

**Town of Caledonia**

**Proposed Local Law No. ~~12~~ of 202~~51~~**

**A Local Law to Amend and Restate Chapter 106  
of the Code of the Town of Caledonia to  
Add Additional Regulations for Solar Energy  
Systems and Battery Energy Storage Systems  
and Repeal Moratorium on Major/Medium Solar Energy Systems**

Be it enacted by the Town Board of the Town of Caledonia as follows:

The Town Board of the Town of Caledonia (“Town”) adopts this Local Law pursuant to Article IX of the New York State Constitution, §2(c)(6) and (10), New York Statute of Local Governments, § 10(1) and (7); sections 261-263 of the Town Law and section 10 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.

- I. Chapter 106 of the Code of the Town of Caledonia, entitled Solar Farms, as adopted by Local Law No. 2 of 2016, is hereby amended and restated in its entirety.

**Chapter 106**

**Solar Energy and Battery Energy Storage Systems**

**Article I**

**GENERAL PROVISIONS**

**§ 106-1 Purpose and Legislative Intent.**

The Town Board of the Town of Caledonia states the following as its findings and Legislative intent:

- A. The requirements of this chapter are established for the purpose of regulating the development of Solar Energy Systems and battery energy storage systems in the Town by providing standards for the placement, design, construction, operation, monitoring, modification and removal of these systems.
- B. The Town Board finds it is necessary to properly regulate Solar Energy Systems and battery energy storage systems to protect the health, safety and general welfare of the citizens of the Town of Caledonia, protect residential uses, business areas, and other land uses, conserve Designated Farmland, protect real property values of non-participating landowners, and to preserve the overall beauty, nature and character of the Town, while promoting the effective and efficient use of solar energy resources.
- C. In addition, the Town Board finds it necessary to regulate and govern the proper and timely removal of Solar Energy Systems and battery energy storage systems upon such systems becoming non-functional or when they are no longer being utilized.

**§ 106-2 Definitions.**

As used in this chapter, the terms of Chapter 130 of the Town Code, entitled Zoning, shall apply and the following terms shall have the meanings indicated:

**ANSI**

American National Standards Institute

**BATTERY(IES)**

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

**BATTERY ENERGY STORAGE MANAGEMENT SYSTEM**

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

**BATTERY ENERGY STORAGE SYSTEM**

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

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

**BATTERY ENERGY STORAGE SYSTEM BUILDING-MOUNTED**

A battery energy storage system attached to any part of a building or structure that has an occupancy permit on file with the Town of Caledonia and that is either the principal structure or an accessory structure on a recorded parcel.

**BATTERY ENERGY STORAGE SYSTEM GROUND-MOUNTED**

A battery energy storage system that is not a building-mounted battery energy storage system.

### **BATTERY ENERGY STORAGE SYSTEM PERMIT**

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

### **BUILDING-INTEGRATED SOLAR ENERGY SYSTEM**

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

### **BUILDING-MOUNTED SOLAR ENERGY SYSTEM**

Any Solar Energy System that is affixed to the side(s) or rear of a building or other Structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building.

### **CELL**

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

### **COMMISSIONING**

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

### **DEDICATED-USE BUILDING**

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

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

containing battery energy storage systems or other energy system equipment.

**DESIGNATED FARMLAND.**

Mineral Soils Groups 1 to 4 (MSG 1-4), which are soils recognized by the New York State (NYS) Department of Agriculture and Markets as having the highest value based on soil productivity and capability, in accordance with the uniform statewide land classification system developed for the NYS Agricultural Assessment Program. Land designated as Farmland of Statewide Importance, or land designated as Prime Farmland or Prime Farmland If Drained in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

**ENERGY CODE**

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

**ESCROW**

Account in which funds are accumulated for specific disbursements.

**FARMLAND OF STATEWIDE IMPORTANCE-**

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

**FIRE CODE**

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

**GLARE**

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

**GROUND MOUNTED SOLAR ENERGY SYSTEM**

A freestanding Solar Energy System mounted on a structure, poles or series of poles constructed specifically to support the solar array and not attached to any other structure.

**KILOWATT (KW)**

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

**KILOWATT-HOUR (kWh)**

A measure of the energy capacity of a battery and a battery energy storage system equal to the discharge of 1 kW for a period of one hour.

**MEGAWATT (MW)**

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

**MEGAWATT-HOUR (MWh)**

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

**NAMEPLATE CAPACITY**

For Solar Energy Systems, starting from the initial installation of the Solar Energy System, the maximum electrical generating output that the Solar Energy System is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other de-ratings) as specified by the manufacturer of the Solar Energy System. [Nameplate Capacity for Solar Energy Systems may be expressed in terms of Alternating Current \(AC\) or Direct Current \(DC\).](#)

For battery energy storage systems, starting from the initial installation of the battery energy storage system, the maximum electrical energy storage, in [megawatt-hours \(MWh\)](#), that the battery energy storage system is capable of storing at full charge as specified by the manufacturer of the Solar Energy System.

**NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL)**

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

**NATIVE PERENNIAL VEGETATION**

Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation (NYSDEC).

**NEC**

National Electric Code.

