TOWN OF MACHIAS
LOCAL LAW NO. _____ OF THE YEAR 2023

A Local Law to repeal Local Law No. 1-2020 and enact Local Law No. _____- 2023 to regulate Solar Energy Systems in the Town of Machias

ARTICLE I
Enactment and Intent

Local Law No. 1-2020 titled "A Local Law to regulate Solar Energy Systems in the Town" is hereby repealed and replaced by this Local Law.

§*-1. Title.**

This Local Law shall hereafter be known, cited and referred to as the "Solar Energy Systems Law of the Town of Machias".

§*-2. Purpose and Intent.**

In light of recent changes in State Energy Policy, the creation of the Office of Renewable Energy Siting and aggressive State targets for new solar power generation and battery energy storage system capacity, the Town of Machias anticipates an increase in proposals for solar energy and battery energy storage facilities of all sizes in the Town. The Town of Machias desires to better align solar energy zoning provisions with the goals and objectives set forth in its Comprehensive Plan. The modifications to the Law, as set out herein, support State energy policy by providing appropriate solar development while further protecting existing community resources, fertile farmland and other exceptional local resources and protecting the local environment. The enactment of this Local Law also advances the Town's intent for State siting bodies to strictly apply all substantive provisions in the Town of Machias Solar Law. This law is further intended to apply to any application providing for a Solar Energy facility on the effective date of this Article including any applications for variances relating to a Solar Energy facility and all such applications shall be subject to the provisions contained herein.

ARTICLE II
Terminology

§*-1. Definitions.**

ALTERNATIVE ENERGY SYSTEMS – Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on a site and may be attached to or separated from the principal use.

ARRAY – Any number of electrically connected photovoltaic (PV) modules providing a single electrical output.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) – The incorporation of photovoltaic materials into the physical structure of a building. BIPV technologies include photovoltaic shingles or tiles, photovoltaic laminates and photovoltaic glass. Examples of placement include vertical facades, semi-transparent skylights and windows, awnings (including fixed awnings) and roofs (*See Attachment 1*).

BUILDING MOUNTED SYSTEM – A solar energy system that is affixed to the side(s) of a building or other structure, either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building. Said system is designed and intended to general electricity solely for use on the subject lot, potentially for multiple tenants, through a distribution system that is not available to the public (*See Attachment 1*).

CELL – The smallest basic solar electric (photovoltaic) device that can generate electricity when exposed to radiant energy (visible sunlight).

COLLECTIVE SOLAR – Installations of solar photovoltaic systems that are owned collectively through a homeowners' association, "adopt a solar panel" programs or other similar arrangements.

GLARE – To shine with a harsh, bright light.

GLINT – To shine in small bright flashes.

GROUND-MOUNTED SYSTEM – A photovoltaic system mounted on a structure, pole or series of poles that are constructed specifically to support the photovoltaic system, and not physically attached to any structure (*See Attachment 1*).

MODULE – A module is the smallest protected assembly of interconnected photovoltaic cells.

NET METERING AGREEMENT – An agreement with a local electric utility company that allows customers to receive a credit for surplus electricity generated by certain renewable energy systems.

PHOTOVOLTAIC (PV) – Any material or device with the capability to general electric current or voltage when exposed to electromagnetic radiation (radiant energy), in particular visible light from the sun.

PRIME FARMLAND – Land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oil seed crops.

ROOF-MOUNTED SYSTEM – A solar power system in which solar panels are mounted on top of the structure either as a flush-mounted system or as modules fixed to frames that can be tilted or articulated to achieve an optimal angle for tracking the sun (*See Attachment 1*).

SOLAR ACCESS – Land area or space that is open to the sun and clear of overhangs or shade, including structures built on private property that do not infringe on the rights of adjacent properties.

SOLAR FARM– An area of land that supports an arrangement of freestanding ground mounted or building mounted photovoltaic devices designed to capture solar energy and convert it to electricity for commercial use or transfer to the local utility grid for sale to the general public (see utility scale photovoltaic system and Attachment 1).

