

**TOWN OF SPRINGWATER
LOCAL LAW NO. 1 OF THE YEAR 2022
A PROPOSED LOCAL LAW ENTITLED
"LICENSING SOLAR ENERGY AND BATTERY ENERGY STORAGE SYSTEMS"**

BE IT ENACTED by the Town Board of the Town of Springwater to adopt Local Law No. I of 2022 as follows:

SECTION I. AUTHORITY

The Town Board of the Town of Springwater enacts this local law under the authority granted by:

1. Article IX of the New York State Constitution, §2 (c) (6) and (10).
2. New York Statute of Local Government, §10 (1)
3. New York Municipal Home Rule Law (MHR), §10 (1) (i) and (ii) and §10 (1) (a) (6), (11), (12), and (14).
4. New York Consolidated Laws, Town Law § 130 (1) (Building Code), (3) (Electrical Code), (5) (Fire Prevention), (7) (Use of Streets and Highways), (7-a) (Location and Construction of Driveways), (11) (Peace, Good Order and Safety), (15) (Promotion of Public Welfare), (15-a) (Excavated Lands), (16) (Unsafe Buildings), (19) (Trespass), and (25) (Building Lines).
5. New York Consolidated Laws, Town Law §64 (17-a) (Protection of Aesthetic Interest), (23) (General Powers).

SECTION II. TITLE

This local law shall be known as "Licensing Solar Energy and Battery Energy Storage Systems."

SECTION III. INTENT AND PURPOSE

The purpose of this local law is to provide the discretionary licensing, siting and design regulations and requirement framework for the approved establishment of Solar Energy Systems and Battery Energy storage systems to protect the health, welfare, safety, peace and tranquility of the residents of the Town of Springwater; furthermore, to address the visual, aesthetic and land use compatibility aspects of Solar Energy Systems. This local law establishes a permissive and discretionary framework for the establishment of Solar Energy and Battery Energy Storage Systems in the Town of Springwater.

SECTION IV. APPLICABILITY

Any solar energy system or battery energy storage system erected, constructed, modified, or operated in the Town of Springwater after the effective date of this article shall be in compliance with this article.

SECTION V. DEFINITIONS

ANSI — American National Standards Institute.

APPLICANT— The person or entity submitting an application and seeking an approval under this Section; the owner of a Solar Energy System or a proposed Solar Energy System project; the operator of Solar Energy Systems or a proposed Solar Energy System project; any person acting on behalf of an Applicant, Solar Energy System or proposed Solar Energy System. Whenever the term -'applicant" or "owner" or "operator' • are used in this Section, said term shall include any person acting as an applicant, owner or operator.

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM — An electronic system that protects battery energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the battery energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

BATTERY ENERGY STORAGE SYSTEM — A rechargeable energy storage system consisting of one or more devices, including batteries, battery chargers, controls, power conditioning systems and associated electrical equipment, assembled together, capable of storing energy in order to provide electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 battery energy storage system as follows:

- A. Tier 1 battery energy storage systems are battery energy storage systems having an aggregate energy capacity less than or equal to 600 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.
- B. Tier 2 battery energy storage systems are battery energy storage systems having an aggregate energy capacity greater than 600 kWh or are comprised of more than one storage battery technology in a room or enclosed area.

BATTERY ENERGY STORAGE SYSTEM BUILDING-MOUNTED — A battery energy storage system attached to any part of a building or structure that has an occupancy permit on file with the Town and that is either the principal structure or an accessory structure on a recorded parcel.

BATTERY ENERGY STORAGE SYSTEM GROUND-MOUNTED — A battery energy storage system that is not a building-mounted battery energy storage system.

BATTERY ENERGY STORAGE SYSTEM PERMIT — The NYSERDA model battery energy storage system permit, as it may be updated from time to time, which establishes the minimum submittal requirements for electrical and structural plan review that are necessary when permitting small battery energy storage systems.

BATTERY (IES) — A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this local law, batteries utilized in consumer products are excluded from these requirements.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM — A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

BUILDING-MOUNTED SOLAR ENERGY SYSTEM — Any solar energy system that is affixed to the side(s) or rear of a building or other structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building. Solar energy systems constructed over a parking lot are considered building mounted solar energy systems.

