LOCAL LAW NO. 7 OF 2024

A LOCAL LAW AMENDING THE TOWN OF MOREAU TOWN CODE TO ESTABLISH REGULATIONS FOR SOLAR ENERGY SYSTEMS

Be it Enacted by the Town Board of the Town of Moreau as Follows:

***Section 1*. Title.**

This law shall be known and cited as "Solar Law of the Town of Moreau."

***Section 2*. Authority.**

This Local Law amending the Code of the Town of Moreau for regulation of solar energy systems is adopted pursuant to the New York State Municipal Home Rule Law and Article 16, Sections 261 through 264 of the Town Law of the State of New York, which authorize the Town to adopt regulatory 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 thermal and photovoltaics."

***Section 3*. Purpose.**

The Town Board of the Town of Moreau hereby adopts this Local Law to advance and protect the public health, safety, and welfare of the Town by creating regulations for the installation and use of solar energy systems, with the following objectives:

A. To take advantage of a safe, abundant, and renewable energy resources;

B. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;

C. To increase employment and business development in the Town, to the extent reasonably practical, by furthering the installation of solar energy systems;

D. To mitigate the impacts of solar energy systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; and

E. To decrease the use of fossil fuels, thereby reducing the carbon footprint of the Town;

F. To invest in a locally generated source of energy and to increase local economic value, rather than importing nonlocal fossil fuels;

G. To align the laws and regulations of the community with several policies of the State of New York, particularly those that encourage distributed energy systems from renewable sources;

H. To become more competitive for state and federal grants and tax benefits;

I. To make the community more resilient during storm events;

J. To encourage investment in public infrastructure supportive of solar, such as generation facilities, grid-scale transmission infrastructure, and energy storage sites; and

K. To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of solar energy systems.

***Section 4*. Amendment of Town Code Chapter 149 "Zoning Law of the Town of Moreau" to add the following definitions to Section 149-5.**

A. Section 149-5 is hereby amended to add the following definitions:

ABANDONMENT
Solar energy systems are considered abandoned after twelve (12) months without electrical generation for consumption and re-sale. Abandonment and provisions related to abandonment for solar uses herein shall be for Large Scale Solar Energy Systems as defined.

BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM
A roof-mounted solar energy system of a principal or accessory building that is designed and constructed as an integral part of the roof frame, sheathing or surface. The components of a building-integrated system may be designed to replace or substitute for architectural or structural elements of a building's roof and complement, blend with or form part of a building's architectural appearance. Such components will maintain a uniform plane with, and/or form a part of, the roofline or roofing into which they are integrated. Such a system is used in lieu of a separate solar energy system where components of the system are designed and attached to a building independent of building architecture. A building-integrated system may occur within transparent skylight systems, within roofing systems, replacing traditional roofing materials. A combination of photovoltaic building components integrated into any building skylight systems, and roofing materials.

CAPACITY
The nameplate capacity of the solar energy system as measured in kilowatts (kW) or megawatts (MW) alternating current (AC).

DECOMMISSIONING
The process of making a solar energy system inoperable, complete removal and proper disposal of all system components, and remediation of either the land upon which the system was sited, and/or the building on or in which it was installed. The decommissioning process shall begin for a solar energy system that has been in a state of abandonment for a period of one year. Remediation may include restoration of building components, grading, seeding, replanting, and revegetating the area impacted by the removal of the system and any associated components or facilities.

ENVIRONMENTAL MONITOR (EM)
An individual with a confident understanding of normal agricultural practices, and able

to identify how a Solar Project may affect a site as outlined in NYSDAM Guidance.

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 respect.

GROUND-MOUNTED SOLAR ENERGY SYSTEM
A solar energy system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure, which generates electricity for onsite or offsite consumption.

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 (not the duration) at which electricity is used; 1,000 kW is equal to one megawatt (MW).

KILOWATT HOUR (kWh)
A unit of energy equivalent to one kilowatt of power generated or expended for one hour of time.

LIMITS OF DISTURBANCE (LOD)
The boundary within which all construction, materials and equipment storage, grading, landscaping and related activities shall occur on a Solar Property.

