



Town of Lumberland

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December 11, 2020

New York State Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399

Re: Local Law 2, 2020 from the Town of Lumberland.

Enclosed please find a copy of the Local Law 2 of 2020 and a resolution of acceptance by the Town Board.

Thank you,

Laurie Terry
Laurie Terry
Town Clerk

LOCAL LAW 2 OF 2020

A LOCAL LAW ENTITLED: "TOWN OF LUMBERLAND SOLAR ENERGY LAW"

Section 1: Authority

This Town of Lumberland Solare Energy Law is adopted pursuant to Sections 261-263 of the New York State Town Law and section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Town law of New York State, "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor".

Section 2: Statement of Purpose

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

- 1) To take advantage of a safe, abundant, renewable and non-polluting energy resource;
- 2) To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
- 3) To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources;
- 4) To diversify energy resources to decrease dependence on the grid; and
- 5) To use zoning regulations to strike a fair and reasonable balance between private property rights and community interests, consistent with the Town's Comprehensive Plan Update with was adopted in August 2016.

Section 3: Amendment of Town Code

Section 250-46 of the Existing Zoning Code is hereby amended so as to delete the entire section 46 therefrom, and to replace the same with the following text:

§250.46. Solar Energy Systems

A. Purpose. The purpose of this section is to provide standards to facilitate the development and operation of solar energy systems in the Town of Lumberland, subject to the following process and other reasonable conditions that will protect the public health, safety and welfare.

B. Applicability. The requirements of this section shall apply to all solar energy systems proposed, operated, modified, or constructed after the effective date of this Law, but excluding general maintenance and repair of solar energy systems constructed prior to the effective date of this Law and building-integrated photovoltaic systems.

C. Special Definitions. The following definitions are applicable to §250-46:

SOLAR ACCESS AREA - A space open to the sun, mostly clear of overhangs or shade that allows the use of solar energy systems on real property.

SOLAR ARRAY - A group of multiple solar panels or modules linked into a single unit or system.

SOLAR COLLECTOR - A photovoltaic cell, panel, solar array, or other device that converts solar radiation into electricity or transfers solar energy to air, water, or another storage media.

SOLAR EASEMENT - A written easement recorded pursuant to the NY Real Property Law §335 b, the purpose of which is to procure the right to receive direct sunlight across real property to operate a solar energy system.

SOLAR ENERGY SYSTEM - A combination of components that utilize solar radiation (direct, diffuse, or reflected) to produce energy designed to provide heating, cooling, hot water and/or electricity, including, without limitation, solar panels and facilities, solar arrays, solar collectors, and solar thermal systems and facilities. Solar energy systems shall be classified as follows:

(1) Roof Mounted Solar Energy System - A solar photovoltaic or solar thermal system that is mounted on the roof of the building to which it provides heating, cooling, hot water and/or electricity. This definition shall not prohibit the sale of excess electricity pursuant to state-authorized net metering regulations.

(2) Small Scale Ground Mounted Solar Energy System - A Solar Energy System consisting of solar panels that are properly secured by anchors or ballasts to the ground and attached to poles or other mounting system, detached from any other structure, for the primary purpose of producing heating, cooling, hot water and/or electricity for on-site consumption or use at the existing residence, farm, business or commercial establishment, notwithstanding the foregoing, this definition shall not prohibit the sale of excess electricity pursuant to state-authorized net metering regulations.

(3) Large Scale Ground Mounted Solar Energy System - A Solar Energy System consisting of solar panels that are properly secured by anchors or ballasts to the ground and attached to poles or other mounting system, detached from any other

structure for the primary purpose of producing electricity for off-site sale or consumption.

(4) Building Integrated Photovoltaic 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.

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

SOLAR THERMAL SYSTEMS - Systems that collect and convert solar radiation into forms of energy for water heating, space heating, or space cooling.

QUALIFIED SOLAR INSTALLER - A person listed as an eligible photovoltaic installer by the New York State Energy Research and Development Authority ("NYSERDA") or who is listed as a certified solar installer by the North American Board of Certified Energy Practitioners ("NABCEP"), shall be deemed to be a qualified solar installer for the purpose of this Section.