CELL — The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

COMMISSIONING — A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

DEDICATED-USE BUILDING — A building that is built for the primary intention of housing battery energy storage system equipment and is classified as Group F-1 occupancy as defined in the International Building Code, and it complies with the following:

- A. The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
- B. No other occupancy types are permitted in the building.
- C. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
- D. Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:
 - (1) The areas do not occupy more than 10% of the building area of the story in which they are located.
 - (2) A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

DESIGNATED FARMLAND — Land designated as Farmland of Statewide Importance, or land designated as Prime Farmland or Prime Farmland If Drained 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.

ENERGY CODE — The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

ESCROW — Account in which funds are accumulated for specific disbursements.

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, which 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.

FIRE CODE — The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

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

GROUND MOUNTED SOLAR ENERGY SYSTEM — A freestanding solar energy system mounted on a structure, poles or series of poles constructed specifically to support the solar array and not attached to any other structure.

KILOWATT (KW) — A unit of electrical power equal to 1,000 watts, which constitutes the basic unit of electrical demand. A watt is a metric measurement of power (not energy) and is the rate at which electricity is used. 1,000 KW is equal to 1 megawatt (MW).

KILOWATT-HOUR (kWh) — A measure of the energy capacity of a battery and a battery energy storage system equal to the discharge of 1 kW for a period of one hour.

LARGE SCALE SOLAR ENERGY SYSTEM — Any solar energy system that cumulatively on a lot meets all of the following criteria:

1. An accessory or secondary use or structure, designed and intended to generate energy primarily for use on site, potentially by multiple tenants, through a distribution system or electrical grid that is not available to the general public. If excess energy is produced, it can be sold to a utility under a net metering agreement.
2. Consists of an overall footprint of not less than 5,000 and not exceeding 100,000 square feet. Overall footprint shall be determined by the outline created on the ground, building /structure surface, or combination thereof, excluding all rooftop-mounted solar energy systems that meet the requirements of a small scale or large-scale solar energy system, by wholly enclosing all components/structures of a solar energy system on a lot.

MEGAWATT (MW) — A unit of electrical power equal to 1,000,000 watts or 1,000 kilowatts (kW).

MEGAWATT-HOUR (MWh) — A measure of the energy capacity of a battery and a battery energy storage system equal to 1,000 kilowatt-hours (kWh).

NAMEPLATE CAPACITY —

- A. For solar energy systems, starting from the initial installation of the solar energy system, the maximum electrical generating output that the solar energy system is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or

other de-ratings) as specified by the manufacturer of the solar energy system.

B. For battery energy storage systems, starting from the initial installation of the battery energy storage system, the maximum electrical energy storage, in MWh, that the battery energy storage system is capable of storing at full charge as specified by the manufacturer of the solar energy system.

NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL) — A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

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 (NYSDEC).

NEC — National Electric Code.

NEW YORK STATE ACCELERATED RENEWABLE ENERGY GROWTH AND COMMUNITY BENEFIT ACT (94-C PROCESS) — Permitting process administered by the New York State Office of Renewable Energy Siting (ORES) for proposed major solar energy systems with a nameplate capacity equal to or greater than 25,000 kW (25 MW) pursuant Section 94-C of the Executive Law and its implementing regulations. The 94-C process supersedes the permitting authority of this local law, but ORES will apply the substantive requirements of this local law unless it finds them unreasonably burdensome in view of the New York State renewable energy targets of the Climate Leadership and Community Protection Act and environmental benefits of the solar energy system. Projects with a nameplate capacity of 20,000 kW (20 MW) but less than 25,000 kW (25 MW) may opt-in to the 94-C process.

NFPA — National Fire Protection Association.

NON-DEDICATED-USE BUILDING — All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

NONPARTICIPATING COMMERCIAL BUILDING — Any principal building used for conducting a retail business, event barn, tourist home, motel, or hotel that is located on a nonparticipating property.

NONPARTICIPATING PROPERTY — Any property that is not a participating property.

NONPARTICIPATING RESIDENCE — Any dwelling located on a nonparticipating property.

