to, solar collectors, mounting devices or structures, generators/turbines, water and energy storage and distribution systems, Battery Energy Storage Systems, storage, maintenance and/or other accessory buildings, inverters, fans,

combiner boxes, meters, transformers, and all other mechanical structures. The area for the solar energy system is all of the area within the project fence line, as well as, the area covered by all facility components, including but not limited to, access roads, transmission lines, and support buildings. The term also includes, but is not limited to, Solar Panels and Solar Energy Equipment. A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy System as follows:

A. Tier 1 Solar Energy Systems include the following:
    1. Roof-Mounted Solar Energy Systems; and
    2. Building-Integrated Solar Energy Systems.
B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with a total surface area of all solar panels on the lot of up to 5,000 square feet and that generate up to 110% of the electricity consumed on the site over the previous 12 months.
    1. Notwithstanding the above, a solar energy system located on a farm operation, as defined in § 301(11) or the relevant provision of the New York State Agriculture and Markets Law, and located in a New York State Agricultural District, which primarily serves the needs of such farm operation and produces up to 110% of the farm's needs, or other amount that may be established by resolution of the Ripley Town Board in accordance with New York State Department of Agriculture and Markets guidance, shall be deemed a Tier 2 solar energy system subject to limitations on farmland conversion contained in Section§ 232-16.12 (F) and (G).
    2. A system that does not exceed the production or output limits and otherwise conforms to the requirements of this definition shall not be excluded from designation as a Tier 2 solar energy system as a result of selling or otherwise receiving credits or benefits for excess energy provided to the distribution grid.
C. Tier 3 Solar Energy Systems are systems not included in the definition of Tier 1, Tier 2, or Tier 4 Solar Energy Systems. The Facility Area of Tier 3 Solar Energy Systems shall not exceed 15 acres in size.
D. Tier 4 Solar Energy Systems include any Solar Energy System with a Facility Area greater than 15 acres in size.

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

STORAGE BATTERY: A device that stores energy and makes it available in an electrical form.

Section 1504 Applicability

A. Article XV of the Town of Ripley Zoning Law supersedes and replaces the requirements of Article VI, Section 620 of the Town of Ripley Zoning Law as Section 620 pertains to the siting of Solar Energy Systems.

B. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town of Ripley after the effective date of this Local Law, excluding general maintenance and repair.
C. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
D. Any modifications to an existing Solar Energy System that increase the Solar Energy System area shall be subject to review pursuant to this Local Law.
E. Any proposed Solar Energy System subject to review by the New York Board on Electric Generation and Siting and the Environment pursuant to Article 10 of the New York State Public Service Law, or the Office of Renewable Energy Siting pursuant to Article 94-c of the Executive Law, shall be subject to all substantive provisions of this Section and any other applicable laws, codes, and regulations of the Town of Ripley, New York; and any other applicable State or Federal laws.
F. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code"), the NYS Energy Conservation Code ("Energy Code").

Section 1505 General Requirements

A. A Building and Zoning permit shall be required for installation of all Solar Energy Systems.
B. Issuance of permits and approvals by the Town of Ripley Planning Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].
C. Unless preempted or waived by a body of competent jurisdiction, the procedural and substantive components of this law shall apply regardless of any contract, easement, or license that may exist between the Applicant and any other landowner in the Town of Ripley**.**

Section 1506 Permitting Requirements for Tier 1 Solar Energy Systems

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning law or other land use regulation, subject to the following conditions for each type of Solar Energy Systems:

A. Roof-Mounted Solar Energy Systems
    1. Roof-Mounted Solar Energy Systems shall incorporate, the following design requirements:
        a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface and the highest edge of the system.
        b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
        c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.

d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

2. Glare: All Solar Panels shall have anti-reflective coating(s).

3. Height: All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

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

Section 1507 Permitting Requirements for Tier 2 Solar Energy Systems

All Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall require a site plan review under the local zoning law subject to the following conditions:

A. Glare: All Solar Panels shall have anti-reflective coating(s).

B. Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in rear yards in residential districts and shall not unreasonably encroach upon neighboring parcels through introduction of shade, nuisance noise, or other nuisance conditions.

C. Height: Tier 2 Solar Energy Systems shall be subject to the height limitations specified for accessory structures within the underlying zoning district.

D. Screening and Visibility:

1. All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties.

2. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading adjacent properties.

E. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

Section 1508 Permitting Requirements for Tier 3 and Tier 4 Solar Energy Systems

Tier 3 and Tier 4 Solar Energy Systems are permitted within Rural/Agricultural (Rural), Commercial (no-rural) (C-1), Commercial Rural (C-2), and Manufacturing and Industry (M-I) districts with a Special Use Permit and Site Plan Review approved by the Town Board, after reviewing recommendations from the Planning Board, and subject to site plan application

requirements set forth in the Ripley Zoning law, and the physical limitations on area and other substantive requirements set forth in this Section and related appendices. Tier 3 and Tier 4 Solar Energy Systems are a prohibited use in all other zoning districts.

Applications for the installation of Tier 3 and Tier 4 Solar Energy System shall be:

A. Reviewed by the Zoning Enforcement Officer for completeness.
B. Setbacks. Setbacks apply only to land in which the developer has obtained the necessary real property interests and is considered a participant in the project~~that has been leased or procured to have solar panels on the land~~.
C. Vehicular Paths. Vehicular paths and emergency access ways within the site shall be designed to minimize the extent of impervious materials and soil compaction. Topsoil in the same location as roads shall be stripped and stockpiled, and Roads shall be ~~paved,~~ a minimum of 20 feet wide, and capable of bearing the weight of emergency vehicles. Applicants, their successors, and assigns shall be responsible for keeping all access roads clear and passable by emergency equipment at all times. Roads less than 20 ft. wide are permissible where it is demonstrated that such a width is consistent with the New York Fire Code.
D. Signage.
    1. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 4 square feet, but no less than square feet. Additional signage shall also be placed at the roadside for first responders to identify the type of project area they are entering and the hazards they can expect to encounter at each site location. The owners name, address and 24 hour contact information shall be displayed at the roadside. All signage should be a light reflective surface.
    2. As required by National Electric Code (NEC), disconnect and other emergency shut-off information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. Multiple remote shut-off locations will be installed to the extent technically feasible and shall be accessible by first responders.
E. Glare. All Solar Panels shall have anti-reflective coating(s). Tier 3 and Tier 4 Solar Projects shall follow all federal and state guidelines regarding PFAS and polytetrafluoroethylene (PTFE) films~~Solar panels used in the project must be shown to be manufactured in their as-installed form to be free from any perfluoroalkyl substances ("PFAS"). This includes, but is not limited to, certification that no polytetrafluoroethylene (PTFE) films or similar products were applied to panels after their manufacture~~. The Town may request proof of this provision at its discretion before, during, and after the installation of the photo-voltaic panels.
F. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties with full cutoff and ~~should not encroach outside of the fenced perimeter~~any light outside of the fenced perimeter should be minimized to maximum extent practicable.

G. Tree-cutting. Where existing forested lands provide visual screening from public highways, or within 500 feet of the residential areas, or within 500 feet of the Village of Ripley, removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible to preserve visual buffers. ~~Removal of existing trees larger than 6 inches in diameter is prohibited. Solar panels shall be located no closer than 50 feet to trees. No more than 5% of all~~

~~existing forested land on any given parcel shall be cleared to host Solar Energy Systems by the project company or the landowner in preparation of the project.~~

H. Blasting. Any and all types of blasting should be prohibited at all stages of the project.

~~I. Dielectric coolants used in any power transformers, voltage regulators, sectionalizing switches, transformer rectifiers, electromagnets, and voltage supply circuits installed on the SEPGS shall be a fire-resistant natural ester dielectric coolant specifically formulated from edible vegetable oils and food grade performance enhancing additives for use in distribution and power transformers. All dielectric coolants used at the site shall be free of petroleum, halogens, silicones, or any other materials not specified above.~~

J. Noise: Once in operation, sound pressure level at property lines outside facility fencing shall not exceed 45 dBA L_{eq-8hr} standard measured at the home and 55 dBA L_{eq-8hr} measured at the property line~~ambient noise by more than 6dB(A). Sound Pressure is the perceived loudness expressed in A-weighted decibel scale dB(A) which is weighted towards those portions of the frequency spectrum, between 20 and 20,000 Hertz, to which the human ear is most sensitive~~.

K. Project construction hours. Pre, post and during construction working hours shall limited to Monday through Saturday~~Friday~~ between the hours of 7~~8~~ AM and 8~~6~~ PM and Sunday ~~Saturday~~ and National Holidays between the hours of 8~~10~~ AM and 8~~4~~ PM, Eastern Standard Time; to ensure the quiet rural characteristics of the Town.