MINERAL SOIL GROUPS 1-4 (MSG 1-4 SOILS)
Soils recognized by the New York State 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 New York State Agricultural Assessment Program.

NET METERING
A system in which solar panels are connected to a public-utility power grid and surplus power is transferred onto the grid, allowing customers to offset the cost of power drawn from the utility.

NEW YORK STATE DIVISION OF AGRICULTURE AND MARKETS (NYSDAM)
The New York State Department of Agriculture and Markets is the department of the New York state government that enforces laws relating to agriculture, weights and measures, and the production, processing, transportation, storage, marketing and distributing of food.

SCREENING
A method of visually shielding or obscuring one abutting or nearby structure or use from another by measures including but not limited to fencing, walls, berms, or densely planted vegetation

SOLAR COVERAGE

Solar coverage includes the area covered by a solar panel or array as measured on a horizontal plane projected from the perimeter of said panel or array vertically to the ground. For panels or arrays where the tilt angle is adjusted, Solar Coverage shall be determined by the tilt angle producing the greatest Solar Coverage. Additionally, Solar Lot Coverage shall also include all mechanical equipment of the Solar Energy System, including any pad mounted structure for Battery Energy Storage System components, switchboards, or transformers, as well as any accesses roads. Any existing or proposed permitted use structures, permitted by the underlying zoning as described herein, including accessory structures, shall also be calculated as part of the coverage for a solar property.

SOLAR PROPERTY

The tax parcel(s) on which small scale solar energy systems or large-scale energy system is located or installed. This shall include one or the aggregate of several parcels and shall generally follow any lots lines for those lots to be utilized, in any location, for solar uses.

SOLAR PROPERTY OWNER

The person, persons, and/or entity owning or possessing the property on which a large-scale solar energy system is located or installed, or their lessee, licensee or other person authorized to install and operate a solar energy system on the property.

ROOF-MOUNTED SOLAR ENERGY SYSTEM

A solar energy system consisting of panels and associated brackets and hardware installed on an existing roof of any legally permitted principal or accessory building for the purpose of producing electricity for onsite or offsite consumption.

SOLAR ENERGY EQUIPMENT

Solar energy equipment consists of solar photovoltaic (PV) cells, panels and/or arrays, controls, energy storage devices, heat pumps and pumps, heat exchangers, windmills, and other materials, hardware, or equipment necessary to the process by which solar radiation is:

A. Collected;
B. Converted into another form of energy such as thermal, electrical, mechanical, or chemical;
C. Stored;
D. Protected from unnecessary dissipation; and
E. Distributed.

Solar Energy Equipment also includes insulated glazing or insulation to the extent that such materials exceed the energy efficiency standards required by New York law. Solar Energy Equipment does not include pipes, controls, insulation, or other equipment which are part of the normal heating, cooling, or insulation system of a building.

SOLAR ENERGY SYSTEM

An arrangement or combination of solar energy equipment designed to provide heating, cooling, hot water, or mechanical, chemical, or electrical energy by the collection of solar energy and its conversion, storage, protection, and distribution.

SOLAR ENERGY SYSTEM, LARGE-SCALE
A Ground-Mounted Solar Energy System with power generation capacity larger than a Small-Scale Solar Energy System (*see* definition of "Solar Energy System, Small-Scale") that feeds into the utility grid.

SOLAR ENERGY SYSTEM, SMALL-SCALE
A solar energy system for residential, business, or farm use that has the capacity to collect the sun's light energy and generate no more than 110% of the electricity consumed over the previous 12-month period by land use(s) existing on Solar Property. For new construction that does not have a twelve-month log of electricity use, a projection of electricity use over the first 12 months shall be used. All small-scale solar energy systems shall be considered an accessory use.

SOLAR ENERGY SYTEM OVERLAY DISTRICT (SESO)
A district with detailed and conditional use requirements, as outlined in Article VII, that is unmapped until assigned to a specific parcel or parcels, or portions thereof. The Solar Energy System Overlay District establishes regulations on the properties within such district and may be in addition to those established for the underlying use district, as applicable.

SOLAR PANEL
A photovoltaic (PV) device capable of collecting and converting solar energy into electrical energy.