NYS AG AND MARKETS SOLAR ENERGY PROJECT GUIDANCE — The latest revision of the Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands published by the New York State Department of Agriculture and Markets.

OCCUPIED COMMUNITY BUILDING — Any building in Occupancy Group A, B, E,I, R, as

defined in the International Building Code, including but not limited to schools, colleges, day-care facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

OPERATOR — The applicant for the approval of a solar energy system or battery energy storage system, the owner, lessee, licensee, or other person authorized to install and operate a solar energy system or battery energy storage system on the real property of an owner, and each operator's successors, transferees, assignees, and all parties to which the solar energy system or battery energy storage system may transfer any or all of its ownership interests or contracts or subcontracts concerning the construction, management, operations and/or maintenance in, and responsibilities of the solar energy system or battery energy storage system.

OWNER — The owner of the real property on which a solar energy system or battery energy storage system is located or installed or proposed to be located or installed.

PARTICIPATING PROPERTY — A solar energy system host property or any real property that is the subject of an agreement that provides for compensation to the landowner from the operator (or affiliate) regardless of whether any part of the solar energy system is constructed on the property.

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

PORTABLE SOLAR ARRAY — A solar energy system that is readily movable and not a ground-mounted, building-mounted, or building-integrated solar energy system.

PRIME FARMLAND — Land, designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service ("NCRS")'s Soil Survey Geographic ("SSURGO") 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 uses.

A map showing Prime Farmland within the Town of Springwater is available at the Town Clerk's office and is made a part of these regulations as Exhibit A which is styled "Town of Springwater — Prime Farmland Soils."

ROOF-MOUNTED SOLAR ENERGY SYSTEM — A solar energy system mounted on the roof of any legally permitted building or structure and wholly contained within the limits of the roof surface for the purpose of producing electricity for on-site consumption.

SOLAR COLLECTOR — A device, structure, panel or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal or electrical energy.

SOLAR ENERGY EQUIPMENT — Electrical material, hardware, conduit, or other equipment associated with the production of electricity including solar panels, solar thermal electric equipment, associated wiring, mounting brackets, framing and foundations, accessory structures and buildings, battery energy storage systems, light reflectors, concentrators, and heat exchangers, inverters and other power conditioning equipment, substations, electrical infrastructure, distribution lines and other appurtenant structures and facilities used for or

intended to be used for solar energy system.

SOLAR ENERGY SYSTEM — The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, solar panels and solar energy equipment. The area of a solar energy system includes all the land inside the perimeter of the solar energy system, which extends to any interconnection equipment. A solar energy system is classified as a minor, medium, major, small, or on-farm. A solar energy system does not include a solar thermal system.

SOLAR ENERGY SYSTEM ARRAY — Any number of electrically connected solar panels providing a single electricity producing unit.

SOLAR ENERGY SYSTEM, UTILITY (MAJOR) — Any solar energy system that has a nameplate capacity of 7.5 MW DC or higher.

SOLAR ENERGY SYSTEM, UTILITY MEDIUM — Any solar energy system that has a nameplate capacity of greater than 25 kW DC but less than 7.5 MW DC.

SOLAR ENERGY SYSTEM, UTILITY MINOR — A solar energy system with a nameplate capacity of up to and including 25 KW DC or a solar thermal system secondary to the use of the premises for other lawful purposes.

SOLAR ENERGY SYSTEM, ON-FARM — A solar energy system located on a farm that is a farm operation, as defined by Article 25-AA of the Agriculture and Markets Law, in an agricultural district, where the solar energy system is designed, installed, and operated so that the anticipated annual total amounts of electrical energy generated do not exceed the anticipated annual total electricity consumed on the farm by more than 110%.

SOLAR ENERGY SYSTEM, SMALL - Any solar energy system that cumulatively on a lot meets all of the following provisions:

1. An accessory use or structure, designed and intended to generate energy primarily for a principal use located on site. If excess energy is produced; it can be sold to a utility under a net metering agreement.
2. Consists of an overall footprint of less than 5,000 square feet. Overall footprint shall be determined by the outline created on the building/structure surface.

