Local Law 3 of 2021

Town of French Creek Solar Energy Law

Be It Enacted By The Town Board Of The Town Of French Creek As Follows

Section 1. Purpose and legislative intent

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

Section 2. Enacting authority

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

Section 3. Title

This law is known and may be cited as "The Town of French Creek Solar Energy Law".

Section 4. Statement of Purpose

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

1. To create synergy between solar energy system development while protecting the historic and rural character of the Town, maintaining the rural style of life, retaining active farm production, protecting the natural habitat and environmental assets of French Creek and its tributaries, and keeping French Creek an affordable place to live;

2. To maintain the rural character of the town;

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

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

5. To diversify personal and community energy resources.

Section 5. Definitions

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

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

FACILITY AREA: The physical area, measured in both square feet and acres, used for any solar energy system Project Site, any setbacks, buffers, fencing, roads, screening, support facilities. Solar Energy Equipment, and all other components of a solar energy system facility. The facility area shall include, and shall not be limited to, the surface area of any Solar Panel and Solar Energy Equipment.

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

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

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

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

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

PRIME FARMLAND: Land, designated as "Prime Farmland" in the U.S. Department of

Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

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

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

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

SOLAR ENERGY SYSTEM: A system of components intended for the collection, inversion, storage, and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical, or other usable energy. A solar energy system consists of, but is not limited to, solar collectors, mounting devices or structures, generators/turbines, water and energy storage and distribution systems, Battery Energy Storage Systems, storage, maintenance and/or other accessory buildings, inverters, fans, combiner boxes, meters, transformers, and all other mechanical structures. The area for the solar energy system is all of the area within the project fence line, as well as the area covered by all facility components, including but not limited to, access roads, transmission lines, and support buildings. The term also includes, but is not limited to, Solar Panels and Solar Energy Equipment. A Solar Energy System is classified as a Tier 1 or Tier 2 Solar Energy System as follows:

A. Tier 1 Solar Energy Systems include residential and agricultural applications as follows:

1.Roof-Mounted Solar Energy Systems;
2. Building-Integrated Solar Energy Systems; and
3.Ground Mounted Solar Energy Systems

a. Notwithstanding the above, a solar energy system located on a farm operation, as defined in #301(11) or the relevant provision of the New York State Agriculture and Markets Law, and located in a New York State Agricultural District, which primarily serves the needs of such farm operation and produces up to 110% of the farm's needs, or other amount that may be established by resolution of the French Creek Town Board in accordance with New York State Department of Agriculture and Markets guidance, shall be deemed a Tier 1 solar energy system subject to limitations on farmland conversion contained in Section #232-16.12 (F) and (G).

a. A system that does not exceed the production or output limits and otherwise conforms to the requirements of this definition from designation as a Tier 1solar energy system as a result of selling or otherwise receiving credits or benefits for excess energy provided to the distribution grid.

B. Tier 2 Solar Energy Systems include any Solar Energy System not included in Tier 1, producing more than 110% of energy consumed on the site over the previous 12 months, or exceeds 5000 square feet of solar panel area.

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

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

Section 6. Applicability

A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town of French Creek after the effective date of this Local Law, excluding general maintenance and repair.

B. Solar Energy Systems constructed installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.

C. Any modifications to an existing Solar Energy System that increase the Solar Energy System area shall be subject to review pursuant to this Local Law.

D. Any proposed Solar Energy System subject to review by the New York Board on Electric Generation and Siting and the Environment pursuant to Article 10 of the New York State Public Service Law, or the Office of Renewable Energy Siting pursuant to Article 94-c of the Executive Law, shall be subject to all substantive provisions of this Section and any other applicable laws, codes, and regulations of the Town of French Creek, New York, and any other applicable State or Federal laws.

E. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code"), the NYS Energy Conservation Code ("Energy Code").

Section 7. General Requirements

A. A Building permit shall be required for installation of all Solar Energy Systems.

B. Issuance of permits and approvals by the Town of French Creek Town Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].

C. Unless preempted or waived by a body of competent jurisdiction, the procedural and substantive components of this law shall apply regardless of any contract, easement, or license that may exist between the applicant and any other landowner in the Town of French Creek.

Section 8. Permitting Requirements for Tier 1 Solar' Energy Systems

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

A. Roof-Mounted Solar Energy Systems

1. Roof-Mounted Solar Energy Systems shall incorporate the following design requirements:

   a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface and the highest edge of the system.

   b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

   c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.

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

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

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

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

C. Ground Mounted Solar Energy Systems shall be permitted as accessory structures and shall require a site plan review under the local law subject to the following conditions:

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

2. Setbacks: Ground Mounted Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying district. All Ground-Mounted Solar Energy Systems shall only be installed in rear yards in

residential districts and shall not unreasonably encroach upon neighboring parcels through introduction of shade, nuisance noise, or other nuisance conditions.