***Section 5*. Amendment of Town Code Chapter 149 "Zoning Law of the Town of Moreau" to create the Solar Energy System Overlay District.**

A. Article III, Section 149-6 is hereby amended to add "SESO Solar Energy System Overlay Districts" to the list of districts.

B. Article IV ("Applicability; use regulations") is hereby amended to add a Section 149-28.1, entitled Solar Energy Overlay (SESO) District, which shall state the following:

A. Purpose. It is the purpose of the Solar Energy System Overlay (SESO) District to encourage development of solar energy systems in the Town of Moreau while protecting the health, safety and welfare of the community.

B. Creation. The Town Board of the Town of Moreau hereby adopts the rules and procedures for creation of SESO Districts to allow consideration of such land uses while also protecting the health, safety and welfare of the Town.

C. Requirements for the Solar Energy Systems Overlay District.

(1) SESO District requirements: Where the SESO District has been established, the requirements of the SESO District shall be in addition to any requirements specified in the underlying district.

(2) Exemption from SESO requirements: The requirements of the SESO District shall not apply to those uses which are already permitted in the underlying district nor to the following:

(a) Building-integrated photovoltaic systems.

(b) Small-scale, Roof-Mounted Solar Energy Systems.

(c) Small-scale, Ground-Mounted Solar Energy Systems.

D. Rezoning procedure. The process necessary to create a SESO District shall be as follows:

(1) Concept site plan. Prior to the submission of any application for rezoning by the Town Board, the applicant shall submit a concept site plan to the Town Board for an initial review.

(a) The "concept site plan" is a map, drawn to scale, prepared by a licensed engineer or architect, which graphically depicts proposed improvements to the property, including topographical features, system footprints, travelways, access locations, drainage facilities, lighting, landscaping, buffering, fencing, and signs. Said concept plan shall also depict existing improvements and contain all information required by Article VI, Site Plan Review.

(b) The Town Board, shall review the concept site plan, based on the standards for large scale solar systems found in this section, and at their discretion may forward the application to the Planning Board for their favorable or unfavorable recommendation.

(2) Planning Board review and the development of a favorable or unfavorable report from the Planning Board, to be submitted to the Town Board by the Planning Board Secretary within sixty (60) days of initial review, unless otherwise agreed upon between an applicant and the Planning Board..

(a) A favorable report shall include the recommendation to the Town Board that a public hearing be held for the purpose of considering the SESO district and Site Plan. It shall be based on the following findings, which shall be included in the report:

[1] That the proposal meets the purpose as expressed in subsection §149-28.1 (A).

[2] That the proposal meets all the general requirements in §149-50.2 (C).

[3] That the proposal is conceptually sound in that it meets a community need and conforms to accepted design principals in the functional roadway system, land use configuration, open space system, drainage system and scale of elements, both absolutely and to other adjacent uses.

[4] That there are adequate services and utilities available or proposed to be made available in the construction of the development.

(b) An unfavorable report shall state clearly the reasons therefor and, if appropriate, point out to the applicant what might be necessary in order to receive a favorable report. The applicant may within ten (10) days after receiving an unfavorable report, file an application for Site Plan Review and rezoning with the Town Board. The Town Board may determine, on its own initiative, and after review of the unfavorable report and reasons therfor, whether or not it wishes to consider any applications submitted in accordance with this section.

(3) Site plan review and approval by the Town Board. The Town Board shall review the projects to the standards found within this section and within §149-38 as appropriate. A public hearing, pursuant to Site Plan Review shall be held at the discretion of the Town Board.

(4) Rezoning application. After a favorable or unfavorable recommendation, an application for rezoning shall be submitted to the Town Board and it shall contain the following information:

(a) The Solar Energy Systems Overlay report of the Town Board resulting from the aforesaid concept site plan and rezoning review, as well as the recommendation by the Town Planning Board

(b) Proof of ownership of the land proposed for rezoning.

(c) A description of the Solar Property, including a metes and bounds description of the parcel.

(d) A letter of intent which states the land's present use and the type of Solar Energy System proposed for the land.

(e) A completed long form of the environmental assessment form

(EAF).

(f) A description of the present land use of lots abutting the proposed Solar Energy System.