SOLAR PANEL — A photovoltaic device capable of collecting and converting solar energy into electrical energy.

SOLAR THERMAL ELECTRIC EQUIPMENT — Solar energy conversion technologies that convert solar energy to electricity by heating a working fluid to power a turbine that drives a generator.

SOLAR THERMAL SYSTEM — Solar energy devices that convert solar radiation to usable thermal energy for the transfer of stored heat for heating water or air, consisting of solar collectors, storage tanks, and associated tubing and controls. Solar thermal systems are not regulated as solar energy systems pursuant to this local law.

UL — Underwriters Laboratory, an accredited standards developer in the US.

UNIFORM CODE — The New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

UTILITY SCALE SOLAR ENERGY SYSTEM— Any solar energy system that cumulatively on a lot meets at least one of the following:

1. Is a principal use or structure, designed and intended to supply energy solely into a utility grid for sale to the general public; or
2. Consists of an overall footprint of greater than 100,000 square feet. Overall footprint shall be determined by the outline created on the ground, building/structure surface, or combination thereof, excluding all rooftop mounted solar energy systems that meet the requirements of small-scale or large-scale solar energy systems. by wholly enclosing all components/structures of a solar energy system on a lot.

SECTION VI. UTILITY SCALE BUILDING-MOUNTED AND / OR UTILITY SCALE GROUND-MOUNTED SOLAR ENERGY SYSTEMS

Utility Scale Solar Energy Systems are permitted in the Town of Springwater subject to the requirements set forth in this Section, including Site Plan review (see appendix B) and are allowed only after the issuance of a license pursuant to these provisions. Applications for the installation of a Utility Scale Solar Energy System shall be reviewed by both the town Code Enforcement office and the Town Board for their approval, approval with conditions, or denial.

- A. If the property of the proposed project is to be leased, proof of legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements.
- B. Plans and drawings for the Utility Scale Solar Energy System signed by a Professional Engineer showing the proposed layout of the Utility Scale Solar Energy System along with providing a description of all components, existing vegetation, any proposed clearing and grading of the lot(s) involved, any anticipated or possible storm water or erosion disturbances, and utility lines (both above and below ground) on the site and adjacent to the site.
- C. Submitted plans and drawings shall show all property lot lines and the location and dimensions of all existing buildings or structures and uses on any parcel within 500 feet of the outer perimeter of the Solar Energy System.
- D. Equipment specification sheets shall be provided for all Solar Panels, significant components, mounting systems, and inverters that are to be installed.

- E. A Property Operation and Maintenance Plan which describes all ongoing or periodic maintenance of the Solar Energy System and property upkeep, such as mowing and trimming.
- F. Applicant shall submit an engineered Storm Water and Erosion Control Plan to the Town of Springwater Engineer for review and approval which shall demonstrate that post development runoff, storm drainage and erosion will not be negatively impacted by placement of the Solar Energy System on the site.
- G. Any such additional information as may be required by the Town's professional engineer or consultant, Town Attorney, or Code Enforcement Officer.
- H. At its sole discretion, the Town of Springwater Town Board may refer an application for a Utility Scale Solar Energy System to one or more private consultants for review to assist the Board in properly fulfilling its duties. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All reasonable expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, the Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Should such deposit be depleted prior to final approval, the Board may require that additional monies be deposited with the Town before further review of the application will continue. A reviewing Board may suspend indefinitely the review of any application as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town of New York State law, rule or regulation relating to the timing of issuance of decisions for such applications.
- I. Decommissioning Plan. To ensure the proper removal of Utility Scale Solar Energy Systems after such improvements are no longer reasonably operable or have been abandoned, a Decommissioning Plan shall be submitted as part of the application. The Decommissioning Plan must be drafted in accordance with the procedure for abandonment and decommissioning as noted in Section X herein. The Decommissioning Plan must specify that after the Utility Scale Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements and/or the subsequent owner of the property upon which the improvements are placed. The Plan shall include the following:
 - 1. The Decommissioning Plan shall run to the benefit of the Town of Springwater and be executed by the Applicant as well as the owners of the real property upon which the Solar Energy System is to be located and such signatures shall be notarized in a format that allows the plan to be recorded at the Office of the Livingston County Clerk. Such plan shall, prior to commencement of construction, be recorded at the office of the Livingston County Clerk as irrevocable deed

restrictions indexed against the property upon which the Solar Energy System is to be constructed. The intent of the above provisions is so that all future owners of such properties will be obligated to comply with the Decommissioning Plan requirements if the Applicant or then owner of the Solar Energy System fails to do so.

