

Town of Dover Local Law Regulating Solar Energy Systems

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A LOCAL LAW establishing regulations for siting and use of solar energy systems within the Town of Dover

BE IT ENACTED by the Town Board of the Town of Dover as follows:

ARTICLE I:

INTRODUCTORY PROVISIONS

Title.

- A. This local law shall be known as "The Town of Dover Solar Energy Law"

Authority.

- A. This Local Law is enacted pursuant to the authority and power granted by Articles 2 and 3 of the New York State Municipal Home Rule Law, Article 2 of the New York Statute of Local Governments, and Article 16 of the New York State Town Law and the powers pursuant to Sections 261-263 of Town Law, of the State of New York, which authorizes the Town of Dover to adopt provisions that advance and protect the health, safety, and welfare of the community, and "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefore."

Purpose and Intent.

- A. The Town of Dover has determined that comprehensive regulations regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents, its businesses, and its natural resources. This Local Law aims to accommodate solar energy systems while balancing the potential impacts on neighbors, preserving community character, preserving agriculture, preserving open space, and encouraging the rights of property owners to install and sensibly site solar energy systems.
- B. The Town of Dover is a community located within Dutchess County that is rich in history, agricultural resources, scenic resources, and recreational opportunities. The purpose of this Local Law is to encourage sensible siting for solar energy systems such that agricultural lands, scenic viewsheds, and vistas are preserved and protected.
- C. Solar energy is a renewable and clean energy resource that can prevent fossil fuel emissions and reduce a municipality's energy load and reliance on fossil fuel thereby reducing the carbon footprint of Dover. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is both a necessary and priority component of the Town of Dover's current and long-term sustainability agenda. It is also consistent with the commitment of Dover to be a "climate smart" community. Because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, the purpose of this Local Law is to facilitate the development and operation of renewable energy systems based on sunlight while minimizing adverse impacts on neighboring properties, agricultural

resources, surface and ground water quality, and scenic viewsheds to protect the public health, safety and welfare of the residents of the Town of Dover.

- D. This Local Law is intended to promote the effective and efficient use of solar energy systems; set provisions for the sensible placement, design, construction and operation of such systems in such a way as to be consistent with the Town of Dover Comprehensive Plan; to uphold the public health, safety and welfare; and to ensure that such systems will not have a significant adverse impact on the environment or on the aesthetic qualities and character of the Town.
- E. It is not intended by this Local Law to abrogate or impair existing conditions previously made or permits previously issued relating to the use of buildings. Whenever this Local Law imposes a greater restriction upon the use of buildings or premises than is required by existing provisions of law, ordinance or regulations, the provisions of this Local Law shall control.

ARTICLE II:

DEFINITIONS

ACTIVE AGRICULTURAL LAND: Land used for a Farm Operation in accordance with Agriculture and Markets Law § 301 – uses of which include production of crops, livestock, livestock products, etc., and as further defined by the Town of Dover Zoning law – within the past five years.

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

BUILDING-MOUNTED SOLAR COLLECTORS - an array of solar collectors mounted securely to racks attached to roof mounts, or integrated into building materials such as roof tiles, siding, or windows of any legally permitted and/ or constructed building or structure for the purpose of producing electricity.

ACCESSORY USE - A use which is clearly and customarily incidental and subordinate to the principal solar energy system and located on the same lot as where the principal solar energy system is sited.

COMMUNITY SOLAR - Any solar project, located within the Town geographic area, in which the benefits flow to multiple, onsite or offsite, customers or users such as individuals, businesses, farms, nonprofits, and other groups. In most cases, customers or users benefit from energy generated by solar panels at an off-site or remote array. For the purpose of this local law Tier 2 and 3 Solar Energy Systems are considered to be community solar.

DIAMETER AT BREAST HEIGHT (DBH) - The diameter of a tree at 4-feet above the ground.

DECOMMISSIONING PLAN - Detailed steps to remove unused or inactive solar energy systems, the elimination of all safety hazards, the remediation of the site, cost estimates to accomplish these requirements, and the provisions of financial security therefor.

FLUSH-MOUNTED SOLAR ENERGY SYSTEM - A rooftop-mounted solar energy system with solar panels which are installed flush to the surface of a roof, and which cannot be angled or raised.

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 OR FREESTANDING -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.

HISTORIC SITE or STRUCTURE

Any defined site or structure that is:

- A. Listed individually on the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed by the New York State Office of Parks, Recreation and Historic Preservation, or
- D. Individually listed on a local Town of Dover published inventory of historic places.

HOST COMMUNITY AGREEMENT - Agreement approved by the Town Board, between the Town and a Tier 3 or Tier 4 solar energy system project owner setting forth additional conditions for the operation of a Tier 3 or Tier 4 solar energy system including stipulations of responsibility between the parties and a community impact fee reasonably related to the costs imposed on the Town by the operation of the solar energy system.

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

LAND CLEARING - Removal of existing trees larger than 6 inches dbh.

LOCAL CONTACT PERSON - A person 18 years of age or older designated by the owner or operator of a solar energy system who, by such owner or operator designation, shall have the authority to make decisions regarding the operation and maintenance of the solar energy systems and its components. The local contact person or other representative must be available at all times to respond to Town Officials or Emergency Services Personnel concerns regarding the safety, maintenance, and immediate off-site impacts resulting from solar energy systems.

MATURE FOREST --A mature forest is any unimproved land in excess of five (5) acres with a minimum of twenty (20) live trees per acre that are greater than or equal to 14-inches diameter at breast height (DBH)

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

MINERAL SOIL GROUPS 1-4 (MSG 1-4): Soils recognized by the New York State (NYS) Department of Agriculture and Markets as having the highest value based on soil productivity and capability, in accordance with the uniform statewide land classification system developed for the NYS Agricultural Assessment Program.

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

NATIVE PERENNIAL VEGETATION – Shall include 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.

NET-METERING - A billing arrangement that allows solar customers to receive credit for excess electricity which is generated from the customer's solar collection and delivered back to the grid so that customers only pay for their net electricity usage for the applicable billing period.

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

ON-SITE CONSUMPTION - Energy generated primarily for the purpose of providing power to the owners, lessees, tenants, residents, or other occupants of the parcel on which the solar energy systems are erected,

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

PHOTOVOLTAIC (PV) SYSTEM - A solar energy system that produces electricity using semiconductor devices, called "photovoltaic cells," that generate electricity whenever light strikes them.

PRIMARILY - For purposes of this local law, description of an amount of projected on- site energy demand not less than 90% of projected energy generation.

PRIME FARMLAND - Land designated as "prime farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service's Soil Survey Geographic Database 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 (the land could be cropland, pastureland, rangeland, forest land, or other land, but not urban built-up land or water).

QUALIFIED SOLAR INSTALLER - A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSEDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the Town's Code Enforcement Officer determines such persons have a minimum of five years electrical contracting experience, an electrical contracting license from another jurisdiction, or is acting under the supervision of a NYS Licensed Professional Engineer .

ROAD USE MAINTENANCE AGREEMENT - Agreement approved by the Town Board, between the Town and a Tier 3 or Tier 4 solar energy system project owner setting forth additional conditions for their use of local public roads.

ROOFTOP OR BUILDING-MOUNTED SOLAR SYSTEM - A solar energy system in which solar panels are mounted on top of the structure of a roof of any legally permitted building either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle. Also shall include a solar energy system that consists of integrating photovoltaic modules into the building envelope system such as vertical facades including glass and other material, semi-transparent skylight systems, roofing materials, and shading over windows.