SOLAR PHOTOVOLTAIC SYSTEM (SPS) – A solar collection system consisting of one or more building- and/or ground-mounted, solar photovoltaic cells, modules, panels or arrays and solar related equipment that rely upon solar radiation as an energy source for collection of solar energy, conversion of solar energy to electricity, inversion of DC electricity to AC electricity and storage/distribution of electricity generated through the system.

TRACKING SYSTEM – A number of photovoltaic modules mounted such that they track the movement of the sun across the sky to maximize energy production, either with a single-axis or dual-axis mechanism.

QUALIFIED SOLAR INSTALLER – A person who has skills and knowledge related to the construction and operation of photovoltaic solar equipment and installations and has received safety training on the hazards involved therein. This shall include persons who are on the list of eligible photovoltaic installers, as maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP). Persons who are not on the NYSERDA or NABCEP lists of eligible or certified installers may be deemed to be qualified solar installers if Code Enforcement Office of the Town of Machias determines such persons to have had adequate training to determine the degree and extent of any hazard and have the personal protective equipment and job training necessary to perform the safe and proper installation of PV systems. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment, and to determine the nominal voltage of exposed live parts.

UTILITY SCALE PHOTOVOLTAIC SYSTEM – A solar photovoltaic system that is designed and intended to supply electrical energy solely to the utility grid for sale to the general public (*See Attachment 1*).

ARTICLE III
General Provisions

§*-1. Permitting.**

A. Building, Roof and Ground-Mounted Solar Photovoltaic Systems.

1) A Building Permit shall be required for the installation of all roof and building mounted SPSs and ground mounted systems for small-scale residential use.

2) All review and permitting for roof, building and ground mounted systems shall be the responsibility of the Town of Machias Code Enforcement Officer.

3) Any post construction changes to any small-scale roof, building or ground mounted SPS requires review and approval by the Town of Machias Code Enforcement Officer.

B. Utility Scale Solar Photovoltaic Systems.

1) All Utility Scale SPSs shall require the issuance of a Special Use Permit and site plan approval from the Machias Town Board.

C. Applicability.

1) Three types of ground mounted SPSs are addressed herein:

a) SPS Type 1 – A utility (large) scale system designed for the generation of power supplied for commercial use and/or to the public utility grid by way of a net metering agreement with a nameplate generation capacity greater than five (5) Mega Watts (MW);

b) SPS Type 2 – A utility (large) scale system designed for the generation of power supplied for commercial use and/or to the public utility grid by was of a net metering agreement with a nameplate generation capacity up to and including five (5) Mega Watts (MW).

c) SPS Type 3 – A small scale system designed to generate power for a single residence or property owner. A Type 3 system shall be permitted to supply power to the local utility grid, on a limited basis, by way of a net metering agreement at no greater than 110% of anticipated on-site demand.

D. Permitted Use and Locations.

1) Type 2 SPSs and Type 3 SPSs shall be considered and regulated as an accessory use/structure in all areas of the Town.

2) Type 1 SPSs shall only be permitted in any "Type 1 SPS development area" created by action of the Town Board of the Town of Machias. Otherwise Type 1 SPSs are not a permitted use in the Town of Machias.

3) Mitigation of impacts to agricultural land is a significant factor in the approval process and all projects are required to adhere to New York State Department of Agricultural & Markets "Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands."

4) A building mounted SPS shall be integrated into the design of the building and shall not obstruct any window, door or other architectural feature of the building.

5) A building mounted SPS shall not extend more than three (3) feet from the building façade to which it is affixed.

6) A roof mounted SPS shall not be located closer than three (3) feet to any roof edge or building wall, and in no instance shall any part of the system extend beyond the roof line or parapet wall.

7) When affixed to a pitched or peaked roof, an SPS should generally follow the slope of the roof. The highest part of a roof mounted SPS shall not be more than three (3) feet higher than the finished roof to which it is attached.

8) The Town of Machias Code Enforcement Officer shall require a minimum three (3) foot center walkway between arrays for safety access purposes for any roof mounted SPS.