(g) Eight (8) copies of the application to rezone the land shall be submitted to the Town Clerk.

E. SESO District rezoning conditions. Prior to any SESO District being placed on the Town of Moreau Zoning Map, the following conditions shall be met:

(1) Resolution of the Town Board mapping the Solar Energy Systems Overlay District,. following a duly noticed public hearing for rezoning approval in accordance with the provisions of Section 264 of the New York Town Law.

F. Permitted underlying district. Parcels in any zoning district of the Town are eligible for consideration for SESO rezoning.

G. Permitted principal uses. The following principal uses are permitted in the SESO District:

(1) Any use permitted in the underlying district.

(2) Large-Scale Solar Energy Systems.

H. Permitted accessory uses. The following accessory uses shall be permitted in the SESO District:

(1) Any accessory uses permitted in the underlying district.

(2) Accessory uses and buildings customarily connected with Large-Scale Solar Energy Systems.

I. Prohibited uses. None of the following uses, or accessory uses, shall be allowed within the SESO District:

(1) Any other use not specifically authorized pursuant to the provisions of this Section or the provisions of the underlying district.

***Section 6*. Amendment of the Zoning Map of the Town of Moreau.**

The "Zoning Map of the Town of Moreau" provided under § 149-7 of the Zoning Law is hereby amended to include Solar Energy System Overlay (SESO) District in conformity with the map presented together with this Local Law. The full version of the amended Zoning Map of the Town of Moreau shall be maintained in the Town Clerk's Office.

***Section 7*. Amendment of Town Code Chapter 149 "Zoning Law of the Town of Moreau," Article VII "Supplementary Regulations," to Add a New Section 149-50.2.**

Chapter 149 of the Zoning Law of the Town of Moreau is hereby amended to add the following new Section 149-50.2 entitled "Regulations for Solar Energy Systems."

A. Applicability.

The requirements of this section shall apply to all Solar Energy Systems installed or modified after the effective date of this section, excluding general maintenance and repair and building-integrated photovoltaic systems.

B. Permits and Transfers.

1. Permit requirement. No Solar Energy System shall be constructed, reconstructed, moved, or modified as to physical size, location, or placement undertaken in the Town of Moreau, except by first obtaining a building permit from the Town of Moreau Building Department.

2. Exemptions. Replacement in-kind or repair of a Solar Energy System may occur without a permit or approval as specified in this Section when there shall be:

    (a) No increase in total height.

    (b) No increase in physical size.

    (c) No change in location.

    (d) No increase in rated capacity.

3. Transfer. The standards of this section and/or the terms or conditions for approval of any Solar Energy System as approved by the Town Board under the standards of this Section shall remain in effect regardless of the transfer of any Solar Energy System or sale of the entity owning such facility.

C. Standards for Small-Scale Solar Energy Systems.

1. Location requirements. Small-scale Solar Energy Systems, whether roof-mounted or ground-mounted, are permitted in all zoning districts in the Town.

2. Small-Scale Solar Energy Systems are permitted as accessory structures and shall not require site plan review.

3. All Small-Scale Solar Energy Systems installed shall be inspected by a qualified electrical inspector, prior to use.

4. All Small-Scale Solar Energy Systems require a building permit from the Town of Moreau Building Department.

5. All Small-Scale Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations and standards set forth in this Section and any applicable federal, state, county, and local laws, regulations, or codes.

6. Standards for Roof-Mounted Small-Scale Solar Energy Systems:

   (a) Roof-Mounted Small-Scale Solar Energy Systems are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.

   (b) Height. Roof-Mounted Small-Scale Solar Energy Systems shall not exceed the maximum height restrictions of the zoning district in which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.

   (c) Positioning requirements. Roof-Mounted Small-Scale Solar Energy System installations shall incorporate, when feasible, the following design requirements:

      [1] Panels must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system and may not extend above a line 18 inches below the roof's peak nor below a line on the roof where the building wall would intersect with the roof.

7. Standards for Ground-Mounted Small-Scale Solar Energy Systems:

   (a) Height requirement. The height of Ground-Mounted Small-Scale Solar Energy Systems, regardless of tilt, orientation, or rotation shall be a maximum of 15 feet.