SCENIC VIEWSHED - Large, undisturbed area of scenic quality, value and significance typically visible from an elevated area overlooking the viewshed area from a fixed vantage point. This term shall also encompass scenic overlay area and scenic vista.

SOLAR COLLECTOR - A solar photovoltaic cell, panel or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR LOT - One or more contiguous parcels under direct control (ownership or lease) of a common owner used for a solar energy project.

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 and subcomponents 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. This term includes 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. Rooftop and flush-mounted solar energy systems with a rated capacity of 50 kW AC or less.
2. Ground-mounted and freestanding with a rated capacity of 50 kW AC or less.
3. On-Farm Solar Energy Systems with a rated capacity of 100 kW AC or less.

B. Tier 2 Solar Energy Systems include the following:

1. Small-Scale Community Solar Energy System with a Nameplate Capacity between >50 kW and ≤1 MW AC, whether ground-mounted and/or rooftop installation, principally used to convert solar energy to electricity, designed and intended to supply energy primarily to users located on-site or multiple users located off-site on which the energy system is located or to supply energy into a local utility grid for sale to the general public.

C. Tier 3 Solar Energy Systems include the following:

1. Medium-Scale Community Solar Energy System with a Nameplate Capacity between >1 MW and ≤5 MW AC, whether ground-mounted and/or rooftop installation, principally used to convert solar energy to electricity, designed and intended to supply energy primarily into a local utility grid for sale to the general public or to supply multiple users located off-site on which the energy system is located. For this Local Law, the purpose of medium-scale solar energy systems is to principally benefit the local power grid that serves any part of the Town, examples may include but are not limited to: reduce power outages, help lower energy bills, provide cleaner electricity, extend, improve, or enhance the local power distribution system, provide more available

electricity, protection from natural disasters, optimize power delivery, enhance resilience, and or any other benefit as determined by the Town Planning Board.

D. Tier 4 Solar Energy Systems include the following:

1. Large-Scale Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems, whether ground-mounted and/or rooftop installation, principally used to convert solar energy to electricity designed and intended to supply energy primarily into a local or regional utility grid for sale to the general public or to the wholesale market.

SOLAR PANEL - a photovoltaic device capable of collecting and converting solar energy into electricity.

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

STREET FRONTAGE - The distance along a street line measured at the front of a lot which adjoins a dedicated Town, County, or New York State road or highway.

UNIFIED SOLAR PERMIT - a standardized permit designed to provide consistent and thorough technical review and inspection of all solar energy systems by the Code Enforcement Officer. This shall be separate from any other required building and/or electrical permits issued by the building department.

WOODLAND - land in excess of one (1) acre, located on the subject parcel, covered with a minimum of twenty (20) live trees per acre that are greater than or equal to 6-inches diameter at breast height (DBH)

ARTICLE III:

APPLICABILITY

- A. The requirements of this Local Law shall apply to all solar energy systems and equipment installations modified or installed after the effective date of this Local Law.
- B. Solar energy system installations for which a valid building permit has been issued before the effective date of this Local Law shall not be required to meet the requirements of this Local Law. However, any modifications to existing solar energy systems that increase the solar energy system area by more than 5%, exclusive of fencing, of the original area shall be subject to this Local Law.

ARTICLE IV:

PERMITTING AND REVIEW PROCESS

Uses

- A. Tier 1 Solar Energy Systems
 1. Rooftop and flush-mounted solar energy systems with a rated capacity of 50 kW or less shall be considered an accessory use and may be utilized with any combination of primary and / or accessory structures located on a single parcel.
 2. Ground-mounted and freestanding solar energy systems with a rated capacity of 50 kW or less shall be considered an accessory use and require a primary structure such as a residence or business located on a single parcel. Ground-mounted and freestanding solar energy systems with a rated capacity of 50 kW or less not associated with a primary structure shall be considered as a small-scale solar energy system.

3. On-Farm Solar Energy Systems with a rated capacity of 100 kW or less shall be considered an accessory use and require a farm operation in an agricultural district. On-Farm Solar Energy Systems may consist of any combination of rooftop and flush-mounted solar or ground-mounted and freestanding solar energy systems with a rated capacity of 100 kW or less located on a single parcel.
- B. Tier 2 Solar Energy Systems
1. Small-scale solar energy systems with a rated capacity >50 kW and ≤1 MW can be proposed as a primary use or as an accessory use to those allowable uses set forth in the Town of Dover Zoning Law. The Planning Board may approve small-scale solar energy systems as an additional primary use in conjunction with any another listed allowable primary use on the same the parcel. Small-scale solar energy systems may consist of any combination of rooftop and flush-mounted solar or ground-mounted and freestanding solar energy systems with a rated capacity >50 kW and ≤1 MW located on a single parcel
- C. Tier 3 Solar Energy Systems
1. Medium-scale community solar energy systems with a rated capacity of >1 MW and ≤5 MW shall be considered a primary use. The Planning Board may approve medium-scale community solar energy systems as an additional primary use in conjunction with another listed allowable primary uses on the same the parcel.
- D. Tier 4 Solar Energy Systems
1. Large-Scale Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems shall be considered a primary use. Tier 4 Solar Energy Systems shall not be permitted with other business uses except for Agriculture, Agricultural processing, Composting, or other uses permitted accessory to Agriculture.
 2. Tier 4 Solar Energy Systems are intended to provide open space as an accessory benefit to the Town.

Required Approvals.

- A. Tier 1 Solar Energy Systems
1. Rooftop and flush-mounted solar energy systems with a rated capacity of 50 kW or less that generate electricity primarily for on-site consumption shall be permitted within the Town subject to the issuance of Unified Solar Permit granted by the Town's Code Enforcement Officer. Rooftop and flush-mounted solar energy system shall be subject to any additional requirements in this local law for such systems.
 2. Ground-mounted and freestanding solar energy systems with a rated capacity of 50 kW or less, or On-Farm Solar Energy Systems with a rated capacity of 100 kW or less, that generate electricity primarily for on-site consumption shall be permitted within the Town subject to the issuance of a Unified Solar Permit granted by the Town's Code Enforcement Officer. Ground-mounted and freestanding solar energy systems shall be subject to any additional requirements in this local law for such systems.
- B. Tier 2 Solar Energy Systems
1. Small-scale solar energy systems with a rated capacity >50 kW and ≤1 MW that generate electricity for either on-site consumption or off-site consumption shall be permitted within the Town subject to the issuance of a Unified Solar Permit granted by the Town's Code Enforcement Officer and Site Plan approval by the Planning Board. Small-scale community solar energy systems shall be subject to any additional requirements in this local law for such systems. (This does not include "Rooftop and Flush-mounted solar energy system with a rated capacity of 50

kW or less that generates electricity primarily for on-site consumption” and/or “On-Farm Solar Energy Systems with a rated capacity of 100 kW or less”.)

C. Tier 3 Community Solar Energy Systems

1. Medium-scale community solar energy systems with a rated capacity of >1 MW and ≤5 MW that generate electricity for off-site or onsite consumption shall be permitted within the Town subject to the issuance of a Unified Solar Permit granted by the Town's Code Enforcement Officer plus Site Plan and Special Permit approval by the Planning Board. Any Special Permit approval issued to medium-scale community solar energy systems are required to be renewed every five (5) years by the applicant. Medium-scale community solar energy systems shall be subject to any additional requirements in this local law for such systems.