2. The plan 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.
 3. An expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. Cost estimations shall take into account inflation and shall be based on the operating life expectancy of the system.
 4. Financial security bond.
 - a. Prior to obtaining a building permit and as a condition to any license being issued, the Applicant must provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Springwater at its discretion) for the removal of the Utility Scale Solar Energy System, with the Town of Springwater as the designated assignee/beneficiary, in an amount approved by the Town Board which is equal to 110% of the estimated removal cost. The bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal.
 - b. Each year after a Utility Scale Solar Energy System has been constructed, and no later than ten (10) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/license holder for the system shall provide the Town of Springwater with written proof that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above.
- J. If a Utility Scale Solar Energy System is proposed to be developed on land that is or could be in agricultural production, Applicant shall demonstrate how the proposed development complies with the then current guidelines as may be established by the New York State Department of Agriculture and Markets relating to Construction Mitigation for Agricultural Lands for Solar Energy Projects.

SECTION VII. LICENSING AND SITE PLAN APPROVAL STANDARDS

- A. **Height.** Utility Scale Solar Energy Systems shall adhere to the height requirement of fifteen (15) feet.
- B. **Setbacks.** Utility Scale Solar Energy Systems shall be sited to create a setback of no less than 200 feet from the centerline of public roadways and setbacks of 150 feet from all side

and rear property lines. In addition, no Utility Scale Solar Energy System shall be located closer than 350 feet from any residential structure located on another parcel, unless the home owner signs a waiver to allow a distance less than 350 feet but in no case shall the setback from any residential structure be less than 200 feet.

- C. **Lot/Parcel Size.** Utility Scale Solar Energy Systems shall be located on parcels with a minimum lot size of 20 acres.
- D. **Lot/Parcel Coverage.** Utility Scale Solar Energy Systems are permitted to cover up to 75% of any lot or parcel that does not contain Prime Farmland. If a Utility Scale Solar Energy System is to be constructed on a parcel or parcels that contain Prime Farmland, in no instance shall more than ten (10%) percent of the Prime Farmland on any given lot be permitted to be used, developed or covered for purposes of Utility Scale Solar Energy Systems. However, a property owner of Prime Farmland may submit an Affidavit certifying that the land has not been used for agricultural activity in excess of fifteen (15) years and thereby request an exception from the Town. It is the intent of this restriction to protect the valuable resource and benefits of Prime Farmland and it is the express intention of the Town of Springwater that no variance or hardship request be granted to permit increased coverage by Utility Scale Solar Energy Systems on Prime Farmland by any board or commission or other agency having legal authority to consider and grant such a variance or hardship request. The coverage area shall be determined by the area covered by the perimeter of the Solar Energy System at minimum tilt.
- E. **Fencing and Screening.** All Utility Scale Solar Energy Systems shall be enclosed by appropriate fencing to prevent unauthorized access. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. Warning signs with the owner's contact information shall be placed and maintained on the entrance and perimeter of the fencing. A sign not to exceed nine square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number, disconnect and other emergency shutoff information, 24-hour emergency contact information, and it will be clearly displayed on a light reflective surface. The fencing and the system will be required to be further screened by landscaping to avoid adverse aesthetic impacts. The Town Board shall provide for enhanced screening and buffering for Utility Scale Solar Energy Systems that are placed adjacent to residential parcels or abut a public road.
- F. **Number of Utility Scale Solar Energy Systems allowed per lot.** Only one Utility Scale Solar Energy System shall be allowed per lot or parcel, regardless of lot size.
- G. **Vegetation and Habitat.** Utility Scale Solar Energy System owners/developers shall develop, implement and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, owners/developers shall use native plant species and seed mixes.