D. General provisions.

(1) Qualified Installations. No solar energy system may be constructed, installed, replaced or modified except by a qualified solar installer, provided, however, that homeowners may install their own solar energy system. Any system installed by a qualified installer and/or homeowner must be inspected and approved by a qualified third party electrical inspector approved by the Town of Lumberland and, if connected to the local electric utility system grid, approved by the appropriate utility.

(2) Government approval. The owner or operator of a solar energy system shall establish to the satisfaction of the Town Code Enforcement Officer (for a roof mounted solar energy system or a small scale ground mounted solar energy system) or the Town of Lumberland Planning Board (for a large scale ground mounted solar energy system) that all applicable governmental agencies with jurisdiction over the installation and operation of such solar energy system have provided all permissions, approvals and required inspections necessary to install and operate such system.

(3) Limitations of Approvals.

(a) Nothing in this §250-46 shall be deemed to allow any solar energy system owner or operator the right to remove any trees, vegetation or other obstruction located on any real property over which the owner or operator does not have fee title or a solar easement.

(b) Nothing in this §250-46 shall be deemed a guarantee against any future construction or improvements or Town approvals for future construction or improvements that may impede the sunlight flow to any solar energy system.

(c) It shall be the sole responsibility of the solar energy system owner or operator to acquire any necessary solar easements or other appropriate land use rights in order to provide for and maintain appropriate solar access areas.

(4) Location. The location of small scale or large scale ground mounted solar energy systems shall be one demonstrably suitable and sized for such use including, but not limited to, (i) the proper drainage and provisions for storm water control such that the amount of water leaving the site after development shall not be greater than prior to development, and (ii) the ability to adequately buffer such use from any adjacent residential uses.

(5) Abandonment, Cessation of Operations and Decommissioning.

(a) Abandonment or Cessation; Order to Remove and Restore. Small and large scale ground mounted solar energy systems shall be considered abandoned or to have ceased operations if there has been no electrical energy generation for three consecutive months or longer; provided, however, that applications for extensions of time may be approved by the Town Code Enforcement Officer for a period of up to an additional three months. If the owner or operator determines to abandon or cease operations, the owner or operator shall so notify the Town Code Enforcement Officer in writing. Failure to provide the notice required herein shall be a violation of this Chapter. Whether or not the notice required by this paragraph is received by the Town Code Enforcement Officer, if the Town Code Enforcement Officer has reason to believe that such system has been abandoned or ceased operation he/she may issue an order that the owner or operator of the system shall remove the system, including all equipment, mounts, solar arrays and solar collectors and restore the property, by no later than ninety (90) days after the date of issuance of the order to undertake such removal. Service of the order shall be by certified mail at the address provided by the applicant to the Town Code Enforcement Officer.

(b) Investigation and report. When, in the opinion of the Town Code Enforcement Officer, any small or large scale ground mounted solar energy system shall have been abandoned or ceased operations in accordance with 250-46(D)(5)(a), and the owner/operator thereof fail to comply with an order to remove and restore as set forth in 250-46(D)(5)(a), the Town Engineer, in conjunction with the Code Enforcement Officer shall make a formal

inspection thereof and report in writing to the Town Board his/her findings and recommendations in regard to its removal. The Town Attorney shall provide a judgment and lien search for the parcel on which the solar energy system is sited to the Town Board.

(c) Order for hearing on removal and restoration; assessment of costs; time limits. The Town Board shall thereupon consider the report and, if it finds that such small or large scale ground mounted solar energy system has been abandoned or ceased to operate as set forth in §250-46(D)(5)(a), it shall by resolution order removal and restoration and shall further order that a hearing be held before the Town Board within 30 days after issuing the resolution and on at least five days' notice to the property owner and/or owner/operator of the small or large scale solar energy system or persons having an interest therein. Such hearing shall be to determine whether the order to remove and restore shall be affirmed, modified or vacated and, in the event of affirmance or modification, to assess all costs and expenses incurred by the Town in the inspection and report, and for removal of the solar energy system and restoration of the property against the land on which such small or large scale ground mounted solar energy system is located and/or, for a large scale ground mounted solar energy system the expenses may be assessed against any surety held by the Town. The order shall also provide that the removal of the small or large scale ground mounted solar energy system and restoration of the property shall commence within 30 days after service of notice and shall be completed within 60 days thereafter.