9) Any and all battery energy storage systems (BESS) designed for commercial use, including but not limited to, any BESS associated with a Type 1 or Type 2 SPS are a prohibited use in the Town of Machias.

E. Minimum Lot Requirements.

1) The minimum lot size for Type 1 and Type 2 SPSs is five (5) acres. The density of any solar farm which, for purposes of this Law is the area actually occupied by the solar panels and equipment, shall not exceed fifty (50%) percent of the size of the lot and shall not, in any event, exceed fifty (50) acres of total lot coverage.

2) The required front yard setback for Type 3 ground mounted SPSs shall be thirty (30) feet as measured from the parcel line to the nearest part of the system, including required fencing. The required side yard setbacks for Type 1 and Type 2 SPSs shall be two hundred (200) feet as measured from the parcel line to the nearest part of the system. In addition, Type 1 and Type 2 SPSs shall be setback a minimum of five hundred (500) feet from the exterior of any occupied residence located on a non-participating property. Where Type 1 SPSs are adjacent to residential uses, public parks or schools, side yard setbacks shall be sixty (60) feet as measured from the parcel line to the nearest part of the system. Any road or driveway for ingress and egress existing or to be installed shall be thirty (30) feet as measured from the nearest property line.

3) No part of any SPS shall extend into the required setbacks, including any movement as a result of a tracking system or other adjustment of SPS related equipment or parts.

4) A Type 3 ground mounted SPS shall be permitted in the side yard or rear yard of any residential or business property but shall not extend beyond the front building line of the property.

5) The orientation of any SPS shall not be directed at any adjacent or adjoining residential dwelling.

F. Height Restrictions.

1) The maximum overall height for Type 1, Type 2 and Type 3 ground-mounted systems is twenty (20) feet from finished grade.

2) The highest part of a roof mounted SPS shall not be more than three (3) feet higher than the finished roof to which it is attached.

3) Roof mounted SPSs shall be mounted a minimum of eighteen (18) inches off the roof.

4) The maximum height of a building mounted SPS shall be eighteen (18) feet, as measured from the lowest point where the system is affixed to the vertical façade of a building.

§*-2. General provisions.**

A. All SPSs existing on the effective date of this Local Law shall be allowed to continue usage as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance shall comply fully with the requirements of this Local Law.

B. No SPS shall hereafter be used, erected, moved, reconstructed, changed or otherwise altered except in conformity with these regulations.

C. Any applications for local approval of an SPS, including applications for variances or Special Use Permits, pending for an SPS on the effective date of this Law shall be subject to the provisions contained herein.

D. All SPSs shall be installed by a qualified solar installer, as defined by this ordinance.

E. Any building, roof or ground mounted SPS shall be fully accessible to all emergency service vehicles and personnel.

F. Nothing contained in this law shall be construed to prohibit collective solar installations or the sale of excess power through net billing or net metering arrangements in accordance with New York State Public Service Law §66-j or similar New York State or federal laws and regulations.

G. All SPSs shall adhere to all applicable federal, state, county and Town of Machias laws and regulations, including building, plumbing, electrical, and fire codes.

H. The Town of Machias Code Enforcement Officer shall notify the Machias Fire Department upon the approval of any approved solar installations.

§*-3. Design Criteria.**

A. Design and installation standards.

1) All structures and devices used to support SPSs shall be non-reflective and/or painted a subtle or earth tone color.

2) The design, construction, operation and maintenance of any SPS shall prevent the misdirection and/or reflection, glare or glint of solar rays onto neighboring properties, businesses, public roads, public parks and other public facilities in excess of that which already exists. Should this occur, proper action shall be taken to correct the problem within 30 days upon notification of the Town of Machias Code Enforcement Officer.

3) Artificial lighting of any SPS shall be limited to lighting required for safety and operational purposes and shall be dark sky compliant and shielded from all neighboring properties and public roads.

4) When Battery Energy Storage Systems (BESS) are included as a part of any Type 3 SPS, they shall be placed in secure containers or enclosures that meet the requirements of the New York State Uniform Fire Prevention and Building Code when in use. When no longer used, solar storage batteries must be disposed of in accordance with all applicable laws of New York State and Cattaraugus County regulations.