3. Height: Tier 1 Solar Energy Systems shall be subject to the height limitations specified for accessory structures within the existing Town Law.

4. Screening and Visibility:

   a. All Tier 1 Solar Energy Systems shall have views minimalized from adjacent properties.

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

5. Lot Size: Tier 1 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the existing Town Law..

Section 9. Permitting Requirements for Tier 2 Solar Energy Systems

Tier 2 Solar Energy Systems are permitted within Rural/Agricultural (Rural), districts with a Special Use Permit and Site Plan Review approved by the Town Board, after reviewing recommendations from the Solar Committee and subject to site plan application requirements, and the physical limitations on area and other substantive requirements set forth in this Section and related appendices.

A. Applications for the installation of Tier 2 Solar Energy System shall be reviewed by the Town Board and the Code Enforcement Officer for completeness.

B. Substantive requirement for construction, operation, and decommissioning of the proposed Tier 2 Solar Energy System;

   1. Setbacks. Setbacks apply only to land that has been leased or procured to have solar panels on the land.

   2. Vehicular Paths. Vehicular paths and emergency access ways within the site shall be designed to the extent of impervious materials and soil compaction. Topsoil in the same location as roads shall be stripped and stockpiled, and Roads shall be constructed of crushed stone, construction fabric and screened gravel, a minimum of 20 feet wide, and capable of bearing the weight of emergency vehicles. Applicants, their successors, and assigns shall be responsible for keeping all access roads clear and passable by emergency equipment at all times.

   3. Signage

a. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer' s name; equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 4 square feet, but no less than 2 square feet. Additional signage shall also be placed at the roadside for first responders to identify the type of project area they are entering and the hazards they can expect to encounter at each site location. The owner's name, address and 24-hour contact information shall be displayed at the roadside. All signage should be a light reflective surface.

b. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. Multiple remote shut-off locations will be installed to the extent technically feasible and shall be accessible by first responders.

4. Glare. All Solar Panels shall have anti-reflective coating(s). Solar panels used in the project must be shown to be manufactured in their as-installed form to be free from any perfluoroalkyl substances ("PFAS"). This includes, but is not limited to, certification that no polytetrafluoroethylene (PTFE) films or similar products were applied to panels after their manufacture. The Town may request proof of this provision at its discretion before, during, and after the installation of the photovoltaic panels.

5. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties with full cutoff and should not encroach outside of the fenced perimeter.

6. Tree cutting. Removal of existing trees larger than 6 inches in diameter is prohibited. Solar panels shall be located no closer than 50 feet to existing trees.

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

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

9. Noise: Once in operation, sound pressure level at property lines outside facility fencing shall not exceed ambient noise by more than 6dB(A). Sound Pressure is the perceived loudness expressed in A-weighted decibel scale dB(A) which is weighted towards those portions of the frequency spectrum, between 20 and 20,000 Hertz, to which the human ear is most sensitive.

10. Storage Batteries: No storage batteries are permitted on Tier 2 Solar Energy Systems.

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

12. A certificate of insurance for all contractors, owners, etc., shall be provided to the French Creek Town Board.

13. Decommissioning.

    a. Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 1 year, per parcel or any part of the "project" shall be removed at the owner and/or operator's expense, which at the owner's option may come from any security made with the Town of French Creek as set forth in Section 17 herein.

    b. A decommissioning plan signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant with the application, addressing the following:

        i. The cost of removing the Solar Energy System.

        ii. The time required to decommission and remove the Solar Energy System and any ancillary structures.

        iii. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.

    c. Security.

        i. The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town of French Creek attorney, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 110% of the cost of removal of the Tier 2 Solar Energy System and restoration of the property with an escalator of 3% annually, or by a percentage equal to annual inflation rate as calculated using the Consumer Price Index published by the Labor Department's Bureau of Labor Statistics for the previous calendar year, whichever is greater, for the life of the Solar Energy System.

        ii. 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, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

        iii. In the event of default or default or abandonment of the Solar Energy

System, the system shall be decommissioned as set forth in Section 17 herein.

iv. Notwithstanding the forgoing, any Tier 2 Solar Energy system and any associated battery energy storage systems sited pursuant to Article 10 of the Public Service Law or Article 94-c of the Executive Law shall be required to obtain a letter of credit or fund an escrow in an amount satisfactory to the Town of French Creek, to ensure the removal of the systems, their components, and associated structures, fixtures, equipment, fencing, sub-surface components or other improvements, and the remediation of the site. The amount of the letter of credit shall not be reduced by the salvage value of facility components.