(d) Contents of notice. The notice shall contain the following statements:

- (i) The name of the owner or person in possession of the underlying parcel of property as it appears in tax and deed records;
- (ii) The name of any owner/operator of a large scale ground mounted solar energy system as set forth in a filed decommissioning plan, as required by §250-46(G)(5);
- (iii) A brief description of the small or large scale ground mounted solar energy system as well as the underlying parcel of property upon which it is situated;
- (iv) A description of the basis of the finding that the small or large scale ground mounted solar energy system has been abandoned or ceased operation;

(v) An order requiring that the small or large scale ground mounted solar energy system be removed and property restored;

(vi) That the removal of such small or large scale ground mounted solar energy system and property restoration shall commence within 30 days of the service of notice and shall be completed within 60 days thereafter;

(vii) The time and date of a hearing to be held before the Town Board, at which hearing the property owner and/or owner/operator of the small or large scale ground mounted solar energy system shall have the right to contest the order and findings of the Town Board; and

(viii) That in the event that such property owner and/or owner/operator of the small or large scale ground mounted solar energy system, or other person having an interest in the premises, shall fail to contest such order and fail to comply with the same, the Town Board will order the removal of such system and property restoration by the Town. For small scale ground mounted solar energy systems the Town Board will further order that all costs and expenses incurred in such removal and restoration be assessed against the land on which the system is located in the same manner as general Town taxes. For large scale ground mounted solar energy systems the Town Board will order that all costs and expenses incurred in such removal and restoration be assessed against any surety held by the Town and, in the event that the costs and expenses of removal and restoration are not satisfied by the surety held, that such unsatisfied costs and expenses be assessed against the land on which such system is located in the same manner as general Town taxes.

(e) Service and filing of notice.

(I) A copy of the notice shall be personally served upon the local agent who has been designated by the property owner and/or owner/operator of the small or large scale ground mounted solar energy system. Any identified executors, legal representatives, agents, lessees or other person(s) having a vested or contingent interest in the premises as shown by the Collector of Taxes and/or the office of the Sullivan County Clerk or Sullivan County Treasurer and/or as set forth in any filed Decommissioning Plan shall be served a copy of the notice by regular mail and certified mail, return receipt requested.

(ii) A copy of the notice shall also be personally served upon any adult person residing in or occupying the premises and by securely affixing a copy of the notice upon the small or large scale ground mounted solar energy system. The notice shall also be published in a newspaper of general circulation designated by the Town for the publication of such notices.

(iii) A copy of the notice shall be filed in the Sullivan County Clerk's Office, in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules, and shall have the same effect as a notice of pendency as therein provided. A notice so filed shall be effective for a period of one year from the date of filing. It may be vacated, however, upon an order of a Judge or Justice of a court of record or upon the consent of the Town Attorney. When vacated, the Sullivan County Clerk shall mark such notice and any record or docket thereof as canceled of record upon the presentation and filing of such consent or a certified copy of such order.

(f) Hearing. The Town Board shall conduct the public hearing at the time and place specified in the notice to remove and restore. It may adjourn the hearing from time to time until all interested parties are heard and until the hearing is completed. At the conclusion of the hearing, the Town Board shall determine by resolution to revoke the order to remove and restore, modify the order or continue and affirm the order and direct the owner or other persons to complete the work within the time specified by the Town Board.

(g) Failure to comply. In the event of the refusal, failure or neglect of the owner or person so notified to comply with the resolution of the Town Board within the time specified in the resolution and after the public hearing, the Town Board shall provide that such small or large scale ground mounted solar energy system be removed and property restored by Town employees or by independent contractors. Except for emergency cases as herein provided, any contract for removal and restoration shall be subject to Town of Lumberland Procurement Guidelines.

(h) Assessment of expenses. All expenses incurred by the Town in connection with the proceedings to remove a small scale ground mounted solar energy system and restore the property, including the costs of actual removal, shall be assessed against the land on which such system is located and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and ad valorem levy. All expenses incurred by the Town in connection with the proceedings to remove a large scale

mounted solar energy system and restore the property, including the costs of actual removal, shall be assessed against any surety held by the town and, should the expenses not be satisfied by the surety, any unsatisfied expenses shall be assessed against the land on which such system is located and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and ad valorem levy.