5) Disconnect and other emergency shutoff information must be clearly displayed at/on the meter location of any Type 1 and Type 2 SPS for emergency personnel, as well as 24-hour emergency contact information.

6) The power supply cut off device for any Type 3 roof or building mounted SPS shall be located on the outside of the structures that support such systems, in close proximity to where the power supply enters the facility, along with 24-hour emergency contact information, where it can be easily accessed by emergency personnel.

7) All wiring must be designed and installed to comply with the National Electrical Code (NEC).

8) All interconnecting cables between the SPS and accessory or servicing structures shall be installed underground or within the structure they are mounted upon.

9) A minimum seven (7)-foot high fence shall be used to fully enclose the any Type 1 and Type 2 SPS to prevent unauthorized access to the site.

10) The SPS system must be designed and constructed to comply with the most recent fire code as amended and adopted by the State of New York.

B. Compliance with building code.

1) Building Permit applications shall be accompanied by standard drawings of structural components of the SPS, including support structures, base and footings. Drawings shall be stamped, and any necessary calculations shall be certified, in writing, by a licensed New York State professional engineer or architect, to indicate that the system complies with the current New York State Building Code.

2) Where the installation or structural components vary from the standard design or specifications, proposed modifications shall be certified by a licensed New York State professional engineer for compliance with the seismic and structural design provisions of the New York State Building Code.

C. Compliance with electrical code.

1) Building Permit applications shall be accompanied by a line drawing identifying the electrical components of the SPS to be installed in sufficient detail to allow for a determination that the manner of installation conforms to the electrical code. The application shall include a statement from a New York State licensed professional engineer or architect indicating that the electrical system conforms to sound engineering practices and complies with the National Electrical Code (NEC). This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.

2) Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a New York State licensed professional engineer for compliance with the requirements of the NEC and sound engineering practices.

D. Maintenance and Repair Records.

1) An SPS shall be maintained in operational conditions at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all approval requirements and conditions.

2) The SPS shall be kept free from hazards including, but not limited to, faulty wiring, loose fastenings, and creation of an unsafe condition or detriment to public health, safety or general welfare.

3) Owners and operators of Type 1 or Type 2 SPSs shall be required to keep all records of maintenance activities. The Town of Machias Code Enforcement Officer shall have the right to request documentation from the owner/operator of an SPS regarding the system's usage and maintenance at any time.

4) The owner/operator of a Type 1 or Type 2 SPS shall be required to fully inspect the system on an annual basis. A copy of the inspection report shall be provided to the Machias Building Department as part of the renewal of the Special Use Permit (see §***-4 of this Chapter).

5) The inspection of SPSs shall comply with all requirements of the New York State Building Code.

E. Abatement and Removal.

1) If an SPS poses a safety hazard, as determined by the Town of Machias Code Enforcement Officer, the owner or operator shall take immediate action to remedy the hazard. The Code Enforcement Officer shall have the authority to cause the abatement of any hazardous situation. If the Town of Machias determines that the SPS poses a safety hazard, a Notice of Violation shall be issued and the SPS shall be made nonoperational until such hazard has been remedied to the satisfaction of the Town of Machias Building Department.

2) If the use of an approved SPS is discontinued, the owner or operator shall notify the Town of Machias Building Department within thirty (30) days of such discontinuance. If the SPS is to be retained and reused, the owner or operator shall further inform the Town of this, in writing, at such time and obtain any necessary approvals within one year. Otherwise, the SPS shall be deemed automatically abandoned.

3) If the SPS has been nonoperational or abandoned for a period of 180 days or more, the system shall be removed to the equipment manufacturer or project developer's authorized storage facility within 45 days of written notice from the Town of Machias to the property owner or operator of the system.

§*-4. Special Use Permit Requirements.**

A. Any proposal to place, construct or modify a Type 1 or Type 2 utility scale solar photovoltaic system in the Town of Machias requires the issuance of a Special Use Permit and site plan approval by the Machias Town Board.