D. Tier 4 Solar Energy Systems

1. Large-Scale Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems that generate electricity primarily for off-site consumption shall be permitted within the Town subject to the issuance of a Unified Solar Permit granted by the Town's Code Enforcement Officer plus Site Plan and Special Permit approval by the Planning Board. Any Special Permit approvals issued to large-scale solar energy systems are required to be renewed every five (5) years by the applicant. Large-scale energy systems shall be subject to any additional requirements in this local law for such systems.

Site Plan and Special Permit Review.

A. Where Site Plan and / or Special Permit review is required, the following provisions shall apply.

1. The Town of Dover Planning Board shall review all projects proposed pursuant to this Local Law for which Site Plan and / or Special Permit review and approval is required.
2. Procedures. The procedures to be followed by the Planning Board in conducting site plan and special permit reviews shall be those which are set forth in the Town of Dover Zoning Law.
3. Authority. In reviewing applications for site plan and special permit approval, the Planning Board shall have the authority to review and approve, approve with modifications, or disapprove applications under this Local Law in accordance with the standards set forth in this Local Law, and any applicable standards set forth in the Town of Dover Zoning Law. The Planning Board shall have the authority to impose reasonable conditions and restrictions as are directly related to, and incidental to a proposed site plan, utilizing the standards set forth in this Local Law and applicable standards in the Town of Dover Zoning Law. Upon approval of a Site Plan and / or Special Permit, any conditions imposed by the Planning Board must be met before the issuance of permits by the applicable enforcement agents or officers of the Town.
4. Waivers. The Planning Board shall have the discretionary authority to waive, subject to appropriate conditions and a three-quarters majority vote, any of the following requirements:
 1. Rooftop installation design requirements.
 2. Tree Survey (after a site walk) requirements.
 3. Photo simulation (after a site walk) requirements.
 4. Certain resource map requirements.
 5. Screening requirements.
 6. Fencing requirements.
 7. Lighting requirements.

The Planning Board may also waive setback requirements by not more than 25% of the

requirements stated within this local law.

5. SEQRA. Any review by the Town of Dover 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").
6. Disapproval. As set forth in Town of Dover Zoning Law, the Planning Board is authorized to disapprove an application if the Planning Board determines that the application does not meet standards and criteria set forth in this Local Law and/or the Town's Zoning Law. All determinations by the Planning Board disapproving applications made pursuant to this Local Law shall be set forth in writing and shall include a reasoned elaboration of the rationale of the Board's determination. All such decisions of the Planning Board shall be filed in the office of the Town Clerk.
7. Conflict. In the event of any conflicts between this Local Law and the Town of Dover Zoning Law, the provisions of this Local Law shall prevail and apply.
8. Appeal. Any person aggrieved by the decision of the Planning Board on a Site Plan and / or Special Permit application pursuant to this Local Law may apply to the New York State Supreme Court for a review by a proceeding pursuant to Article 78 of the New York State Civil Practice Law and Rules. Such proceedings shall be commenced within thirty (30) days after the filing of the decision of the Planning Board in the office of the Town Clerk.

Effect of Existing Violations or Non-Compliance.

- A. No application, whether for a new solar energy system or renewal of a large-scale solar energy system, pursuant to this Local Law shall be deemed complete for purposes of commencing review of the same by either the Town's Code Enforcement Officer or the Planning Board, as applicable, for any premises or property on which there is an existing violation or non-compliance of any Town, county or state law or regulation governing building construction and/or the development and use of land, buildings and structures within the Town of Dover.
- B. No permit or approvals for any solar energy system shall be issued by the approving authority for any premises or property on which there is an existing violation or non-compliance of any Town, county or state law or regulation governing building construction and/or the development and use of land, buildings and structures within the Town of Dover.
- C. For purposes of this Section, a premises or property shall be deemed to be in violation where a stop-work order, notice of violation, order to remedy violation or similar notice or order has been issued by the Town's Code Enforcement Officer and/or Building Inspector in accordance with the provisions of the Local Laws of the Town of Dover or the Town of Dover has filed a criminal or civil action in a court of competent jurisdiction and the violation which is the subject of the order, notice or legal action has not been remedied by the property owner.
- D. Such violations or noncompliance shall be remedied within 90 days of submitting an application for a solar energy system or submission for renewal. For purposes of this provision, remedy of a violation shall be deemed to have occurred when the officer who issued the order or notice has inspected the property and has notified the property owner in writing that the violation has been satisfactorily remedied.

ARTICLE V:

GENERAL STANDARDS FOR SOLAR ENERGY SYSTEMS

- A. The following standards shall apply to all solar energy systems permitted in the Town of Dover

1. A Unified Solar permit shall be required for installation of all Solar Energy Systems.
2. A Building and/or Electrical permit shall be required for installation of all Solar Energy Systems.
3. All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code (the "State Code"), the New York State Energy Conservation Code ("Energy Code"), as well as may be required by Public Service Commission regulations.
4. All solar energy systems shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent properties or public roadways.
5. Solar energy systems shall have a non-reflective finish and neutral paint colors, materials, and textures to achieve visual harmony with the surrounding area.
6. Any new "on-site" power line required for any solar project shall be installed underground. Except for the utility line interface connection where the utility provider may require a certain overhead wire and pole arrangement.
7. The proposed project shall be in harmony with the goals and objectives of the Town of Dover Comprehensive Plan.
8. The location, size and intensity of the proposed project shall be in harmony with the orderly development of the district.
9. The character and appearance of the proposed project shall be in general harmony with the character and appearance of the surrounding neighborhood.
10. The character and appearance of the proposed project shall not detract from the scenic qualities, scenic vistas, rural character, and visual qualities of Dover's landscape and historic character.
11. The proposed project shall complement existing public facilities, road networks, and existing development patterns.
12. The proposed project shall be screened from adjoining residential parcels and public rights-of-way through the use of architectural features, earth berms, landscaping consisting of a naturally appearing blend of deciduous and coniferous species, fencing or other features which will harmonize with the character of the property and surrounding area. Proposed screening shall not, however, interfere with the normal operation of the solar collectors.
13. All areas of the proposed project shall be readily accessible for fire, emergency services and police protection.
14. Nothing in this Local Law shall be deemed to allow any applicant the right to disturb any land or remove any trees, vegetation, or other obstruction located on any real property over which said applicant does not have fee title, easement, or any other outside agency permit approval.
15. It shall be the sole responsibility of the applicant to acquire any necessary appropriate land use rights in order to provide and maintain appropriate solar access areas.

ARTICLE VI.

SPECIFIC STANDARDS FOR SOLAR ENERGY SYSTEMS

General Requirements

Host Community Agreements and Other Agreements.

- A. All Tier 3 and Tier 4 solar energy system projects subject to this Local Law shall have a Host Community Agreement to compensate the Town for expenses to be incurred by the Town or

impacts to the community, tangible and intangible. Such benefits would include payment in lieu of taxes (“PILOT”) agreements, energy credits distributed equally among all residential utility customers residing in the Town, or other community agreements that fund local programs and initiatives.