(I) Emergency cases. Where it reasonably appears that there is a clear and imminent danger to the life, safety or health of any person or property, unless a small or large scale ground mounted solar energy system is removed and the property restored, the Town Board may, by resolution, authorize the Town Code Enforcement Officer, in consultation with the Town Engineer, to immediately take such actions that are necessary to mitigate or eliminate the danger. The expenses of such removal and restoration shall be a charge against the land on which it is located and/or surety and shall be assessed, levied and collected as provided in §250-46(G)(5)(F) and §250-46(D)(5)(h).

(j) Additional requirements. Additional abandonment and decommissioning requirements shall apply to large scale ground mounted solar energy systems as set forth at §250-46.G(5).

(6) NYS Real Property Tax Law provisions. The Town elects not to opt out of the tax exemption provisions of §487 of the NY Real Property Tax Law, but reserves its right to do so in the future. Owners, operators and land owners who intend to construct or operate a solar energy system will be subject to Article VI of Chapter 219 Taxation” of the Town Code.

(7) Expert and Professional Fees. Any reasonable expert or professional fees incurred by the Town Board, Town Planning Board, Town Code Enforcement Officer or Town Zoning Board of Appeals that are related to (I) the review of any application for a building permit, special use permit or site plan review for a solar energy system or (ii) the monitoring or inspection of any solar energy system shall be paid by the applicant as provided by Town Code §250-57.

E. Roof Mounted Solar Energy Systems.

(1) Roof mounted solar energy systems are permitted in all zoning districts as an Accessory Use provided such systems comply with the requirements of §250-46.D(1), (2), (3) and (7) and this §250-46.E.

(2) Roof mounted solar energy systems shall include such systems mounted on the top of a structure either as a flush mounted system or as solar panels fixed to frames located on a roof and mounted at an optimal angle towards the sun.

(3) Roof mounted solar energy systems may be mounted on a principal and/or accessory structure and shall not be more than three (3) feet higher than the highest point of the roof of the structure to which such system is mounted.

(4) An applicant for a roof mounted solar energy system shall comply with the permit application requirements of the Town.

F. Small Scale Ground Mounted Solar Energy Systems.

(1) Small scale ground mounted solar energy systems are permitted in all zoning districts as an Accessory Use provided such systems comply with the requirements of §250-46.D(1), (2), (3), and (7) and this §250-46.F. Notwithstanding this classification, such accessory uses may be placed on a lot separate from the principal use they serve, provided such lots are adjacent and owned by the same party and further provided that a special use permit is issued by the Planning Board, pursuant to section 250-12(H) for the small scale ground mounted solar energy system.

(2) All small scale ground mounted solar energy systems shall not exceed a height of twenty five (25) feet, shall not be located in the front yard and shall comply with the bulk requirements for a dwelling in that zoning district. All height measurements shall be calculated when the ground mounted solar energy system is oriented at maximum tilt. The total surface area covered by the solar panels, regardless of the mounted angle, shall be included in determining lot coverage.

(3) All small scale ground mounted solar energy systems are subject to site plan review and approval by the Town Code Enforcement Officer, who may, in his/her discretion, refer the site plan review to the Town Planning Board for its review and approval. Notwithstanding the foregoing, small scale ground mounted solar energy systems to be located on farmland, as defined in the State Agriculture and Markets Law, shall be subject solely to site plan review and approval by the Town Code Enforcement Officer and shall not be subject to review and approval by the Town Planning Board. An applicant for a small scale ground mounted solar energy system shall comply with the permit application requirements of the Town. A small scale ground mounted solar energy system and related structures and equipment must be adequately screened, if necessary, from adjacent properties.

G. Large Scale Ground Mounted Solar Energy Systems.

(1) General Application. Large scale ground mounted solar energy systems are permitted in the Rural Residential, Mongaup River Valley and Hillside zoning districts as a Special Use subject to the requirements of this §250-46(D) and §250-46(G). The application for a special use permit shall also include the following:

(a) An operation and maintenance plan that shall include measures for maintaining safe access to the installation, general procedures for operation and maintenance of the solar energy system, and procedures for property upkeep;

(b) If the property of the proposed large scale ground mounted solar energy system project is to be leased, legal consent among all parties specifying the use(s) of the land for the duration of the project, including easements and other agreements, to include, but not limited to, any lease, shall be submitted to the Town Planning Board; and

(c) A Full Environmental Assessment Form, as provided by the New York State Environmental Quality Review Act ("SEQRA").