L. A certificate of insurance for all contractors, owners, etc. shall be provided to the Code Officer.

M. Decommissioning.

1. Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 1 year, per parcel or any part of the "project" shall be removed at the owner and/or operator's expense, which at the owner's option may come from any security made with the Town of Ripley as set forth in Section 3(a) herein.
2. A decommissioning plan (see Appendix G) signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:
    a. The cost of removing the Solar Energy System.
    b. The time required to decommission and remove the Solar Energy System and any ancillary structures.
    c. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
3. Security.
    a. The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town of Ripley attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 110% of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 3% annually, or by a percentage equal to annual inflation rate as calculated using the Consumer Price Index published by the Labor Department's Bureau of Labor Statistics for the previous calendar year, whichever is greater, for the life of the Solar Energy System.

b. In the event of ~~default upon performance of such conditions~~ the abandonment of the Project, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

c. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in Section 601 herein.

~~Notwithstanding the forgoing, any Tier 4 solar energy system and any associated battery energy storage systems sited pursuant to Article 10 of the Public Service Law or Article 94-c of the Executive Law shall be required to obtain a letter of credit or fund an escrow in an amount satisfactory to the Town of Ripley, to ensure the removal of the systems, their components, and associated structures, fixtures, equipment, fencing, sub-surface components or other improvements, and the remediation of the site. The amount of the letter of credit shall not be reduced by the salvage value of facility components~~.

N. Site plan application. For any Solar Energy System requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information, in addition to any other information required by the zoning law:

1. Property lines and physical features, including roads, for the project site.
2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
3. A three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code (NEC) compliant disconnects and over current devices.
4. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
5. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
6. Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
7. Zoning district designation for the parcel(s) of land comprising the project site.

8. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming. No chemical herbicides to be allowed.

9. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
10. Prior to the issuance of the Special Use Permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

O. Special Use Permit Standards and substantive standards for Tier 3 and Tier 4 Solar Energy Systems:

~~1. Lot size.~~

~~a. The property on which the Tier 3 and Tier 4 Solar Energy System is placed shall meet the lot size requirements in Appendix F.~~

~~2.~~1. Setbacks.

a. The Tier 3 and Tier 4 Solar Energy Systems shall ~~meet the setback requirements in Appendix F~~be as follows:

~~.~~

Setback Type	Solar Facility Setback
Non-participating residential property lines	100 feet
Centerline of Public Roads	50 feet
Non-participating property lines (non- residential)	50 feet
Non-participating occupied residences	250 feet

~~3.~~2. Height.

a. ~~The~~ Tier 3 and Tier 4 Solar Energy Systems shall ~~comply with the height limitations in Appendix F~~not exceed 15 feet in height.

~~4.~~3. Lot coverage.

a. For the purposes of determining compliance with Lot Coverage requirements set forth in this Section, Lot Coverage shall be calculated by dividing the Facility Area on any given parcel by the total Area of the Parcel and multiplying the result by 100 to obtain a percentage of lot coverage.
b. Lot coverage of Tier 3 and Tier 4 Solar Energy Systems, as defined above, shall not exceed ~~the maximum lot coverage requirement of the underlying zoning district~~50%of the total area of the Parcel.

~~5.~~4. Fencing Requirements for Tier 3 and Tier 4 Solar Energy Systems.

a. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.
b. Chain-link fencing surround Tier 4 Solar Energy Systems shall be visually screened in areas where potential visual impacts have been identified. Other types of fencing surrounding Tier 4 Solar Energy Systems may require

visual screening at the discretion of the planning board.

c. Chain-link fencing surrounding Tier 3 Solar Energy Systems shall be visually screened at the discretion of the planning board.

d. The use of barbed wire, razor wire, or electric fencing around solar energy facilities is prohibited unless required by federal or state electric codes.

6. Screening and Visibility.

a. Tier 3 Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent properties using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.

b. Tier 3 and Tier 4 Energy Systems larger than 10 acres shall be required to conduct a visual impact assessment to determine the Solar Energy System's visual impact on public roadways and adjacent properties. At a minimum, a line-of- sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to be submitted by the Applicant. In addition, when a visual impact assessment pursuant to this subsection is required:

(i) The Applicant shall submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized from public roadways and adjacent properties.