B. All Special Use Permit applications for an SPS shall be submitted to the Town of Machias Building Department.

C. All Special Use Permit applications shall include the following information before such application shall be deemed complete:

1) Completed Special Use Permit application and checklist.

2) Completed Site Development Plan application and checklist.

3) An accurate real property survey.

4) Engineered drawings certified by a licensed professional engineer or architect.

5) Design elevations that illustrate the potential views and height of proposed structures.

6) Aerial site plan showing the location of relevant utility poles and lines, trees and structures, and the names of all adjacent property owners.

7) Clearing, grading, storm water drainage and/or erosion control plans, as required.

8) Soils map that illustrates the location of all prime farm soils on the subject property, which factor shall be given great weight in the approval process.

9) Local utility provider interconnection documentation.

10) Screening and landscaping plan, showing adequate measures to screen the site through landscaping, grading or other means so that the visibility of solar panels/arrays and other equipment is minimized from roadways and neighboring properties. The screening and landscaping plan should include the locations, elevations, height, plant species, and/or materials that will be used to screen and/or mitigate any adverse aesthetic effects of the system. Berms to be installed shall be a minimum of eight (8) feet in height. Deer resistant evergreens of at least eight (8) feet in height shall be acceptable for these purposes unless natural existing vegetation meets or exceeds these requirements.

11) A safety plan must be submitted that specifies the measures that will be used to prevent public access to unsafe areas, and to provide for emergency response, including but not limited to the location, height, materials, and colors of fencing and other barriers to public access. A standard red universal fire lock box shall be installed to allow emergency on-site access. Emergency response personnel shall be given the opportunity for a final walk through prior to issuance of final approval of the construction.

12) FAA certified statement that the SPS will not violate FAA regulations. Documentation shall be provided to confirm that no element of an SPS will reflect glint or glare that could be disruptive to passing aircraft (as defined by the FAA).

13) Proof of a completed project viability study from the Electrical Utility provider the SPS will connect to.

14) Storm water prevention plan.

15) Proposed solar panel technical and safety information.

16) Noise impact assessment which measures ambient noise levels at adjacent property lines and receptors (residences and businesses) and calculates the sound pressure (dB) increases from the proposed equipment.

17) Geotechnical Report prepared by a licensed professional engineer which demonstrates a minimum of four (4) soil borings, each at least twenty (20) feet in depth, completed across the project site and that describes the soil profile and depth to groundwater (if encountered).

18) Visual Impact Assessment providing representative site photographs from nearby receptors (roads, trails, structures) and demonstrating the existing site conditions and the same conditions after construction (with approximate three-dimensional renderings).

19) Statement stamped by a licensed professional engineer certifying that the proposed project and materials will not have a negative impact on the ground water supply for neighboring properties.

20) SPS Manufacturer information.

21) Maintenance and removal plan.

22) Preconstruction Soil Testing plan to form a baseline for restoration.

23) Decommissioning and restoration plan.

24) SEQR long Environmental Impact Assessment form and draft Environmental Impact Statement.

D. Screening, Visibility and Access.

1) Type 1 and Type 2 SPSs are required to submit a Screening and Landscaping Plan showing adequate measures to screen the site through landscaping, grading or other means so that the visibility of solar panels/arrays and other equipment is minimized from roadways and neighboring properties. The Screening and Landscaping Plan should include locations, elevations, height, plant species and/or materials that will be used to screen and/or mitigate any adverse aesthetic effects of the system. The Screening and Landscaping Plan for Type 1 or Type 2 SPSs shall include a landscape buffer around the SPS to provide screening from all adjacent properties, including roads. The SPS shall be completely screened from any adjacent property, including roads. To accomplish this screening, existing vegetation shall be utilized to the fullest extent practicable and/or at least two rows of native evergreen trees or other screening acceptable to the Town Board, which is capable of forming a continuous hedge at least ten (10) feet in height at planting, shall be required and maintained. A two-year warranty shall be provided for any screening installed as part of the Type 1 or Type 2 SPS. The minimum screening requirement may be waived if the Town Board determines that some other suitable vegetation or feature already exists to achieve complete screening.