- B. The need for a Road Use Maintenance Agreement (RUMA) shall be determined by the Planning Board during its review of the project. The RUMA is required when the Planning Board determines that oversized vehicles and high traffic volumes will be present and there will be an increased potential for damage to the surrounding local roads.
- C. Notwithstanding anything to the contrary provided herein, any and all Town agreements or special permit conditions pertaining to a Tier 3 or Tier 4 solar energy system shall be filed with the Town Board and in place prior to the issuance of the Unified Solar Permit, unless the approval for such Unified Solar System Permit expressly provides otherwise, including a Host Community Agreement, a Road Use Maintenance Agreement (if required), a Decommissioning Plan, a bond to secure payments under the Road Use Maintenance Agreement and the Decommissioning Plan, and proof of funds or escrow accounts, to the extent required. Any bonds posted pursuant to this Local Law shall include language stating that nonpayment is an act of default protected by the bond, requiring notice from the surety to the Town in the event of nonpayment, and providing the Town not less than thirty days to exercise its rights under the bond prior to cancellation.
- D. The Town shall require any planning board applicant to enter into an escrow agreement to pay the engineering, planning, and legal consultant costs of any application review, including the review required by SEQRA, including the required Safety and Maintenance review, together with any oversight costs required to monitor compliance with all permit conditions imposed upon the project.

Rooftop and Flush-Mounted Solar Energy Systems.

- A. Rooftop installations shall incorporate, the following design requirements:
 - 1. Solar panels on pitched roofs shall be mounted with a maximum distance of eight (8) inches between the roof surface and the highest edge of the system.
 - 2. Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
 - 3. Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
 - 4. Solar panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 36 inches above the flat surface of the roof, whichever is higher.
 - 5. In no case shall any solar panel extend beyond any portion of the roof (eve, rake, fascia, etc.).
- B. Rooftop and flush-mounted solar energy systems shall be designed according to New York State Building Code to withstand wind and snow loads. Appropriate access points required to maintain the solar panels and solar equipment in proper working order shall be incorporated in all plans for installations of rooftop and flush-mounted solar energy systems.
- C. Rooftop and flush-mounted solar energy system shall be designed at the scale required to generate power for the reasonably projected on-site consumption by owners, lessees, tenants, residents, or other occupants of the parcel on which they are erected, but nothing contained in this provision shall be construed to unduly prohibit collective solar installations or the sale of small amounts of excess power through a net-billing or net-metering arrangement in accordance with New York Public Service Law§ 66-j or similar state or federal statute.

- D. Building-integrated solar energy systems are permitted within the Town of Dover, provided they are shown on the plans submitted for the building permit application for the building containing the system.
 - 1. Building-integrated solar energy systems must be properly engineered to support Building-Mounted Solar Collectors.
 - 2. The applicant for a building-integrated solar energy system must provide a signed and sealed certification from a New York State licensed professional engineer containing, but not limited to, the following information:
 - a. The roof structure is strong enough to support the additional weight of the solar units as per applicable residential, building, electrical, and fire codes.
 - b. All Building-Mounted Solar Collectors are in compliance with applicable residential, building, electrical, and fire codes; and
 - c. The Solar Energy System is constructed and installed in compliance with applicable residential, building, electrical, and fire codes.

Ground-mounted and freestanding solar energy systems.

- A. A parcel must have a minimum area of two (2) acres in order for a ground-mounted or freestanding solar energy system to be permitted.
- B. The location of the ground-mounted or freestanding solar energy system shall be subject to setback requirements of the underlying zoning district, provided, however, a minimum setback of 35 feet from any property line is required.
- C. No ground-mounted or freestanding solar energy system shall be permitted between the principal building on the parcel and the fronting street or roadway. Ground-mounted or freestanding solar energy systems shall not be visible along the street frontage of any lot. In the event that such requirement is impossible or impracticable, the Planning Board shall have the discretionary authority to modify this requirement.
- D. Ground-mounted or freestanding solar energy systems and their associated support elements shall, at the time of installation, be designed according to New York State Building Code to withstand snow loads and wind pressures applied to exposed areas by snow or wind from any direction. Appropriate access points required to maintain the solar panels and solar equipment in proper working order shall be incorporated in all plans for installations of ground-mounted or freestanding solar energy systems.
- E. Ground-mounted or freestanding solar energy systems shall be designed to avoid ponding from heavy rainfall.
- F. The maximum height of the top edge of any solar panel or racking structure shall be 15 feet above ground level when the panel is oriented at a maximum vertical tilt.
- G. Ground-mounted or freestanding solar energy system shall not be located in the following areas:
 - 1. Areas of potential environmental sensitivity, such as 100-yr floodplains, historic sites, airports, state-owned lands, conservation easements, trails, parkland, and wetlands as identified by the New York State Department of Environmental Conservation, United States Army Corps of Engineers, or other similar Agency;
 - 2. Slopes greater than twenty percent (20%).
- H. Ground-mounted or freestanding solar energy system shall be designed to minimize the migration of light or sound from the system and its components.
- I. Ground-mounted or freestanding solar energy system shall be screened from adjoining residential parcels and public rights-of-way through the use of architectural features, earth berms, landscaping consisting of a naturally appearing blend of deciduous and coniferous species, fencing or other

features which will harmonize with the character of the property and surrounding area. The Planning Board shall have discretion to determine the method and location of screening required.

- J. Ground-mounted or freestanding solar energy system shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access. Ground-mounted or freestanding solar energy systems shall be installed in the rear of any building on the property to the greatest extent practicable.
- K. Site Plan. In addition to the Unified Solar Permit, when required by the capacity thresholds defined by this local law and the schedule of permitted uses, Planning Board review of a Site Plan for ground-mounted or freestanding solar energy systems must meet the following standards:
 - 1. The applicant shall submit to the Planning Board a detailed plan showing the proposed location of the Ground-mounted or freestanding solar energy system in relation to all property lines and all structures (existing and/or proposed) on the lot.
 - a. Review by the Planning Board shall include, but not be limited to:
 - b. Consideration of the requirements of this Local Law;
 - c. The visual effect of the proposed solar installation, including on scenic and historic resources and viewsheds;
 - d. Impact on community character;
 - e. The effect of the proposed installation on ecologically sensitive land or water resources; and
 - f. Any related mitigation that may be deemed reasonably undertaken.
 - g. As required in its review, the Planning Board may define and request the applicant to undertake appropriate visual impact analysis.

Tier 2 and 3 Solar Energy Systems

Purpose.

- A. The purpose of Tier 2 and Tier 3 community solar energy systems shall be to allow residents and community members from the Town of Dover the opportunity to share in the benefits of solar power even if they cannot or prefer not to install solar panels on their property. Energy produced from community solar energy systems shall principally be provided for the benefit of the Town of Dover and its residents.

General Requirements.

- A. The parcel on which the Tier 2 solar energy systems is sited shall be a minimum of 25 acres.
- B. The parcel on which the Tier 3 solar energy systems is sited shall be a minimum of 50 acres.
- C. Tier 2 solar energy systems shall be set back at least 150 feet from all property lines. Tier 3 solar energy systems shall be set back at least 300 feet from all property lines. No component of any solar energy system may be located within 150 feet of any roadway, other than a private service road used solely for access to the site of such energy system and any required utility connections or utility service devices.
- D. No more than thirty-five (35%) percent of the solar lot shall be occupied by the entirety of any solar energy system, not including the access drive and utility connections.

Siting Considerations.

- A. It is a goal of the Town of Dover to protect and preserve the mature forests, agricultural lands, and scenic viewsheds. Certain locations shall be considered more favorable than other locations in siting solar energy systems.