- H. **Accessibility.** Any Utility Scale Solar Energy System shall be accessible for all emergency service vehicles and personnel on a year-round basis.
- I. **Post Construction.** After completion of a Utility Scale Solar Energy System, the Applicant shall provide a post-construction certificate from a Professional Engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
- J. **Compliance with regulatory agencies.** The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Utility Scale Solar Energy System.
- K. **Public Hearing.** The Town Board shall be required to hold a public hearing relating to licensing for any Utility Scale Solar Energy System.
- L. **Prior to determination or issuance of any license or permit,** all Utility Scale Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (6 NYCRR 617). All applications for approval of a Utility Scale Solar Energy System shall be deemed to be a Type I Actions for purposes of compliance with the New York State Environmental Quality Review Act (6 NYCRR 617.4 (a) (1) and (2) specifically allow the Town to classify such actions in addition to the list established by such statute) with The Springwater Town Board conducting a coordinated review.
- M. **Adverse Impacts.** The development and operation of a Utility Scale Solar Energy System shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town of Springwater or other federal or state regulatory agencies.
- N. **Time limit on completion.** After receiving License Approval of Utility Scale Solar Energy System, an Applicant shall obtain a Building Permit within twelve (12) months of such approval or the approval shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved Utility Scale Solar Energy System within twelve (12) months of obtaining a Building Permit as provided for above, or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law.
- O. **General complaint process.** During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a License. After construction is complete, the license holder of a Utility Scale Solar Energy System shall establish a contact person, including name and telephone number for receipt of any complaint concerning any permit, license, approval, maintenance, or operational requirements. This information shall be kept on file with the Town Code Enforcement Officer.

P. **Inspections.** Upon reasonable notice, the Town of Springwater Code Enforcement Officer, or his or her designee, may enter a lot or parcel upon which a Utility Scale Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Section or any approval given or license issued pursuant to this Section. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a Utility Scale Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of Springwater at any time upon a determination by the Town's Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall be submitted to the Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the license holder, owner or operator and shall be reimbursed to the Town of Springwater within thirty 30 days after delivery to the license holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any License granted. The Town of Springwater reserves the right to levy all such un-reimbursed expenses onto the real property tax bill associated with the real property upon which the Solar Energy System is located.

SECTION VIII. LICENSING REQUIREMENTS AND FEES

- A. Upon final Town Board approval of a solar energy systems site plan review, an applicant must apply for and obtain a license to operate a solar energy system. Under no circumstances will the number of licenses issued for the Town of Springwater by the Town Board for solar energy systems exceed five (5).
- B. The initial license issuance and each five (5) year renewal shall have a licensing fee assessed on each solar energy system based upon the megawatt capacity of each solar energy system. The assessed fee shall be in accordance with the Town of Springwater Fee Schedule which shall be adopted and amended by resolution.
- C. The license issued by the Town of Springwater pursuant to this section shall contain, among other things, provisions regarding the potential decommission of a solar energy system and further provide for the removal of solar energy systems that cease to be used for their intended purpose for a period of ninety (90) days and provide security for such removal.
- D. In considering whether to issue a license under this section, the Town Board of the Town of Springwater shall consider the following:
 - 1. The approved site plan review and the aesthetic impact of the particular solar energy systems depicted in the site plan.
 - 2. The location of the solar energy system, the aesthetic and objective impact of the solar energy systems upon the Town of Springwater.