   Removal of trees and other existing vegetation shall be minimized or off-set with planting elsewhere on the property. Type 1 and Type 2 SPSs shall also require the preparation of a Vegetation Management Plan that includes the planting and/or protection of pollenators and perennial vegetation. Clear cutting of trees beyond what is deemed necessary by the Town Board to install and maintain an SPS shall be prohibited.

   The sufficiency of any proposed Screening and Landscaping Plan is subject to final review and approval by the Machias Town Board.

2) A Safety Plan must be submitted that specifies the measures that will be used to prevent public access to unsafe areas and to provide for emergency response, including, but not limited to, the location, height, materials and colors of fencing or other barriers to public access.

3) Documentation shall be provided to confirm that no element of an SPS will reflect, glint or glare that could be disruptive to passing aircraft (as defined by the FAA.)

E. Signage and Graphic Content.

1) No signage or graphic content may be displayed on any Type 1 and Type 2 SPS system except the manufacturer's badge, safety information and equipment specification

information. Said information shall be depicted within an area no more than thirty-six (36) square inches in size.

2) The locations, size and text of any safety signage that will be used for any Type 1 and Type 2 SPSs to prohibit public access to unsafe areas shall be included with the site plan.

3) Type 1 and Type 2 systems and sites may not be used for displaying advertising except for reasonable identification of the owner/operator and shall comply with all signage restrictions.

4) Operations and Maintenance Plan.

1) To include mowing (including frequency and vegetation height parameters), landscaping and screening maintenance and replacement; frequency of SPS equipment inspection and maintenance; anticipated timeframe for significant maintenance and/or replacement of equipment as required and provisions for notifying the Town of any change of operations and/or ownership.

2) A Maintenance and Removal Plan shall include a written Agreement by the applicant and/or owner/operator to remove all components of the SPS if such facility becomes non-functional or ceases to be used for its originally intended purpose, as determined by the Town of Machias. A Maintenance and Removal Plan shall remain in force for the life of the SPS.

3) A bond and/or surety or other form of security, acceptable to the Town Attorney, shall be required for all Type 1 or Type 2 projects of at least one-hundred thirty percent (130%) of the estimated cost of SPS removal and site restoration with an annual escalation equal to the previous year rate of inflation as defined by the Consumer Price Index throughout the SPSs anticipated existence. Said proof or bond or security shall be filed with the Town prior to construction and shall remain in force for the life of the SPS. All such expense for the establishment of a bond and/or surety and maintaining the same shall be borne by the applicant.

5) Decommissioning and restoration.

1) The applicant shall include the following information with the Special Use Permit application regarding decommissioning of the SPS and restoration of the site:

a) The anticipated life of the SPS. SPSs that have been abandoned and/or not producing electricity for a period of 180 days per parcel or any part of the project shall be removed at the owner and/or operators expense which, at the owners option, may come from any security made with the Town of Machias as hereinafter set forth.

b) Decommissioning cost estimates prepared, stamped and certified to by a licensed professional engineer in the State of New York. Such cost estimates shall include proof of consideration of New York State prevailing wage rates in the estimation. Salvage value shall not be factored into such cost estimate.

c) A method of ensuring that funds will be available for decommissioning and restoration including bonding acceptable to the Town and to be re-evaluated every five (5) years to account for industry cost and regulation changes. The amount of such bonding shall be 130% of the cost of removal and restoration of the property in accordance with any State or Local Permit conditions with an escalator of equal to annual rate of inflation 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. Such bonding requirement may be escalated for continuation of the Special Use Permit directly related to cost and regulation changes as well as the rate of inflation. Any renewed bond shall be in place at least three (3) months prior to expiration of a previously issued bond.

d) In the event the applicant is in default of its obligations to decommission the facility under any applicable law or permit, and after proper notice and expiration of any cure periods, the cash deposit or bond shall be forfeited to the Town which shall be entitled to maintain an action thereon. The Bond shall remain in full force and effect until restoration of the property as set forth in the Decommissioning Plan is completed.

e) The anticipated manner in which the SPS will be decommissioned, and the site restored including but not limited to the removal of all structures and foundations associated with the SPS system; restoration of all ground surfaces including topsoil and seeding as necessary; removal of all buried cables and wires associated with the system and a specific plan to dispose of solar panels in an environmentally sound manner.

f) Such other and reasonable requirements as determined by the Town of Machias.