- B. Previously cleared or disturbed areas or fields or open canopy areas are preferred locations for solar energy systems. The clearing of additional lands to accommodate a solar energy system may be permitted, provided the percentage of newly cleared land on any solar lot does not exceed 50% of the existing woodlands on that solar lot in total. Removal of existing trees larger than 12 inches dbh should be minimized to the greatest extent practicable.
- C. Previously developed lands that are otherwise unbuildable or unusable, such as landfills, brownfields, etc., are also preferred locations for solar energy systems.
- D. Solar panel arrays shall be located on a solar lot in such a manner as to avoid, to the maximum extent feasible, soils classified as prime farmland and slopes greater than 20%.
- E. Areas of scenic viewsheds shall be avoided.
- F. Lands which have the highest ecological values as evidenced by large, contiguous areas of forest, undisturbed drainage areas, wetlands or New York State Department of Environmental Conservation identified critical habitats or rare plant and animal populations shall be avoided.
- G. Development and operation of the system shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats or other significant habitats identified by the Town of Dover or other federal or state regulatory agencies.

Preserving Scenic Resources and Viewsheds.

- A. The Town of Dover is a community located within the Dutchess County that is rich in history, scenic resources, and recreational opportunities. The Town has established the importance of preserving these scenic resources in their Comprehensive Plan.
- B. Tier 3 solar energy systems shall be sited in a manner as to have the least possible practical visual effect on the environment and visual resources of the Town of Dover. At the applicant's expense, the applicant shall provide the Planning Board with a visual assessment report, including appropriate modeling and simulations and photography assessing the visibility from key viewpoints including existing tree lines, surrounding topography, and proposed elevations shall be required.
- C. Tier 3 solar energy systems shall not be sited in any location that would detract from the scenic values, scenic viewshed, rural character, or visual qualities of Dover's landscape and historic character.
- D. Tier 3 solar energy systems shall avoid areas of visible open space, distant views, scenic viewsheds, distinct natural features, and cultural and historic resources.
- E. Appropriate landscaping and/or site design features, including berms, the maintenance of existing natural vegetation and the introduction of new plantings consisting of a naturally appearing blend of deciduous and coniferous species, shall be required to help screen the Tier 3 solar energy system and its accessory structures from scenic roadways, scenic overlay areas, park lands, historic properties, and neighboring residences.
- F. Tier 3 solar energy systems, including its associated structures, may be further screened with plantings of evergreen and deciduous plantings at a height so as to provide a visual screen of the ground mounted system from residential uses and scenic viewsheds. The species, type, location, and planted height of such landscaping shall be subject to the approval of the Planning Board.
- G. Where screening is required by the planning board; the screening method must provide for year-round screening; and a minimum of 2 offset staggered rows of evergreen plantings with a minimum height of 6-feet or taller as deemed appropriate by the planning board for the given conditions.
- H. Tier 3 solar energy system projects require a photo-simulation, at the applicant's expense, be provided to the Planning Board for their review of the application. In addition, the Planning Board may request, at the applicant's expense, additional photographs, visual test or other credible evidence that the area is not located in an area of scenic value or can be well screened.

Planning Board Review.

- A. The procedures to be followed by the Planning Board in conducting site plan and special permit reviews shall be those which are set forth in the Town of Dover Zoning Law.
- B. Review by the Planning Board shall include, but not be limited to:
 - 1. Consideration of the requirements of this Local Law;
 - 2. The visual effect of the proposed solar installation;
 - 3. Protection of the scenic values, rural character, visual qualities of Dover's landscape and historic character;
 - 4. Impact on community character; and
 - 5. Any mitigation of impact that may be deemed reasonably undertaken;
 - 6. Potential for adverse noise impacts;
 - 7. Stormwater control and Erosion control.
- C. All applications for Tier 3 solar energy systems shall be referred to local emergency responders, including but not limited to the local Fire Department. The applicant shall coordinate with local emergency responders during the Planning Board review to clarify on-site safety procedures and shall receive written correspondence from the responding fire department and emergency care provider as to the acceptability of the proposed ingress to and egress from the Solar Energy Facility site.
- D. All applications for Tier 3 solar energy systems shall additionally be referred to the following agencies for comment during the Planning Board review:
 - 1. New York State Department of Environmental Conservation (NYSDEC);
 - 2. Dutchess County Planning and Development (all applications regardless of any GML 239-M requirements),
 - 3. Any other local or state agency that Planning Board deems necessary.

Application.

- A. All applications to the Planning Board for site plan review for Tier 2 solar energy systems shall include the following:
 - 1. Property Boundary Survey signed by a land surveyor registered in New York State.
 - 2. Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposed layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved. Property lines and physical features, such as roads, shall be included on all plans and drawings.
 - 3. A one-or-three line electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices identified.
 - 4. All existing and proposed access to the site, including road, electric power, emergency access, land-based communication line connection, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible and determined acceptable by the Planning Board through site plan review.
 - 5. 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 a Solar Building Permit.
 - 6. Landscape plan showing all existing natural land features, trees, forest cover, and all proposed changes to these features, including size and type of plant materials. The plan shall show any trees and/or vegetation which is proposed to be removed for any purpose.
 - 7. Part I of the short environmental assessment form (SEAF).

8. 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.
 9. Name, address, and contact information of a local contact person.
- B. All applications to the Planning Board for site plan and special permit review for Tier 3 solar energy systems shall include the following:
1. Property Boundary Survey signed by a land surveyor registered in New York State.
 2. Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposed layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved. Property lines and physical features, such as roads, shall be included on all plans and drawings.
 3. A one-or-three line electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices identified.
 4. Nameplate Capacity of the Solar Energy System (as expressed in MW).
 5. All existing and proposed access to the site, including road, electric power, emergency access, land-based telephone line connection, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible and determined acceptable by the Planning Board through site plan review.
 6. Map(s) of MSG 1-4 soils and Active Agriculture Lands on the parcel(s) comprising the Facility Area and adjacent parcels.
 7. Tree Survey: a forestry professional shall provide a report indicating the stand density in terms of trees per acre and basal area that specifically focuses on defining areas of existing woodlands and mature forests. The planning board may waive this requirement if the proposed project site contains no woodland, or no trees larger than 6 inches dbh, or if in their opinion the project will require only minor tree removal.
 8. Adjacent land uses on contiguous parcels within a 1,000-foot radius of the site boundary.
 9. 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 a Solar Building Permit.
 10. Landscape plan showing all existing natural land features, trees, forest cover, and all proposed changes to these features, including size and type of plant materials. The plan shall show any trees and/or vegetation which is proposed to be removed for any purpose.
 11. Property Operation and Maintenance Plan that describes the continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
 12. A stormwater pollution prevention plan per New York State Department of Environmental Conservation requirements to detail stormwater runoff management and erosion control plans for the site.
 13. Photo simulations of the proposed solar energy system as viewed from the site frontage and other publicly accessible vantage points as determined by the planning board. The photo simulations should accurately depict the dimensions and manufacturer's specifications of all visible equipment and components proposed. Additional simulations may be required that include neighboring properties. The planning board may waive this requirement if in their opinion the project site will be naturally hidden from view.