C. Site plan application. For any Tier 2 Solar Energy System, a site plan approval shall be required. Any site plan application shall include the following information, in addition to any other information required by the local law:

1. Property lines and physical features, including roads, for the project site.
2. Proposed changes to the landscape of the site, grading vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
3. A three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code (NEC) compliant disconnects and current devices.
4. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed with applicable MSDS sheets. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
5. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
6. Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
7. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming. No chemical herbicides to be allowed.
8. Erosion and sediment control and stormwater management plans prepared to New York State Department of Environmental Conservation standards if applicable, and to such standards as may be established by the Town Board.
9. Prior to the issuance of the Special Use Permit or final approval by the Town Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

10. Prior to the issuance of the Special Use Permit an agreement between the Town Board and Applicant as to the amount of the Decommissioning Bond and the Level of Liability Insurance must be agreed upon.

D. Special Use Permit Standards and substantive standards for Tier 2 Solar Energy Systems:

1. Lot size.

   a. The property on which the Tier 2 Solar Energy System is placed shall be a minimum of 10 acres.

2. Setbacks.

   a. The Tier 2 Solar Energy System setback requirements shall be 100 feet to the front, 100 feet to the side, and 100 feet to the rear of any property line. A setback of 600 feet in any direction is required from an existing place of residence (dwelling place). These setbacks may be altered with a signed, notarized agreement between parties involved.

3. Height.

   a. The Tier 2 Solar Energy System shall have a maximum height of 15 feet.

4. Fencing Requirements for Tier 2 Solar Energy Systems.

   a. All mechanical equipment shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.

   b. Chain-link fencing surrounding Tier 2 Solar Energy Systems shall be visually screened. Other types of fencing surrounding Tier 2 Solar Energy Systems may require visual screening at the discretion of the town board.

   c. The use of barbed wire, razor wire, or electric fencing around solar energy facilities is prohibited.

5. Screening and Visibility.

   a. Tier 2 Solar Energy Systems shall have views minimized from adjacent properties using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.

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

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

   a. Tier 2 Solar Energy Systems on Prime Farmland or Farmland of Statewide Importance shall be required to seed 75% of all area within perimeter fencing suitable for seeding with native perennial vegetation, with native perennial vegetation.

   b. Tier 2 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the requirements of the New York State Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Solar Energy Projects.

c. Tier 2 Solar Energy System owners shall develop, implement, and maintain native vegetation pursuant to a vegetation management plan by providing the native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. When establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

d. Tier 2 Solar Energy System shall not result in conversion of more than 5% (690 Acres) of all prime farmland in the Town of French Creek.As per the Soil Survey of Chautauqua County, the Town of French Creek consist of 23,163 acres of which according to soil type classification 13,800 acres can be classified as prime farmland. Converted farmland includes both prime farmland inside any perimeter fencing associated with Tier 2 facilities, and any adjacent prime farmland that is no longer suitable for farming as a result of the Tier 2 facility. Prime farmland means prime farmland as defined by the United States Department of Agriculture, New York State, or the Natural Resources Conservation Service. A farmland "conversion" is defined by Section 301(8) of the Agricultural and Markets Law. Any pillars or anchors used must be removed and the land must be fully restored during decommissioning.

7. Ownership Changes.

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

8. Environmental Resources. For projects located in the French Creek watershed:

   a. Tier 2 Solar Energy Systems located within the watershed of French Creek shall have leaching containment catch basins in accordance with the New York State Soil and Water Conservation District.

   b. Tier 2 Solar Energy Systems will also construct a riparian barrier between any solar energy producing entity and a classified wetland or body of water that falls under WOTUS. This will be done in accordance with the New York State Soil and Water Conservation District.

Section 10. Safety

A. Solar Energy Systems and Energy Equipment shall be certified under the applicable electrical and/or building codes as required.

B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department at all times.

C. No storage batteries are to be included as part of the Tier 2 Solar Energy System.

D. If at any time there is a change in ownership, the Town must have full access to the new owner's security system before or at any time in the change of ownership.

Section 11. Permit Time Frame and Abandonment

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

B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 1 year of notification.

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

Section 12. Inspections

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

B. The Code Enforcement Officer's duties and authority is granted by the Town of French Creek Town Board and shall be applicable to Solar Energy Systems within the Town of French Creek except where expressly preempted herein by a provision specific to Solar Energy Systems.

C. Annual Log of Solar Harvested. A log showing the amount of Solar Energy harvested each month on any Tier 2 Solar Energy System in the Town of French Creek will be provided to the Supervisor of the Town of French Creek on a Semi-Annual Basis.

Section 13. Reimbursement of Fees

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

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

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

Section 14. Enforcement

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

Section 15. Severability

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

Section 16. Effective Date

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

Section 17. Example Decommissioning Plan

The following Appendix A, titled Example Decommissioning Plan, is added to the Town of French Creek Solar Energy Law and reads as follows:

Appendix A: Example Decommissioning Plan

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at: [Solar Project Address] Prepared and Submitted by [Solar Developer Name], the Owner of [Solar Farm Name].

As required by the Town of French Creek, [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the "Facility").

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

- The land lease, if any, ends.
- The system does not produce power for 12 months.
- The system is damages and will not be repaired or replaced.

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

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

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

Facility Owner Signature: _____ Date: _____.