(2) Special Use and Site Plan Requirements. Large scale ground mounted solar energy systems require a special use permit issued in accordance with Town Code §250-69 and a site plan prepared and approved in accordance with Town Code §250-70. Site plans must include those applicable items set forth in the Town Code §250-69 and §250-70, as well as the following:

(a) A description of the solar energy system and the technical, economic and other reasons for the proposed location and design;

(b) A one or three line electrical diagram detailing the solar energy system layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices or such other diagrams or details as required by the Town Engineer;

(c) All proposed changes to the landscape of the site, including, without limitation, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;

(d) A confirmation that the solar energy system complies with all applicable local, state and federal laws and regulations;

(e) Equipment specification sheets of the major system components to be used including, without limitation, photovoltaic panels, mounting systems, batteries, and inverters;

(f) Location of the nearest residential structures on the site and on any adjacent site, and the distance from the nearest proposed solar energy system equipment to any such residential structures;

(g) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board;

(h) A construction schedule describing commencement and completion dates, including a traffic analysis with a description of the routes to be used by construction and delivery vehicles;

(I) A list of real property owners located within 500 feet of the property line of the proposed site and the mailing address of each real property owner; and

(j) Compliance with the provisions of Town Code §310-39.

(3) Minimum Design Standards. Large scale ground mounted solar energy systems shall conform to the following minimum standards:

(a) The system shall comply with minimum lot size, as applies to residential structures within the zoning district where the solar energy system is sited. The system shall be set back fifty (50) feet from any property line. Lot clearing shall not exceed 30%. Lot coverage shall not exceed 30%. The maximum height of the system shall not exceed twenty-five feet. The total surface area covered by the solar panels, regardless of the mounted angle, shall be included in determining lot coverage;

(b) All large scale ground mounted solar energy systems shall not exceed a height of twenty five (25) feet. All height measurements shall be calculated when the ground mounted solar energy system is oriented at maximum tilt;

(c) All large scale ground mounted solar energy systems shall be enclosed by fencing to prevent unauthorized access. The type, height and color of fencing shall be approved by the Town Planning Board. The fencing and the solar energy system may be further screened by year-round landscaping to avoid adverse aesthetic impacts as required by the Town Planning Board;

(d) Town Code §250-31 shall be applicable to large scale ground mounted solar energy systems; and

(e) There shall be no signs posted on the real property of the large scale ground mounted solar energy system except announcement signs, such as "no trespassing," or warning signs, such as "high voltage" or "danger".

Notwithstanding the foregoing, a sign shall be posted at the entrance of the parcel in question that identifies the owner and operator of the solar energy system and provides an emergency telephone number where the owner and/or operator can be reached on a 24 hour basis. In addition, a clearly visible warning sign denoting high voltage must be placed at the base of all pad mounted transformers and substations. All signs are subject to the requirements of Town Code §250-33.

(4) Additional Conditions.

(a) The large scale ground mounted solar energy system owner or operator shall provide a copy of the project summary, electrical schematic and site plan to the local fire department. The owner or operator shall cooperate with local emergency services in developing an emergency response plan and provide proof of approval thereof. All means of shutting down the solar system shall be clearly marked and instructions shall be provided to the local fire department. The owner or operator shall identify a person responsible for responding to safety inquiries throughout the life of the system.

(b) The owner or operator of a large scale ground mounted solar energy system shall maintain it in good condition and in accordance with industry standards. Maintenance shall include, but not be limited to, painting, structural repairs, mowing, trimming and landscape maintenance, and such examinations and repairs as necessary to ensure the integrity of all equipment and structures. The owner or operator shall maintain and keep in good repair all approved security measures that govern the site including, but not limited to, fence painting and repair, lighting and any alarm systems. Site access shall be maintained at a level acceptable to the local fire department.

(c) Use of herbicides at the parcel in question to control plant growth in and around the large scale ground mounted solar energy system and its components and equipment shall be prohibited without the express prior written authorization of the Town Planning Board.