   (b) Location and positioning requirements:

      [1] Ground-Mounted Small-Scale Solar Energy Systems are prohibited in the side or front yards.

      [2] All components of Ground-Mounted Small-Scale Solar Energy System shall be located in the rear yard or within a structure, which shall to be subject to all provisions outlined in this Chapter.

      [3] All components of a Ground-Mounted Small-Scale Solar Energy

System are subject to rear and side lot line setback requirements of the zoning district within which they are located.

[4] Solar panels and mounts of Ground-Mounted Small-Scale Solar Energy Systems shall be positioned to minimize shading of property to the north while still providing adequate sunlight access for the panels.

(c) Solar Coverage requirements. Ground-Mounted Small-Scale Solar Energy Systems regardless of the lot size on which they are located are limited to a coverage area of 1,000 square feet or 20 percent of the lot size; whichever is less. The surface area covered by ground-mounted solar panels shall be included in calculating Solar Coverage.

(d) Screening requirements. Ground-Mounted Small-Scale Solar Energy Systems are to be positioned so they are not visible from the view of pedestrians, bicyclists, and motorists on the public right-of-way, and from the view of neighboring property owners. Supplemental berming, grading, planting, and fence installation may be required to further screen the view of the system. Where adequate screening cannot be achieved, a variance shall be required from the Zoning Board of Appeals.

D. Standards for Large-Scale Solar Energy Systems.

1. Large-Scale Solar Energy Systems are only permitted in the Solar Energy Systems Overlay (SESO) District.

2. Large-Scale Solar Energy Systems shall be constructed pursuant to site plan approval from the Town Board and must meet the criteria set forth below.

3. Application and Site Plan requirements. Applications for a Large-Scale Solar Energy System, including materials for site plan review, shall include the following:

(1) Name, address, contact information, and signature of the applicant.

(2) Site plan showing the layout of the solar energy system signed by a professional engineer or other licensed professional.

(3) The capacity of the proposed Large-Scale Solar Energy System in megawatts (MW).

(4) A one- or three-line electrical diagram.

(5) A boundary survey map prepared by a New York State licensed professional surveyor is to be provided, including the metes and bounds, monumentation, tax map information, property acreage, and easements.

(a) Such survey shall show the following:

[1] North symbol, date and scale.

[2] The entire parcel(s) of Solar Property plotted to scale.

[3] Wetlands and watercourses, if any, and direction of drainage flow.

[4] Location of planned use or uses; height, length and width of any building or buildings; yard requirements; parking areas and interior road plan, if any.

[5] Location of existing or proposed site improvements; the accurate placement of all drains, culverts, walls, fences, water and utilities; location and means of sewage disposal; location and size of proposed signs, if any; placement of proposed lighting facilities, if any; the area proposed for various uses for which building is planned; and existing areas of vegetation and trees, including general description.

(6) If the Solar Property is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the Large-Scale Solar Energy System, including, but not limited to, copies of leases and easements.

(7) Documentation of the major system components to be used, including the solar panels, mounting system, foundation, and inverters, etc. Manufacturer's data sheets/brochures may be used to meet this requirement.

(8) An operation and maintenance (O&M) plan which shall include measures for maintaining safe access to the Large-Scale Solar Energy System, , and general procedures for operational maintenance of the Large-Scale Solar Energy System.

(9) A decommissioning plan pursuant to Section F, below.

(10) A stormwater pollution prevention plan (SPPP) consistent with the requirements of Chapter 120 of the Code of the Town of Moreau shall be required for site plan approval. The SPPP shall meet the performance and design criteria and standards in Chapter 120. The approved site plan shall be consistent with the provisions of Chapter 120.

4. Site Plan Review Standards. The Town Board may issue an approval for a Large-Scale Solar Energy System located in the proposed Solar Energy System Overlay District if said board determines the following minimum standards have been satisfied:

(a) The Solar use project coverage for a Large-Scale Solar Energy System shall not exceed 60% on a Solar Property.

(b) The maximum height for a Large-Scale Solar Energy System shall not exceed

20 feet in height above the ground. This height limitation shall not include utility and transmission lines, and associated poles, and which cannot feasibly be placed underground as identified in (h) below.