14. Details of the proposed noise that may be generated by inverter fans. The Planning Board may require a noise analysis to determine potential adverse noise impacts.
 15. Part I of the full environmental assessment form (FEAF).
 16. Proof of insurance. The applicant and the owners of the property where the solar energy system is to be located shall file with the Building Department proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation thereof as determined by the Planning Board.
 17. Plan for post-construction maintenance of grounds and structures and town roadways. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
 18. 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 a Solar Building Permit.
 19. Name, address, phone number, and signature of the project applicant, as well as any and all the project site property owners, demonstrating their consent to the application and the use of the property for the solar energy system.
 20. Name, address, and contact information of a local contact person.
 21. If the property of the proposed project is to be leased, legal consent between all parties, specifying use(s) of the land for the duration of the project, including easement, decommissioning, and other arrangements shall be submitted.
 22. Decommissioning Plan.
 23. The posting of a removal bond to be held in escrow to provide for the decommissioning of the Tier 3 solar energy system. The amount of the bond shall be agreed upon in consultation with the town engineer and should account for the total cost of returning the property to its pre-developed state, taking into account the expected lifetime of the equipment and an assumed annual rate of inflation based on an average of the national CPI for the previous 5-years. This bond shall be recalculated based on current market values and renewed every five (5) years along with the permit renewal by the Planning Board.
- C. In accordance with Town of Dover Zoning Law § 145-35 Wetland and watercourse protection, all site plans for Tier 2 & 3 projects shall show the location and stream classification of all watercourses and the location of any NYSDEC-regulated wetlands and wetland adjacent areas on the parcel, as determined by a NYSDEC field delineation, if available, or from current DEC wetland maps. If the proposal requires that a wetland delineation be performed for the United States Army Corps of Engineers (ACOE), the applicant shall submit a copy of such delineation to the reviewing board or official. If no delineation is submitted and the reviewing board or official has reason to believe that the proposal would involve disturbance to wetlands, the applicant may be required either to submit a wetland delineation or to obtain a certification from a qualified wetlands expert that there are no wetlands within the area proposed to be disturbed.
- D. Special Use Permit Standards. The Planning Board may issue a special use permit for a Tier 3 Solar Energy System only after it has found that all the following standards and special permit criteria set forth in the Town of Dover Zoning Law have been satisfied.

Specific Design Standards.

- A. In addition to the design standards set forth in the Town of Dover Site Plan Review Law the following standards shall be required for Tier 3 solar energy systems:
1. Visual.

- a. Accessory buildings and structures associated with Tier 3 solar energy systems shall, to the maximum extent practicable, use materials, colors and textures that will blend the facility into the existing environment.
 - b. Any associated structure shall be screened, placed underground, depressed, earth bermed or sited below a higher topographic grade or the ridge line, particularly in areas of high visibility.
 - c. Any Tier 3 solar energy system located within one mile of existing Tier 3 solar energy system shall be reviewed with the additional consideration of the cumulative impacts (visual, benefit to the power grid, scenic values, rural character, community character) of all Tier 3 solar energy systems within this radius.
2. Fencing.
- a. Notwithstanding the Town of Dover Zoning Law, fence heights and setbacks required herein are permitted. Solar energy systems shall be enclosed by perimeter fencing, with locking access gate, to prevent unauthorized access and vandalism to the Tier 3 solar energy system.
 - b. Fencing shall be designed to allow for the free range and movement of small animals. Subject to the Planning Board review and approval, this may include installing the perimeter fence approximately 5" to 12" above the natural grade of the area, which would allow small mammals to move in and around the area.
 - c. The fence shall be a minimum of seven (7) feet and a maximum of eight (8) feet in height. The height of the fence may be adjusted by the Planning Board considering visual impact upon neighboring properties.
 - d. The type, material and color of perimeter fencing shall be subject to approval by the Planning Board.
 - e. The perimeter fencing for Tier 2 solar energy systems shall also be set back a minimum of 100 feet from the front property line and 100 feet from any other property line.
 - f. The perimeter fencing for Tier 3 solar energy systems shall also be set back a minimum of 100 feet from the front property line and 250 feet from any other property line.
 - g. There shall be created and maintained between the fence and the components, structures, or fixtures of the Tier 3 solar energy system, a clear and unobstructed buffer area at least 25 feet in width encircling the entire perimeter of the facility, with a surface and grade suitable for the safe passage of fire trucks and other emergency vehicles.
 - h. The fence may be further screened by landscaping needed to avoid adverse aesthetic impacts.
3. Glare.
- a. A lighting plan shall be required for all Tier 3 & 4 solar energy systems.
 - b. Tier 2, 3, & 4 solar energy systems shall be dark-skies compliant.
 - c. Artificial lighting of Tier 2, 3, & 4 solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
4. Vehicle Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction. The Driveway entrance shall be located in such a way that there is not a direct view of solar equipment, a side approach or turn in the driveway is preferred.
5. Warning Signage.
- a. Manufacturer and/or installer's identification and appropriate warning signage and 24-hour emergency contact information shall be posted at the site and clearly visible.

- b. Solar energy equipment shall be marked with weather resistant marking to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system.
 - c. The marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the disconnect lever is operated.
 - d. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface.
 - e. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
6. Utility Connections. Utility lines and connections from any solar energy system shall be installed underground, except for the utility line interface connection where the utility provider may require a certain overhead wire and pole arrangement. Additionally, any electrical transformers, switches, meters, and general electrical gear for utility interconnections may be above ground if required by the utility provider, but shall be adequately screened.
7. Accessibility.
- a. All areas of any solar energy system site shall be able to be adequately accessible to local emergency responders in the event of an emergency or safety situation.
 - b. The Applicant shall provide information to local emergency responders as to the layout of the property. This shall include, but not be limited to, information as to access points to every area of the property.
 - c. This information shall be kept on file with the local emergency responders within the respective district of the proposed project site to be accessed in case of an emergency.
 - d. The current owner and/or operator shall provide any update to the local emergency responders to any changes in known access points.

Maintenance Requirements.

- A. Following construction of a community ground-mounted solar energy system, all disturbed areas where soil has been exposed shall be reseeded with native perennial vegetation and/or planted with low-level native vegetation capable of preventing soil erosion and airborne dust.
- B. Native perennial vegetation , preferably pollinator friendly, shall be maintained below the arrays.
- C. The ground within the fenced perimeter of any solar energy system installation shall not be tamped, compressed, or otherwise specially conditioned with herbicides, pesticides or similar other treatments to inhibit the growth of natural vegetation.
- D. The local contact person shall be responsible for observing these maintenance requirements at all times.
- E. The local contact person shall respond to any formal complaint issued by the Town Code Enforcement Officer as to the state of maintenance within 24 hours of being notified.

Renewals.

- A. Any special permit approval issued for a Tier 3 solar energy system shall be subject to renewal by the Planning Board every five (5) years from the initial issuance of approval (date of approval resolution with or without conditions) to ensure the installation is being maintained in good working order, with particular emphasis on the site operation, noise generation, maintenance of landscaping, fencing and/or other screening required by the Planning Board upon the issuance of the site plan approval.
- B. The applicant is responsible to track the time frames and to submit an application requesting renewal at least 3 months prior to the expiration date of said approval.

- C. An application for renewal shall be accompanied by the original approved plans, descriptive information showing compliance with the current approval, any plan modifications sought, updated bond estimates, copies of the previous annual reports (previous 5 years).
- D. An application for renewal shall include any proposed solar equipment replacements or upgrades. Upgrades that result in an increase in efficiency or an increase in solar power generation within the same footprint, shall be allowed to be part of the special permit renewal, provided the overall rated capacity does not exceed the maximum defined for the previously permitted Tier level.
- E. The Planning Board may request reasonable additional information that it deems necessary to conduct an informed review.
- F. Failure to submit a renewal application within a 1-year period shall be considered a forfeiture and the special permit is automatically terminated.

Annual Reports.