(ii) The screening and landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscaped screening shall be comprised of a minimum of one (1) evergreen tree, at least 6 feet high at time of planting, plus two (2) supplemental shrubs at the reasonable discretion of the Town of Ripley Planning Board. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. A list of suitable evergreen tree and shrub species should be provided by the Town of Ripley Planning Board.

(iii) The applicant shall be responsible for maintaining, preserving, and repairing visual screening until decommissioning of any solar energy system is complete.

7. Agricultural Resources. For projects located on agricultural lands:

a. Tier 3 and Tier 4 Solar Energy Systems on Prime Farmland or Farmland of Statewide Importance shall be required to seed 75% of all area within perimeter fencing suitable for seeding with native perennial vegetation, with native perennial vegetation.

b. Tier 3 and Tier 4 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the requirements of the New York State Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Solar Energy Projects.

c. Tier 3 and Tier 4 Solar Energy System owners shall develop, implement, and maintain native vegetation pursuant to a vegetation management plan by

providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. When establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

~~d. Tier 3 and Tier 4 Solar Energy Systems shall not result in conversion of more than 10% of all prime farmland in the Town of Ripley. Converted farmland~~

~~includes both prime farmland inside any perimeter fencing associated with Tier 4 facilities, and any adjacent prime farmland that is no longer suitable for farming as a result of the Tier 4 facility. Prime farmland means prime farmland as defined by the United States Department of Agriculture, New York State, or the Natural Resources Conservation Service. A farmland "conversion" is defined by Section 301(8) of the Agricultural and Markets Law. Any pillars or anchors used must be removed and the land must be fully restored~~.

P. Ownership Changes.
If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A proposed new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator 30 days before the ownership change.

Section 1509 Safety

A. Solar Energy Systems and Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. ~~Site access shall be maintained, including snow removal at a level acceptable to the local fire department at all times.~~
C. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town of Ripley and any applicable federal, state, or county laws or regulations.
~~D. If at any time there is a change in ownership, The Town must have full access to the new project owner's security system before or at the time of the change in ownership.~~

Section 1510 Permit Time Frame and Abandonment

The Special Use Permit and site plan approval for a Solar Energy System shall bevalid for a period of 12 months, provided that a building permit is issued for construction or construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 12 months after approval, the applicant or the Town may extend the time to complete construction for 90 days. If the owner and/or operator fails to perform substantial construction after 15 months, the approvals shall expire.

A. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator

of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 1 year of notification.

B. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of Ripley may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

Section 1511 Inspections

A. The Zoning Enforcement Officer or his or her duly authorized and appointed deputies or assistants or authorized agents shall have the authority to cause any plans, structures, lots, or system components to be inspected, examined, or reviewed for any Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy Systems to determine whether or not they are in conformity with the provisions of this law.

B. The Zoning Enforcement Officer's duties and authority granted under Article III of the Town of Ripley Code shall be applicable to Solar Energy Systems except where expressly preempted herein by a provision specific to Solar Energy Systems.

Section 1512 Reimbursement of Fees

A. ~~Reimbursement for review of Application for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 Public Service Law, or for any application filed pursuant to Article 94-c of the Executive Law. The Applicant shall reimburse the Town for any fee or expense incurred in hiring subject matter experts and attorneys to review whether a Solar Energy System proposed for siting pursuant to Article 10 of the New York Public Service Law or Article 94-c of the Executive Law complies with this law's substantive provisions~~.

B. The fees for a Special Use Permit, Site Plan Review, and Zoning Permit for a Solar Energy System shall be set from time to time by the Town Board by resolution.

C. ~~The Applicant for either state or local siting approval shall deliver to the Town Board, along with its application if local approval is sought, and concurrent with the filing of an Article 10 or Article 94-c Application, if applicable, an amount equal to one percent (1%) of the estimated cost of the project (the "Initial Deposit"). This sum shall be held by the Town in a non-interest-bearing account, and these funds shall be available to the Town to pay consultants and attorneys engaged by the Town to assist in application review if a local permit is sought, and to pay consultants and attorneys engaged by the Town to assist in review of an Article 10 or Article 94-C Application should awarded intervenor funds be insufficient to fully participate in the Article 10 or Article 94-c Process, or should intervenor funds be otherwise exhausted. Following the approval or denial of the state or local application, the Town shall return to the Applicant any excess funds remaining in escrow. If the escrow account has been depleted prior to approval or denial of the application, the Applicant shall deposit such funds necessary for the Town to pay any outstanding fees to said consultants~~.