(5) Abandonment and Decommissioning and Restoration of Land. All applications for a large scale ground mounted solar system shall be accompanied by a Decommissioning Plan, which includes restoring the property to its original state to be implemented upon abandonment or cessation and/or in conjunction with removal of the large scale ground mounted solar energy system. Compliance with this plan shall be made a condition of the issuance of a special use permit under this §250-46.G. The Decommissioning Plan must specify that after the large scale ground mounted solar energy system has been abandoned, ceased operations or can no longer

be used, it shall be removed by the applicant or any subsequent owner, and the property shall be restored. Prior to removal of such solar energy system, a permit for removal activities shall be obtained from the Town Code Enforcement Officer. The Decommissioning Plan shall include details on how the applicant plans to address the following requirements:

(a) The manner in which the owner, operator, or its successors in interest will remove the large scale ground mounted solar energy system in accordance with the requirements of §250-46.D(5);

(b) The time to complete any decommissioning and, removal of the large scale ground mounted solar energy system and the restoration of the property on which it is sited;

(c) A demonstration as to how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state as it existed prior to construction of the system;

(d) A description of the means and location of disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations;

(e) A description of site stabilization and/or re-vegetation measures necessary to minimize erosion and restore the property upon removal of the solar energy system; and

(f) Absent notice of a proposed date of decommissioning and written notice of extenuating circumstances, the Decommissioning Plan shall provide that the large scale solar energy system shall be considered abandoned if construction is not completed, the system does not become operational and/or, once operational, it ceases operations for more than three (3) consecutive months. The Decommissioning Plan shall also provide that if the owner or operator of the large scale ground mounted solar energy system fails to remove it in accordance with the requirements of this section within ninety (90) days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation and restore the property at the expense of the property owner or against any financial surety assigned to the Town as provided for in Section §250-46(G)(7).

(g) The designation of a local agent residing in Sullivan County, who shall be an individual, and the names of any executors, legal representatives, agents, lessees, or other persons having a vested or contingent interest in the

premises, along with their individual mailing addresses, for the service of notices as provided for in §250-46(D)(5)(e).

(6) Cessation of Operation. Non-function or lack of operation of the large scale ground mounted solar energy system may be established (i) through reports submitted by or on behalf of its owner or operator to the Public Service Commission, NYSERDA, the local utility or the New York Independent System Operator, or (ii) by lack of income generation for a commercial enterprise. The owner or operator of a large scale ground mounted solar energy system shall promptly furnish on request such records as required by the Town Code Enforcement Officer to establish that the large scale ground mounted solar energy system is functioning or in operation.

(7) Estimate and Financial Surety.

(a) The applicant for a special use permit to site and operate a large scale ground mounted solar energy system shall provide an estimate, prepared by a professional engineer licensed in the State of New York, setting forth the projected costs associated with decommissioning the system in question, consistent with an approved decommissioning plan as set forth in §250-46(G)(5), and the projected costs to restore the property to its original state. Cost estimations shall account for inflation. The estimate shall be subject to approval by the Planning Board.

(b) Security for decommissioning any large scale ground mounted solar energy system and restoration of the property shall be furnished to the Town in an amount determined by the Town Board and in a form that is approved by the Attorney for the Town. Such security shall be posted with the Town prior to the issuance of any building permit for construction of any portion of the large scale ground mounted solar energy system. The security shall be available to and held by the Town during the projected life of the large scale ground mounted solar energy system in question and until proof of successful decommissioning and payment of all expenses thereof has been submitted to the Town.

(c) If the large scale ground mounted solar energy system is not decommissioned after it is no longer in use, abandoned during its useful lifetime or never completely constructed, the Town of Lumberland may use the security to decommission the large scale ground mounted solar energy system, to remove all infrastructure and to restore the property. The Town may use the security notwithstanding that the notice required pursuant to §250-46.D(5) has not been given by the system's owner or operator. Prior to using the security, the Town Code Enforcement Officer must serve the order

required by §250-46.D(5)(a) and wait for the termination of the ninety (90) day period required by that section.

(8) Issuance of Special Use Permit.

(a) The special use permit application and approval process shall be governed by §250-69 of the Town Code.

(b) If the special use permit application is approved, the Town Code Enforcement Officer shall issue a building permit upon satisfaction of all conditions necessary for the issuance of the permit, including compliance with applicable portions of the New York State Building Code.