- A. The Tier 3 Applicant shall provide the Town Code Enforcement Officer on a yearly basis a report showing the rated capacity of the Tier 3 solar energy system and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve (12) month period. The report shall also identify any change in ownership of the Tier 3 solar energy system and/ or the land upon which the Tier 3 solar energy system is located and shall identify any change in the party responsible for decommissioning and removal of the Tier 3 solar energy system upon its abandonment. The annual report shall be submitted no later than forty-five (45) days after the end of the calendar year.
- B. Every fifth (5th) year upon the renewal of special permit approval, the annual report shall also include a full recalculation of the estimated full cost of decommissioning and removal of the Solar Energy System at current market values. The Town will require an adjustment in the amount of the bond to reflect any increases in the estimated cost of decommissioning and removal. Failure to submit a report as required may be cause to require decommissioning of the system.

Change in Ownership.

- A. If the owner or operator of the Tier 2 or 3 solar energy system changes or the owner of the property changes, the Site Plan Approval shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the original approval such as site plan approval, special permit approval, decommissioning plan, bonds. A new owner or operator of the Solar Energy System shall notify the Town of Dover Code Enforcement Officer of such change in ownership or operator at least 30 days prior to any change of ownership.

Tier 4 Solar Energy Systems

Purpose.

The purpose of Tier 4 solar energy systems shall be to primarily provide power into the regional power grid.

General Requirements

All Tier 4 Solar Energy Systems are subject to the site plan and special use permit application requirements established for Tier 3 Solar Energy Systems in Section [X], in addition to the following requirements:

- A. Applications for Tier 4 Solar Energy Systems shall:

1. Be initially reviewed by the by the Code Enforcement Officer and Town Engineer for completeness. Applicants shall be advised within 45 days of the completeness of their application or any deficiencies that must be addressed prior to a substantive review by the Planning Board.

B. Pre-Application Meeting.

1. At least 60 days prior to the submission of an application, the Applicant shall conduct a pre-application meeting with the Code Enforcement Officer, Town Engineer, Town Attorney, and Planning Board Chair to ensure all parties have clear expectations regarding any Town requirements applicable to the proposed Solar Energy System. A written request for this purpose shall be sent to the Code Enforcement Officer. Submission and review of the application shall not be delayed based on the failure of the Code Enforcement Officer to respond in a timely manner to a properly filed meeting request.
2. At the pre-application meeting, the Applicant must provide (1) a brief description of the proposed facility and its environmental setting, (2) the electricity generation expected, (3) map of the proposed facility showing project components, (4) the proposed facility's anticipated impacts, (5) a designated contact person with telephone number, email address, and mailing address from whom information will be available going-forward basis, and (6) an anticipated application submission date.

C. Community Engagement Plan.

1. Applications for a Tier 4 Solar Energy System shall include a Community Engagement Plan detailing the applicant's proposed plans and strategies for ensuring adequate public awareness and encouraging community participation. Applicants are highly encouraged to discuss the contents and details proposed in this plan with the Planning Board prior to the submission of a formal Engagement Plan.

D. Special Use Permit Standards

1. Setbacks: Tier 4 Solar Energy Systems shall meet all applicable parcel line and other setback requirements established for Tier 3 Solar Energy Systems.
2. No more than thirty-five (35%) percent of the solar lot shall be occupied by the entirety of any Tier 4 solar energy system.
3. Agricultural Resources: Tier 4 Solar Energy Systems for which the Facility Area includes Active Agricultural Lands shall adhere to the following requirements:
 - a. Tier 4 Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 50% of the Active Agricultural Lands within the Facility Area.
 - b. To the maximum extent practicable, Tier 4 Solar Energy Systems located on Active Agricultural Lands shall be constructed, monitored, and decommissioned in accordance with the NYS Department of Agriculture and Markets' "Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands."

ARTICLE VII:

SAFETY AND MAINTENANCE

- A. All solar collector installations must be performed by a qualified solar installer and designed, erected and installed in accordance with applicable codes, regulations and industry standards.
- B. All solar energy systems and equipment shall be permitted only if they are determined by the Town Code Enforcement Officer not to present any unreasonable safety risks, including, but not limited to, the following factors:
 - 1. weight load;
 - 2. wind resistance;
 - 3. ponding from heavy rainfall;
 - 4. Ingress and egress in the event of fire or other emergency.
- C. In order to make this assessment, the Town Code Enforcement Officer shall require:
 - 1. Certification from a New York State licensed professional engineer that the system design conforms with applicable codes, regulations and industry standards and that the system has been properly installed and anchored to prevent flotation, collapse or lateral movement.
 - 2. Review and concurrence by the Town Engineer.
 - 3. Site visit and inspection from the local fire or other emergency responder to determine adequate ingress and egress for all local emergency responders in the event of a fire or other emergency on the site.
- D. Prior to issuance of a permit and certificate of compliance by the Code Enforcement Officer and subsequent operation of the solar energy system, a report must be filed with the Code Enforcement Officer by a third-party electrical inspection person or agency stating that upon inspection all electrical connections have been found satisfactory.
- E. Any connection to the public utility grid must be carried out in accordance with the standard interconnection requirements of the appropriate public utility and as may be regulated by the New York State Public Service Commission.
- F. Solar energy systems shall be maintained in good working order.
- G. Any connection to the public utility grid must be inspected and approved by the appropriate public utility.
- H. Solar energy systems and their components shall be accessible by emergency services vehicles and personnel.
- I. Solar Energy Systems and Equipment shall be marked to provide emergency responders with appropriate warning and guidance with respect to isolating the solar centric system. Materials used for marking shall be weather resistant and shall comply with the standards of the applicable residential, building, fire, and electrical codes.
- J. All solar energy collection systems described in this Local Law shall meet and comply with all relevant and applicable provisions of the New York State Uniform Fire Prevention and Building Code Standards and applicable electrical codes. To the extent the provisions of the New York State Uniform Fire Prevention and Building Code and applicable electrical codes are more restrictive than the provisions set forth in this Local Law, the provisions of the New York State Uniform Fire Prevention and Building Code and applicable electrical codes shall control and the provisions contained herein shall be deemed to be installation guidelines only.

ARTICLE VIII.

BATTERY STORAGE

- A. Storage batteries or storage cells shall only be permitted as accessory uses for the on-site solar energy systems.
- B. The solar energy facility may contain a battery energy storage system designed to provide electrical power to the facility on a stand-by or emergency basis.
- C. Complete plans and specifications for the battery storage system shall be submitted in conjunction with the facility application. The battery energy storage system shall be subject to the same site plan requirements as the solar facility structure and infrastructure including, but not limited to, setback, height restrictions and landscaping and/or screening requirements.
- D. A battery spill containment plan shall be submitted in conjunction with the facility application. The battery spill containment plan shall be designed to prevent environmental damage and human health risk and for the protection of groundwater resources. At a minimum the plan shall include: Liquid-tight containment, Neutralization, Signage, Ventilation, Personal protection and shall meet all State and Federal regulations (Uniform Fire Code, OSHA, etc.).
- E. If storage batteries are included as part of the solar energy system, they shall meet the requirements of the New York State Uniform Fire Prevention and Building Code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations.

ARTICLE IX:

ABANDONMENT AND DECOMMISSIONING

Required.

- A. If any solar energy system ceases to perform its originally intended function of converting solar energy to electricity for more than 12 consecutive months, the solar energy system shall be deemed abandoned and the property owner shall notify the Town of Dover Code Enforcement Officer of the system's abandonment.

Responsible Parties.