(c) The minimum setbacks for a Large-Scale Solar Energy System shall be 50 feet from the front and rear lot lines and 40 feet from the side lot lines.

(d) To the greatest extent practicable, a landscaped buffer shall be provided around a Large-Scale Solar Energy System and related equipment to provide screening from adjacent properties and roads.

(e) Lighting of the Large-Scale Solar Energy System shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast to minimize impacts to abutting properties.

(f) Removal of trees and other existing vegetation should be minimized to the greatest extent practical. A vegetative management plan, shall be required, detailing development, implementation, and maintenance of native vegetation, to the extent practicable, by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators..

(g) Roadways within the site shall not be constructed of impervious materials and the Solar Energy System shall be designed to minimize the extent of roadways constructed as well as soil compaction.

(h) All onsite utility and transmission lines shall, to the extent feasible, be placed underground.

(i) Large-Scale Solar Energy Systems and other facilities shall be designed and located to prevent reflective glare toward any inhabited buildings on adjacent properties and roads. All solar panels used shall have an anti-reflective coating.

(j) Large-Scale Solar Energy Systems and all related mechanical equipment shall be enclosed by a minimum six-foot-high fence with a self-locking gate.

(k) A Solar Energy System to be connected to the transmission utility grid shall provide a letter from the transmission utility company acknowledging the proposed Large-Scale Solar Energy System will be interconnected to the grid in order to sell electricity to the transmission utility.

(l) Signage.

[1] No signage or graphic content shall be displayed on the Large-Scale Solar Energy System except for a sign not to exceed eight square feet which shall be displayed on or near the main access point and shall list the facility name, owner and/or operator, equipment specification

information, safety information, and 24-hour emergency contact information.

[2] A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. Disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface.

(m) Large-Scale Solar Energy Systems located on land consisting of MSG 1-4 soils 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" and must meet the following criterion:

[1] The applicant shall hire or designate an Environmental Monitor (EM) as defined herein and in accordance with definitions provided by NYS Department of Agriculture and Markets.

[2] On projects involving fifty (50) or more acres, the EM shall be on-site whenever construction or restoration work requiring ground disturbance, as defined herein, and shall notify NYSDAM of project activity.

[3] Prior to construction activities, soil sampling shall be performed consistent with NYSDAM guidance. A copy of this report shall be filed with the Building Department.

[4] Stripped topsoil shall be stockpiled and kept separate from other excavated material in accordance with NYSDAM guidelines. Soil stockpile and disposal areas shall be noted on any plans submitted. Changes and additions to stockpile areas shall be allowable based on field conditions and upon consultation with the EM. Confirmation of this change shall require updated plans and certification of need from the EM.

[a] Stripped soil from permanently converted lands (roadways, etc.) shall be temporarily stockpiled and spread evenly on adjacent agricultural lands within the project LOD, however not to the extent to alter hydrology of the area.

[b] Stripped topsoil stockpiles shall be considered secured though seeding or mulching, as applicable in accordance with NYSDAM guidance.

[5] Surface access roads shall be level with adjacent fields. If level road is not feasible, roads should be constructed to allow farm crossing and to

retore / maintain original drainage patterns, which may include the usage of culverts or waterbars adjacent to roadways.

[6] The Town Board, at their discretion may wish to demand additional requirements, as outlined in the guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands, or any subsequent relevant guidance from NYSDAM or any other relevant agency, including Saratoga County, related to this use.

E. Town Board SESO Rezoning Standards. .

The Town Board in reviewing the SESO Rezoning application for installation and operation of a Large-Scale Solar Energy System shall consider the public health, safety, and welfare including the following factors:

(1) The degree to which the purpose of the proposed Large-Scale Solar Energy System is compatible with the Town Comprehensive Plan and the goals for the overall community and neighborhood in which the system is to be located.

(2) The degree to which the proposed Large-Scale Solar Energy System is properly sized for the lot on which the system is to be located and the design of system components have effectively mitigated potential adverse impacts.

(3) The degree to which the proposed Large-Scale Solar Energy System is compatible with the surrounding natural and built environs.

(4) The degree to which adverse visual impacts have been mitigated with no adverse impact to public health and safety.