Section 1513 Enforcement

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town of Ripley.

Section 1514 Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

Section 4. The following new Appendix F, titled Tier 3 and Tier 4 Solar Energy Systems Lot Size, Setback, and Height Requirements, is added to the Town of Ripley Zoning Law and reads as follows:

Appendix F – Tier 3 and Tier 4 Solar Energy Systems Lot Size, Setback, and Height Requirements

ZONING DISTRICT	TIER 3 and TIER 4 SOLAR ENERGY SYSTEM ACCESSORY USE	MINIMUM LOT SIZE	MINIMUM SETBACK FROM PROPERTY LINE, (FEET)			MAXIMUM HEIGHT (FEET)
			FRONT	SIDE	REAR	
Rural, Rural/Agricultural, Tier 4 Solar Energy Systems	PERMITTED WITH SPECIAL USE AND SITE PLAN	≥10 ACRES	450’	450’	450’	15’
Rural, Rural/Agricultural, Tier 3 Solar Energy Systems	PERMITTED WITH SPECIAL USE AND SITE PLAN	≥10 ACRES	100’	50’	50’	15’
R-1 RESIDENTIAL (smaller lot)	NOT PERMITTED	NA	NA	NA	NA	NA
R-2 RESIDENTIAL (larger lot)	NOT PERMITTED	NA	NA	NA	NA	NA
Rec/Con Recreation/Conservation	NOT PERMITTED	NA	NA	NA	NA	NA
C-1 COMMERCIAL (non-rural)	PERMITTED WITH SPECIAL USE AND SITE PLAN	≥2 ACRES	100’	50’	50’	20’
C-2 COMMERCIAL (rural)	PERMITTED WITH SPECIAL USE AND SITE PLAN	≥2 ACRES	100’	50’	50’	20’
(M-I) Manufacturing & Industry	PERMITTED WITH SPECIAL USE AND SITE PLAN	≥2 ACRES	100’	50’	50’	20’
M/I-A	NOT PERMITTED	NA	NA	NA	NA	NA

Section 5. The following new Appendix G, titled Example Decommissioning Plan, is added to the Town of Ripley Zoning Law and reads as follows:

Appendix G: Example Decommissioning Plan

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at: [Solar Project Address]
Prepared and Submitted by [Solar Developer Name], the owner of [Solar Farm Name]
As required by the Town of Ripley, [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the "Facility").

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends.
2. The system does not produce power for 12 months.
3. The system is damaged and will not be repaired or replaced.

The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of any depth below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

All said removal and decommissioning shall occur within 12 months of the Facility ceasing to produce power for sale. The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

Facility Owner Signature: Date:

Section 6. Saving clauses.

The amendment by this law of the Town of Ripley Zoning Law shall not affect or impair any permit issued or approved or the conditions thereof, or any offense committed or obligation, liability, order, penalty, forfeiture or punishment incurred or imposed, prior to the time of such amendment, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and

to the same extent and in the same manner as if such chapter or provision has not been amended, except that any structure or lot, or use or development of land within the Town of Ripley that was lawful immediately prior to the enactment of this local law but that does not conform to the specifications of Article XV of the Town of Ripley Zoning Law as enacted by this local law, including but not limited to Article XV and Appendices F and G of the Zoning LAw, shall be deemed nonconforming as of the effective date of this law, and subject thereby to all provisions applicable to a nonconforming lot, structure, use, or development.

Section 7. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

Section 8. Effective Date.

This law shall become effective immediately upon filing with the Secretary of State.

Total Ripley Size: **31,300 Acres** *(Approx.)*
Total Area Where Tier 4 Solar is Barred: **27,827 Acres** *(Approx.)*
Total Area Where Tier 4 Solar is Allowed: **3,473 Acres** *(Approx.)*

Town of Ripley

Chautauqua County, NY

Scale: 1:45,000
Date:3/29/2021
Spatial Reference
Name: NAD 1983 2011 StatePlane
New York West FIPS 3103 Ft US

Miles
0 0.25 0.5 1
0 0.25 0.5 1
Kilometers

450 ft Buffer
Parcel Boundary

ConnectGEN

N
W E
S

NOTE: This is not a legal survey instrument. All measurements and boundaries depicted are approximations and pend final surveys and title research.