- A. Any Tier 3 or Tier 4 solar energy system which has been abandoned shall be immediately decommissioned and removed in accordance with the decommissioning plan. The owner of the facility and owner of the land upon which the system is located shall be jointly and severally responsible to physically remove all components of the system within six months of abandonment at the owner's expense. This obligation shall be binding upon the applicant's, owner's, landowner's and/or operator's successors and/or assigns for any Tier 3 solar energy system. Upon such failure to either maintain operation or decommission the system as provided for herein, the approvals issued in relation to such system or facility shall terminate.
- B. Any Tier 1 or Tier 2 solar energy system and its associated equipment which has been abandoned shall be decommissioned and removed by the property owner.
 - 1. All solar energy systems and associated equipment shall be removed within one (1) year of the date that the system is abandoned.
 - 2. In the event the solar energy system or its associated equipment is not properly removed after one (1) year of the date that the system is abandoned, the Town shall have the right to remove

the solar energy system or its associated equipment. Such cost shall be borne unto the existing property owner of record.

Objectives of Decommissioning.

- A. The following requirements shall be met for decommissioning:
 - 1. Physical removal of all above and below ground equipment, structures and foundations, including but not limited to all solar arrays, buildings, security barriers, fences, electric transmission lines and components, roadways and other physical improvements to the site.
 - 2. Any access roads created for building or maintaining the system shall also be removed and replanted with vegetation. The site terrain shall be restored and regraded, if necessary, to a condition generally comparable to its original condition and replanted with native perennial vegetation.
 - 3. The site shall be restored to as natural a condition as possible within six (6) months of the removal of all equipment, structures and foundations. Such restoration shall include, where appropriate, restoration of the surface grade and soil after removal of all equipment and revegetation of restored soil areas with native perennial seed mixes;
 - 4. Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.
 - 5. All safety hazards created by the installation and operation of the large- scale solar energy system shall be eliminated
 - 6. Removal of utility-scale solar energy systems must be completed in accordance with the decommissioning plan.

Submission.

- A. The decommissioning plan shall address those items listed in this Section and shall include:
 - 1. An estimate of the anticipated operational life of the system;
 - 2. Identification of the party responsible for decommissioning;
 - 3. Description of any agreement with the landowner regarding decommissioning;
 - 4. Schedule showing the time frame over which decommissioning will occur and for completion of site restoration work;
 - 5. A cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the solar PV system, Cost estimates shall take into account inflation;
 - 6. A financial plan to ensure that financial resources will be available to fully decommission the site;
 - 7. The Planning Board shall, as a condition of approval, require the posting of a removal bond in an amount adequate to provide for the removal of the Tier 3 solar energy system's structures and equipment and for restoration of the site.

Bond.

- A. When a removal bond is required by this chapter, the Planning Board shall require a bond placed in an escrow account to ensure the removal of any Tier 3 solar energy system. The amount of the bond shall be 125% of the cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the Tier 3 solar energy system, plus the estimated inflation for each 5-year period.
- B. In the event that the Tier 3 solar energy system is not removed within six (6) months of becoming inactive or the site is not remediated and restored to a condition approved by the Planning

Board, the Town of Dover, by resolution of the Town Board after 30 days' written notice and opportunity of the landowner and system operator to be heard, may cause the same to be removed and the site remediated using the financial security.

- C. In the event that the system is not removed within six months of abandonment and the site restored as required, the Town of Dover, after notice and hearing, may cause the same to be removed and the site restored using the funds in such escrow account. All costs and expenses incurred by the Town in connection with any proceeding or work performed by the Town or its representatives to decommission and remove a Tier 3 solar collector system, including legal costs and expenses, shall be reimbursed from the financial surety posted by the system owner or landowner as provided in this Section. Any costs incurred by the Town for decommissioning and removal that are not paid for or covered by the required surety, including legal costs, shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become part of the taxes to be levied and assessed thereon, and shall be enforced and collected with interest by the same officer and in the same manner, by the same proceedings, at the same time and under the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town.

ARTICLE X:

ADMINISTRATION AND ENFORCEMENT

Fees.

- A. A fee schedule shall be established by resolution of the Town Board. Such fee schedule may thereafter be amended from time to time by resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Unified Solar Permit, Solar Building Permit, and other actions of the Code Enforcement Officer described in or contemplated by this Local Law.

Reimbursement by Town.

- A. The Town of Dover shall require any applicant to pay all associated costs for any site plan review, including but not limited to, engineering, legal, environmental, planning and the review required under this Local Law or under SEQRA. When the Planning Board determines that a review is anticipated to require engineering, legal, environmental or planning costs, they shall provide an estimate to the applicant. Subsequently, funds adequate to cover such estimated costs shall be placed into escrow by the applicant prior to commencement of any further Planning Board review and shall be replenished or increased at the direction of the Planning Board.

Site Plan Compliance.

- A. The Code Enforcement Officer shall not issue a permit for projects requiring site plan and /or special permit approval under this Local Law until the Site Plan has been approved by the Planning Board, signed by the Planning Board Chairperson. No Unified Solar Permit and no Certificate of Use or Occupancy shall be issued by the Code Enforcement Officer until all improvements are constructed in conformity with the approved site plan and any conditions imposed on that approval.

Enforcement.

- A. 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 Dover.
- B. In addition to the penalties provided for above, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with, or to restrain by injunction, the violation of this Local Law. By submitting an application for a solar energy system pursuant to this Local Law, the applicant hereby agrees that Dutchess County shall serve as the venue for any litigation based on this Local Law.

Severability.

- A. Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Conflict with other Laws.

- A. Where this Law differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or Federal government, the more restrictive or protective law of the Town and the public shall apply.

Effective Date.

- A. This Local Law shall take effect immediately, as provided by law, upon filing with the Secretary of State.

Zoning

§ 145 Attachment 1

Town of Dover

Schedule of Permitted Uses

[Adopted 02/28/24 as L.L. No. 1-2024]

	Key:
P	Designates a use permitted by right. Usually requires a zoning permit or a building permit and a certificate of occupancy from the Code Enforcement Officer, but does not require review by any municipal board
P*	Designates a use permitted by right, subject to site plan review by the Planning Board (see § § 145-64 through 145-67)
S	Designates a use permitted by special permit issued by the Planning Board (see § § 145-59 through 145-63)
ST	Designates a use permitted by special permit issued by the Town Board
-	Designates a prohibited use

Use Category	Use District										Section Reference
	<i>RU</i>	<i>RC</i>	<i>HM</i>	<i>HR</i>	<i>SR</i>	<i>GC</i>	<i>HC</i>	<i>CO</i>	<i>M</i>		
Energy Uses											
Solar Energy System											
-Roof-top and flush-mounted, 50kW or less	P	P	P	P	P	P	P	P	P	P	
-Ground mounted and freestanding, 50kW or less ¹³	P	P	-	P ¹²	P ¹²	-	P ¹²	P	P	P	
-On-Farm Solar Energy Systems, 100kW or less	P	P	P	P	P	P	P	P	P	P	
-Small -scale solar energy system (Tier 2)	P*	P*	-	-	-	-	-	-	P*	P*	
- Medium -scale community solar energy system (Tier 3)	S	S	-	-	-	-	-	-	S	S	
-Large-scale community solar energy system (Tier 4)	S	S	-	-	-	-	-	-	S	S	
NOTES											
12	Parcel shall have 2 acres minimum lot area for ground-mounted and free standing solar										
13	When not associated with a primary structure, shall be considered as a small-scale solar energy system										