3. The satisfactory completion of and adherence to all requirements under the site plan review.
- E. No license shall be issued or renewed if it is found by the Town Board that the solar energy system is in violation of any provision, term or requirement of the approved site plan and /or this local law.
 - F. Solar energy systems shall be inspected annually, on behalf of the owner, by a licensed professional engineer for structural integrity and continued compliance with these regulations and the owner shall bear all reasonable costs associated with such inspection (See Section VII (P)). A copy of such inspection report, including findings and conclusions, shall be submitted to the Town Clerk no later than December 31st of each calendar year and shall include but not be limited to the following information:
 1. An index record of all verbal or written complaints received by the owner from area property owners relative to the operation of solar energy systems which shall include the manner in which the complaint was resolved.
 - G. The applicant shall provide production records to the Town Clerk by March 1st of each calendar year for each and every solar energy system in a form approved by the Town Board.
 - H. No transfer of any solar energy system, nor sale of the entity owning such facility including the sale of more than thirty (30) percent of the stock of such entity (not counting sales of share on a public exchange), shall occur without prior approval of the Town, which approval shall be granted upon:
 1. The receipt of proof of the ability of the successor to meet all requirements of this Local Law; and
 2. The written acceptance of the transferee of the obligations of the transferor under this Local Law.No transfer shall eliminate the liability of an applicant nor of any other party under this Local Law.
 - I. This law is not intended to establish or create a right to operate solar energy systems but rather permits the Town Board to issue such a license to operate should it be determined to do so under the terms and conditions of said law.
 - J. Before a license can be issued by the Town Board, a Community Benefit Agreement shall be entered into by the applicant and the Town of Springwater.

SECTION IX. GENERAL REQUIREMENTS SOLAR ENERGY SYSTEMS

- A. All Solar Energy Systems existing within the Town of Springwater on the effective date of this Section shall be "grandfathered" and allowed to continue as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance on pre-existing systems shall comply with the requirements of this Section so long as they immediately apply for a license.
- B. No Solar Energy System shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.
- C. Any applications pending for Solar Energy Systems on the effective date of this Section shall be subject to the provisions of this Section.
- D. For all Solar Energy Systems, no signage or graphic content may be displayed on the Solar Energy Equipment except the manufacturer's badge, safety information and equipment specification information as stated in Section VII (E) above.
- E. Community Benefit Agreement. The owners or developers and landowners of the property upon which a Utility Scale Solar Energy System is to be developed shall be required to enter into a community benefit agreement with the Town for payment by the owners, developers or landowners to the Town of an agreed upon monetary amount or provision of a specified public improvement or improvements that shall act to offset the potential negative impacts that may be associated with a Utility Scale Solar Energy System.
- F. Road Use Agreement. Prior to issuance of any building permit for a Utility Scale Solar Energy System and as a condition to any license being issued, the Applicant and its general contractor shall enter into a written Road Use Agreement benefitting the Town and in a format acceptable to the Town at its sole discretion. Such Road Use Agreement will require Applicant and its General Contractor to indemnify and hold the Town harmless from any and all damage to the roadways within the Town that may result from the development of Applicant's Utility Scale Solar Energy System. As a part of such Road Use Agreement, Applicant shall provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Springwater at its sole discretion), benefitting the Town, that shall ensure the indemnification and hold harmless provisions stated above.
 - 1. In the event that any damage is done to any Town road as a result of the development of an Applicant's Utility Scale Solar Energy System, said Applicant and/or its General Contractor shall be responsible to perform repairs to such road that are acceptable to the Town Highway Superintendent in his/her reasonable discretion.
 - 2. Such repairs shall be completed within sixty (60) days of when written notice of a demand to repair was personally served or sent via certified mail to Applicant or its General Contractor. Should Applicant or its General Contractor fail to effectuate such repairs within sixty (60) days, or within a different timeline at the discretion

of the Highway Superintendent, the Town shall be permitted to execute on the financial security bond (or other form of surety) with written notice to Applicant or its General Contractor.

3. The provisions of the Road Use Agreement required hereby and the requisite financial security bond (or other form of surety) shall remain in full force and effect for no less than one year after all construction has been completed and the project has been certified as complete by a professional engineer.
4. No building permit may be issued for any approved Utility Scale Solar Energy system until such time as a Road Use Agreement has been executed by all parties.