6) Additional requirements.

1) The applicant is required to obtain all necessary regulatory permits and approvals from all Federal, State and County agencies having jurisdiction as related to the completion of the Type 1 and Type 2 SPSs.

2) After completion of the Type 1 and Type 2 SPSs, the applicant shall provide post-construction certification from a licensed New York State professional engineer that indicates that the project complies with all applicable codes and industry practices and has been constructed and is operating in accordance with the approved design plans.

3) After the granting of the Special Use Permit for the Type 1 or Type 2 SPS, concurrent with site plan approval, the Building Permit shall be obtained within six (6) months and construction of the project completed within twelve (12) months. If the project is not constructed and operational within twelve months of the issue date for the Special Use Permit, the permit and site plan approval shall lapse, and the project owner/operator will be required to seek new approval from the Town Board unless otherwise determined by the Code Enforcement Officer that the project may be continued. In such case, the project must be more than 90 percent constructed and near completion, in which case a three (3) month extension could be granted.

4) Up until the time that final site plan approval has been granted by the Machias Town Board and permits have been issued by any and all governmental agencies involved with the Type 1 or Type 2 SPS project, the Town Board may impose additional conditions or restrictions, as it may deem necessary, prior to approving the request for a Special Use Permit.

5) Any post construction changes or alterations to a Type 1 or Type 2 SPS shall be undertaken only by amendment to the Special Use Permit (and site plan approval, if required), subject to all requirements of this Chapter.

6) Special Use Permits for a Type 1 or Type 2 SPS are assignable or transferrable as long as they are in full compliance with all requirements of this Chapter and all conditions of the permit, and the Machias Code Enforcement Officer is notified of said change, in writing, no less than fifteen (15) days prior thereto.

7) A Special Use Permit for a Type 1 or Type 2 SPS must be renewed on an annual basis. A copy of the annual maintenance and inspection report must be submitted along with the application for renewal. An updated proposed bond shall be submitted 45 days prior to Special Use Permit renewal.

7) Fees.

1) The applicant shall pay an initial application fee of Two Thousand Five Hundred dollars ($2,500), or such other amount as the Town Board may, from time-to-time, determine by Resolution as appropriate, upon filing application for a Special Use Permit and site plan approval. This fee shall be appropriate to cover the costs of processing and reviewing the application.

2) Applicants for Type 1 or Type 2 SPS systems shall deliver to the Town Board, along with the Application, an amount equal to 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/or attorneys engaged by the Town to assist in application review if a local permit is sought. 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 has been depleted prior to approval or denial of the application, the applicant shall deposit such funds as deemed necessary by the Town to continue its review of the Application.

3) An applicant for any Type 3 SPS shall pay a building permit fee of fifty dollars ($50), or such other amount as the Town Board may, from time to time, determine by resolution as appropriate for this action.

4) The applicant shall pay the standard fee for the filing of a site plan application for Type 1 or Type 2 SPS, as determined from time-to-time by resolution of the Town Board.

5) In addition to any special permit or site plan application fees, an applicant shall also pay the required Building Permit application fee.

6) All Special Use Permits must be renewed on an annual basis. The renewal fee for a Special Use Permit is One Hundred dollars ($100), or such other amount as the Town Board may determine, from time-to-time, by resolution as appropriate.

§*-5. Agricultural Resources (for projects located on agricultural lands).**

1) Type 1 and Type 2 SPS 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.

2) Type 1 and Type 2 SPS located on Prime Farmland shall be constructed in accordance with the requirements of the New York Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Solar Energy Projects.

3) Type 1 and Type 2 SPS owners shall develop, implement and maintain native vegetation pursuant to a vegetation management plan by providing 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.