(c) The Planning Board may, in its discretion, waive certain requirements of §250-46.G otherwise applicable to a large scale ground mounted solar energy system that it believes is compatible with land uses in the area where it is proposed to be built and where, because of its size, ownership model or other considerations, the Planning Board finds that the large scale ground mounted solar energy system does not need to be subjected to all of the special use permit and site plan regulations imposed by §250-46.G.

(d) The Planning Board may impose any additional conditions on its approval of any special use permit under this Section in order to enforce the standards set forth in this §250-46(D), §250-46.G, §250-69 and §250-70 or in order to discharge its obligations under the State Environmental Quality Review Act.

Chapter 219 of the Existing Zoning Code is hereby amended so as to add the following:

Article VI
Solar Energy Generating System Exemption
PILOT Agreements

§219-21. Purpose.

Section 487 of the Real Property Tax Law provides for a real property tax exemption for a solar or wind energy system or a farm waste energy system in accordance with the provisions of §487 to the extent of any increase in value of the real property due to the improvement thereof by such systems.

§219-22. Definitions.

The terms “Solar Energy System”, “Roof Mounted Solar Energy System”, “Small Scale Ground Mounted Solar Energy System” and “Large Scale Ground Mounted Solar Energy System” shall have the same meanings respectively as set forth at Town Code §250-46.C.

§219-23. Exemption granted.

An owner of real property upon which is constructed a Solar Energy System which has been approved in accordance with Town Code §250-46 and complies with the provisions of Real Property Tax Law §487, is entitled to the 15 year tax exemption provided by §487(2) of the Real Property Tax Law.

219-24. Qualifying conditions.

(a) In accordance with §487(9) of the Real Property Tax Law, an owner of real property upon which a Large Scale Ground Mounted Solar Energy System is to be constructed must enter into an agreement with the Town to make payments in lieu of taxes ("Pilot Agreement"). Such contract may require annual payments in an amount not to exceed the amounts which would otherwise be payable but for the exemption under Real Property Tax Law §487(2).

(b) The PILOT Agreement shall not operate for a period of more than fifteen years, commencing in each instance from the date on which the benefits of such exemption first become available and effective.

(c) Upon filing an application to construct a Large Scale Ground Mounted Solar Energy System upon real property located in whole or in part in the Town of Lumberland, the owner of the property, or agent or representative thereof, must file written notice with the Town Supervisor providing that an application to construct a Large Scale Ground Mounted Solar Energy System has been filed with the Town and that the owner is ready to enter into a PILOT Agreement with the Town subject to the ultimate construction of such system.

(d) In the event that the parties are unable to agree on the terms and conditions of a PILOT Agreement, then the Town may provide notice to the Town Planning Board that, in the absence of a PILOT Agreement, approval for the construction of a Large Scale Ground Mounted Solar Energy System shall not be granted.

Section 4: Miscellaneous Provisions.

Section 4.1 - Ratification, Readoption and Confirmation.

Except as specifically modified by the amendments contained herein, the Code of the Town of Lumberland as adopted and amended from time to time thereafter is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 4.2 - Inclusion in Code.

It is the intention of the Lumberland Town Board and it is hereby enacted that the provisions of this local law shall be included in the Code of the Town of Lumberland; that the sections and subsections of this local law may be renumbered or re lettered to accomplish such intention; and that the word

“local law” shall be changed to “chapter”, “section” or other appropriate word, as required for codification.

Section 4.3 - Renumbering.

The location and numerical designation of this local law and the sections included herein shall be delegated to the discretion of the codifier, General Code, which may renumber or re letter this local law and sections as are necessary to accommodate these amendments.

Section 4.4 - Codifier’s Changes

This local law shall be included in the Code of the Town of Lumberland. The codifier shall make no substantive changes to this local law, but may renumber, rearrange and edit it without first submitting it to the Lumberland Town Board. Any such rearranging, renumbering and editing shall not affect the validity of this local law or the provisions of the Code affected thereby.

Section 4.5 - Repealer, Suspension and Supersession of Other Laws

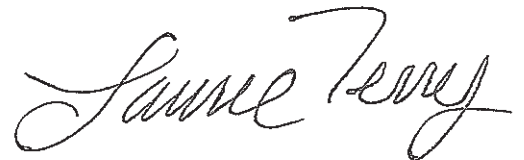
All local laws in conflict with the provisions of this Local Law area hereby repealed and superseded as of the effective date of this Local Law, specifically including Local Law #1 of 2020.