SECTION X. ABANDONMENT AND DECOMMISSIONING

- A. If the use of an approved Solar Energy System is discontinued or has been abandoned, the license holder, owner or operator, or the Applicant, shall provide written notice to the Code Enforcement Officer within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative and abandoned after 90 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) or without production of energy and offsite sale to and consumption by one or more customers for Utility Scale Solar Energy Systems.
- B. Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a Solar Energy System shall be made by the Town Code Enforcement Officer, who shall provide the license holder, owner or operator and owner of the real property upon which the Solar Energy System is located with written notice by personal service or certified mail, return receipt requested. Any appeal by the license holder, owner or operator of the Code Enforcement Officer's determination of abandonment or inoperability shall be filed with the Town Board of the Town of Springwater within thirty (30) days of the Code Enforcement Officer causing personal service or mailing certified mail his written determination upon the license holder, owner or operator and the Board shall hold a hearing regarding the same. The filing of an appeal does not stay the following time frame unless the Town Board or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of 91 days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals and/or licenses granted or issued for the Solar Energy System shall automatically expire.
- C. Refer to Decommissioning Plan. Upon receipt of the written notice from the Town Code Enforcement Officer by personal service or certified mail, return receipt requested, the license holder, owner or operator and owner of the real property upon which the Solar Energy System is located shall refer to the Decommissioning Plan (Section VI (I)) as submitted by the Applicant.

D. Removal. All Solar Energy Systems (and related infrastructure) shall be dismantled and removed immediately from a Lot where the license approval has been revoked by the Town Board or if the Solar Energy System has been deemed by the Code Enforcement Officer to be inoperative or abandoned for a period of more than 90 days and the Lot shall be restored to its pre-development condition. 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 responsibility to dismantle and remove and all such costs of removal shall be the responsibility of the license holder, system owner of the Solar Energy System and/or the owner of the property on which such Solar Energy System is located. If the license holder, system owner or owner of the property does not dismantle and remove said Solar Energy System as required, the Town Board may, after a hearing at which the license holder or system owner and property owner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the license holder is/was.

1. Removal of all Utility Scale Solar Energy Systems shall be in accordance with the Decommissioning Plan required by Section VI (I) above. In the event that license holder, the then owner of the Utility Scale Solar Energy System, or the property owner fails to remove all equipment, infrastructure or appurtenances thereto, and remediate the soil and vegetation to return the parcel to its original state prior to construction, the Town shall be permitted at its sole discretion to utilize the financial security bond (or other form of surety) provided for in the Decommissioning Plan (Section VI (I)) or to exercise its right after notice as provided for above, to dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the license holder is/was.

SECTION XI GENERAL REQUIREMENTS BATTERY ENERGY STORAGE SYSTEMS

The requirements of this local law shall apply to all Tier 1 battery energy storage systems permitted, installed, or modified in the Town after the effective date of this local law ,excluding general maintenance and repair. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this local law. Tier 2 battery energy storage systems are prohibited in the town of Springwater.

- A. A building permit and an electrical permit shall be required for installation of all battery energy storage systems.
- B. Issuance of permits and approvals by the 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. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that:
 - (1) Contain or are otherwise associated with a battery energy storage system; and
 - (2) Subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the local laws and ordinances of the Town.

SECTION XII PERMITTING REQUIREMENTS FOR TIER 1 BATTERY ENERGY STORAGE SYSTEMS

- A. Building-mounted and ground-mounted Tier 1 battery energy storage systems shall be permitted in all areas of the Town, subject to the Uniform Code and the battery energy storage system permit and are exempt from site plan review.
- B. Ground-mounted Tier 1 battery energy systems are permitted as accessory structures and are subject to the following requirements:
 - (1) The height of the ground-mounted Tier 1 battery energy storage system and any mounts shall not exceed 15 feet.
 - (2) The total surface area of the ground-mounted Tier 1 battery energy storage system on the lot shall not exceed 5% lot coverage.
 - (3) The ground-mounted Tier 1 battery energy storage system is not the primary use of the property.
 - (4) The ground-mounted Tier 1 battery energy storage system is located in a side or rear yard.
 - (5) The ground-mounted Tier 1 battery energy storage system shall comply with the minimum setbacks for structures.
 - (6) The ground-mounted Tier 1 battery energy storage system shall be screened from adjacent residences through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area
- C. Where site plan approval is required elsewhere in this regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of proposed ground-mounted Tier 1 battery energy storage system

SECTION XIII TIER 2 BATTERY ENERGY STORAGE SYSTEMS

Tier 2 Battery Energy Storage systems are prohibited within the Town of Springwater.

SECTION XIV. REPEAL

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

EFFECTIVE DATE:

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State.