4) Type 1 and Type 2 SPS shall not result in conversion of more than 10% of all prime farmland in the Town of Machias Converted farmland.

§*-6. Fencing Requirements for Type 1 and Type 2 SPS.**

1) 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.

2) Chain-link fencing surrounding any Type 1 or Type 2 SPS shall be visually screened wherever visible from roads, residences, or visually sensitive resources. Other types of fencing surrounding Type 1 or Type 2 SPS may require visual screening at the discretion of the Town Board.

3) The use of barbed wire, razor wire or electric fencing around solar energy facilities is prohibited unless expressly required pursuant to State or Federal Law.

§*-7. Noise.**

Once in operation, sound pressure level at the exterior of any residence or non-participating property line, expressed in terms of dBA Leq-8hr, shall not exceed existing background ambient noise, expressed in dBA Leq-8hr as measured by a qualified acoustician, by more than 6dB. The application shall contain an assessment of noise impacts consistent with guidance contained in the NYS Department of Environmental Conservations published guidance document for assessing noise impacts, titled "Assessing and Mitigating Noise Impacts" (Division of Environmental Permits, NYS DEC, 2001.)

§*-8. Tree-Cutting.**

Removal of existing trees larger than six (6) inches for solar energy development shall be minimized to the maximum extent practicable. Applicants should offset the loss of any mature or old growth forest through conservation of the same amount of existing similar habitat, or creation of new sites to host mature or old growth forest.

§*-9. Property Value Guarantees.**

Construction and operation of any Type 1 or Type 2 Solar Energy System shall not decrease the property value of any adjacent residential property within a one mile radius as determined based upon three appraisals by New York certified Real Estate Appraisers. Violation of these provisions shall be grounds for revocation of any Special Use Permit.

§*-10. Host Community Benefit.**

No Type 1 or Type 2 Solar Energy System shall be constructed unless the adverse impacts of the facility are mitigated through execution of a Host Community Benefit Agreement ("HCA") between the project owner and the Town. The HCA shall provide for monetary payments to the Town for the life of the project until decommissioned, which may be used by the Town for any permissible public purpose. Payments made pursuant to the HCA shall be in addition to any taxes paid by the project owner, or any portion of a Payment in Lieu of Taxes received by the Town.

§*-11. Aquifer Protection.**

No Solar Energy System shall have any adverse impact on any aquifer that serves as a source for private or public drinking water.

§*-12. Public Notice.**

Any applicant for a Special Use Permit pursuant to this section shall provide written notice to all property owners within one (1) mile of the proposed Solar Energy System prior to filing a Special

Use Permit and Site Plan Application. Proof of such notice shall be filed with any application. Sufficient notice shall contain the name and contact information for the developer and permit applicant, contact information for the Town Supervisor, and the process and timeline for local government review and a description of the opportunities for public participation in the local siting process.

§*-13. Clearing, Grading, Stormwater and Erosion Control.**

Before the Town shall issue a Building Permit for a Type 1 or Type 2 Solar Energy System, the applicant shall submit a stormwater and erosion control plan to the Town Board for its review and approval. The plan shall minimize the potential adverse impacts on wetlands and Class I and Class II streams and the banks and vegetation along those streams and wetlands and minimize erosion or sedimentation.

§*-14. No PFAS.**

Solar Energy Systems shall not include any per- and polyfluoroalkyl substances ("PFAS").

§*-15. Revocation, interpretation and severability.**

A. Violations of any of the conditions of the Special Use Permit, site plan approval or any other Local, State or Federal laws, rules or regulations, shall be grounds for the revocation of the Special Use Permit or site plan approval. Revocation may occur after the applicant is notified in writing of the violations and the Town of Machias Town Board holds a hearing on same.

B. In their interpretation and application, the provisions of this Local Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. It is not intended to interfere with, abrogate or annul other rules, regulations or laws, provided that whenever the requirements of this article are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards, shall govern.

C. If any section, subsection, phrase, sentence or other portion of the Local Law is for any reason held invalid, void, unconstitutional or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.