(5) The degree to which the applicant has established the proper authority and permission from the Solar Property Owner to undertake the proposed Large-Scale Solar Energy System.

Following the review of the SESO Application, the Town Board may impose conditions related to the above factors to ensure public health, safety and welfare is maintained.

F. Abandonment and Decommissioning.

(1) All applications for a Solar Energy System shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the Solar Energy System.

(2) The decommissioning plan submitted by an applicant shall include the following:

(a) An estimate of the anticipated operational life of the system.

(b) Identification of the party responsible for decommissioning.

(c) The time required to decommission and remove the Large-Scale Solar Energy System and any ancillary structures including non-utility owned equipment, conduit, fencing, roads, and foundations.

(d) The time required to restore the Solar Property following removal of the Large Scale Energy System to the condition prior to site development in association with the installation of a Solar Energy Systems.

(e) An estimate of the anticipated cost of decommissioning and removing the Large-Scale Solar Energy System, as well as all necessary site restoration, prepared by a qualified professional engineer.

(f) Plans for updating decommissioning plan for future modifications.

(g) For projects decommissioned on MSG 1-4 Soils, the EM shall provide monitoring and reporting as outlined in the Guidelines for Solar Energy Projects- Construction Mitigation for Agricultural Lands. Documentation of this observation shall be filed with the Town Building Department

(h) The provision of a decommissioning security which shall adhere to the following requirements:

[1] The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town Attorney and/or Engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto regarding decommissioning of the Solar Energy System, and to provide for the removal of the system and restoration of the site. The amount of the bond or security shall be 115% of the cost of removal and site restoration for the Large-Scale Solar Energy System with an escalator of 2% annually for the life of the Large-Scale Solar Energy System. The Town Board, at their discretion, shall have the authority to authorize reevaluation of the escalation rate and/or amount of bond. Upon any reevaluation, the Town Board may raise the escalation rate and/ or impose an increase to the security amount, based upon review by an engineer or other professional qualified to estimate decommissioning cost estimates. .

[2] In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town. The cash deposit, bond, or security shall remain in full force and effect until removal of the Large-Scale Solar Energy System and restoration of the Solar

Property as set forth in the decommissioning plan is completed and approved by the Town.

(i) Upon cessation of activity of a constructed facility for a period of one (1) year, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within 180 days of notice being served, the owner and/or operator can either restore operation equal to 80% of approved capacity or implement the decommissioning plan, except in the case of any unforeseen circumstance, including weather, causing delay beyond 180 days.

[1] If the owner/operator fails to fully implement the decommissioning plan within the 180-day time period, except in the case of unforeseen circumstances, including weather, causing delay, beyond 180 days, the Town may at its discretion provide for the restoration of the site in accordance with the decommissioning plan and may recover all reasonable expenses incurred for such activities from the decommissioning bond or security referenced in Subsection (2)(f), above. In the event the funds available through the decommissioning security are insufficient to fully complete the system's decommissioning, the owner/operator shall reimburse the Town for its related costs and the Town may impose a lien ono the property to recover decommissioning costs.

(3) The Town Board shall approve the decommissioning plan considering the appropriateness of how the decommissioning plan addresses those items outlined in §149-50.2 (F)(2). The Town Board shall recognize that each project may need a unique time frame for removal and site restoration based on the uniqueness of the proposed project. The owner and operators of a facility shall be responsible for accomplishing this decommissioning within the allotted time unless otherwise agreed upon by the Town Board.

G. Waiver. Pursuant to the authority of the Town Board granted by NYS Town Law §274—a(5) and §274-b(5), the Town Board may waive certain requirements in this section, subject to appropriate conditions, where special circumstances of a particular Solar Energy System or Solar Property make compliance with such requirements inappropriate or where such requirement(s), as applied to the Solar Energy System or Solar Property, are not in the interest of public health, safety and general welfare.

H. Enforcement. Any violation of this solar energy section shall be subject to the same civil and criminal penalties provided for in the zoning regulations of the Town of Moreau.

Section 8. Severability

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

Section 9. Effective Date

This Local Law shall take effect upon filing by the office of the New York State Secretary of State.