Section 4.6 - Severability

The provisions of this Local Law are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 4.7 - Effective Date

This Local Law shall take effect immediately upon adoption and filing with the Secretary of State as provided by the Municipal Home Rule Law.

A handwritten signature in cursive script, reading "Laurie Terry".

Resolution #107, 2020

**RESOLUTION OF THE TOWN BOARD OF THE TOWN OF
LUMBERLAND ADOPTING LOCAL LAW 2 OF 2020 ENTITLED
TOWN OF LUMBERLAND SOLAR ENERGY LAW**

WHEREAS, proposed Local Law #2 of 2020, has been duly introduced which purports to regulate the development and operation of certain solar energy systems in section 250.46 of the Town Code of the Town of Lumberland, provide for pilot agreements for certain solar energy systems in Chapter 219 of the Town Code of the Town of Lumberland and repeal the existing, Town-wide solar moratorium; and

WHEREAS, the proposed law is a Type I action under the New York State Environmental Quality Review Act (SEQRA), and the Town Board has assumed lead agency status; and

WHEREAS, the Town Board has previously prepared Part 1 of a long-form Environmental Assessment Form (EAF) with respect to the proposed action; and

WHEREAS, a copy of the proposed Local Law 2 of 2020, Part 1 of the EAF and a copy of the Resolution declaring the Town Board of the Town of Lumberland lead agency was sent by the Town Clerk to involved and interested agencies with notice of the Town's Board's declaration of lead agency status; and

WHEREAS, the Town Board of the Town of Lumberland retained lead agency status, as no involved agencies objected to the Town's proposed lead agency status after having been informed of same for more than thirty (30) days; and

WHEREAS, the proposed adoption of Local Law 2 of 2020 has been reviewed by the Sullivan County Division of Planning and Environmental Management (SCDPEM) pursuant to General Municipal Law 239-m, et al.; and

WHEREAS, SCDPEM has recommended that the adoption of the proposed law is a matter of local determination; and

WHEREAS, the Town Board conducted a duly noticed public hearing regarding adoption of the proposed Local Law 2 of 2020 on November 12, 2020 and completed parts 2 and 3 of the long form EAF at its regularly scheduled meeting on December 9, 2020; and

WHEREAS, the Town Board, after conducting said public hearing and completing Parts 2 and 3 of the long form EAF, determined that adoption of the proposed Local Law 2 of 2020 would not have a significant adverse impact on the environment; and

NOW, THEREFORE, it is hereby

RESOLVED, that the Town Board of the Town of Lumberland hereby adopts Local Law No. 2 of the Year 2020 entitled Town of Lumberland Solar Energy Law, a copy of which is attached hereto and made part of this Resolution; and be it further

RESOLVED that Local Law 1 of 2020 establishing a moratorium on solar development is hereby repealed; and be it further

RESOLVED, that the Town Clerk is directed to enter said Local Law 2 of 2020 in the minutes of this meeting and in the Local Law Book for the Town of Lumberland and to give due notice of the adoption of said Local Law to the Secretary of the State of New York, General Code Services, **NYSERDA** and the NY State Department of Taxation and Finance; and be it further

RESOLVED that the Town Clerk shall send notice of the negative declaration as required by law to the Environmental News Bulletin.

MOTION BY: Deputy Supervisor Sherman

SECOND BY: Councilwoman Gingold

ROLL CALL VOTE: 5-0

Supervisor Mellan: Yes

Deputy Supervisor Sherman: Yes

Councilman Akt: Yes

Councilwoman Gingold: Yes

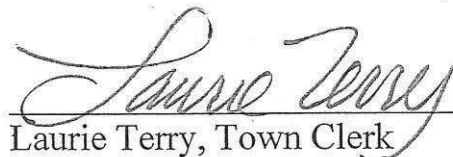
Councilwoman Warden: Yes

ADOPTED BY THE TOWN BOARD OF THE TOWN OF LUMBERLAND

LAURIE TERRY

TOWN CLERK

DECEMBER 9, 2020


Laurie Terry, Town Clerk