**~~NEW YORK STATE ACCELERATED RENEWABLE ENERGY GROWTH AND COMMUNITY BENEFIT ACT (94-C PROCESS)~~**

~~Permitting process administered by the New York State Office of Renewable Energy Siting (ORES) for proposed Major Solar Energy Systems with a nameplate capacity equal to or greater than 25,000 kW (25 MW) pursuant Section 94-C of the Executive Law and its implementing regulations. The 94-C Process supersedes the permitting authority of this Chapter, but ORES will apply the substantive requirements of this Chapter unless it finds them unreasonably burdensome in view of the New York State renewable energy targets of the Climate Leadership and Community Protection Act and environmental benefits of the Solar Energy System. Projects with a nameplate capacity of 20,000 kW (20 MW) but less than 25,000 kW (25 MW) may opt-in to the 94-C Process.~~

**NFPA**

National Fire Protection Association.

**NON-DEDICATED-USE BUILDING**

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

**NON-PARTICIPATING PROPERTY**

Any property that is not a participating property.

**NON-PARTICIPATING RESIDENCE**

Any dwelling located on a non-participating property.

**NON-PARTICIPATING COMMERCIAL BUILDING**

Any principal building used for conducting a retail business, event barn, tourist home, motel, or hotel that is located on a non-participating property.

**NYS AG AND MARKETS SOLAR ENERGY PROJECT GUIDANCE**

The latest revision of the Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands published by the New York State Department of Agriculture and Markets.

**OCCUPIED COMMUNITY BUILDING**

Any building in Occupancy Group A, B, E, I, R, as defined in the International Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

**OPERATOR**

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

**OWNER**

The owner of the real property on which a Solar Energy System or battery energy storage system is located or installed or proposed to be located or installed.

**PARTICIPATING PROPERTY**

A Solar Energy System host property or any real property that is the subject of an agreement that provides for compensation to the landowner from the Operator (or affiliate) regardless of whether any part of the Solar Energy System is constructed on the property.

**POLLINATOR**

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

**PORTABLE SOLAR ARRAY**

A Solar Energy System that is readily movable and not a ground-mounted, building-mounted, or building-integrated Solar Energy System.

**ROOF-MOUNTED SOLAR ENERGY SYSTEM**

A Solar Energy System mounted on the roof of any legally permitted Building or Structure and wholly contained within the limits of the roof surface for the purpose of producing electricity for on-site consumption.

**SOLAR COLLECTOR**

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

**SOLAR ENERGY EQUIPMENT**

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

**SOLAR ENERGY SYSTEM**

The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, solar panels and solar energy equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Minor, Medium, Major, or On-Farm. A Solar Energy System does not include a Solar Thermal System.

**SOLAR ENERGY SYSTEM ARRAY**

Any number of electrically connected solar panels providing a single electricity producing unit.

**SOLAR ENERGY SYSTEM-MAJOR**

Any Solar Energy System that has a nameplate capacity of 7.5 MW DC or higher.

**SOLAR ENERGY SYSTEM-MEDIUM**

Any Solar Energy System that has a nameplate capacity of greater than ~~10025~~ kW DC but less than 7.5 MW DC.

**SOLAR ENERGY SYSTEM - MINOR**

A Solar Energy System with a nameplate capacity of up to and including ~~10025~~ KW DC or a solar thermal system secondary to the use of the premises for other lawful purposes.

**SOLAR ENERGY SYSTEM-ON-FARM**

A Solar Energy System located on a farm that is a farm operation, as defined by Article 25-AA of the Agriculture and Markets Law, in an agricultural district, where the Solar Energy System is designed, installed, and operated so that the anticipated annual total amounts of electrical energy generated do not exceed the anticipated annual total electricity consumed on the farm by more than 110 percent.

**SOLAR PANEL**

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

**SOLAR THERMAL ELECTRIC EQUIPMENT**

Solar energy conversion technologies that convert solar energy to electricity by heating a working fluid to power a turbine that drives a generator.

**SOLAR THERMAL SYSTEM**

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

**UL**



Underwriters Laboratory, an accredited standards developer in the US.

**UNIFORM CODE**

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

**Article II  
SOLAR ENERGY SYSTEMS**

**§ 106-3 Applicability.**

- A. The standards found in this article are applicable to Solar Energy Systems permitted, installed, or modified in the Town after the effective date of this Chapter, excluding general maintenance and repair.
- B. Solar Energy Systems constructed or installed prior to the effective date of this Chapter shall not be required to meet the requirements of this Chapter.
- C. Modifications made to Solar Energy Systems that alter the footprint area of an approved site plan of an existing Solar Energy System, increases the nameplate capacity by five (5) percent or more, or that triggers NYS Uniform Code compliance, shall comply with the provisions of this Chapter.

**§ 106-4 Schedule of Zoning Districts where Solar Energy Systems Are Permitted.**

| Solar Energy System Classification | R-R    | R-1                  | B-3 | I-1, I-2 | P-D | L-C    |
|------------------------------------|--------|----------------------|-----|----------|-----|--------|
| Minor                              | P      | P/ <del>SPR-GM</del> | P   | P        | P   | P      |
| Medium                             | SPR    | <del>SPR</del>       | -   | SPR      | SPR | SPR    |
| Major                              | SP/SPR | -                    | -   | SP/SPR   | -   | SP/SPR |
| On-Farm                            | P      | P                    | -   | -        | -   | P      |

P=Permitted Use      SPR=Site Plan Review required      SP=Special Permit Required

- =Not permitted      [SPR-GM-Site Plan Review for Ground Mounted Systems](#)

**§ 106-5 General Requirements for Solar Energy Systems.**

- A. A building permit shall be required for installation of all Solar Energy Systems.
- B. All Solar Energy System installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry

standards. Prior to operation the electrical connections must be inspected by the Town Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be approved and inspected by the appropriate public utility.

- C. The Operator shall notify the Town Code Enforcement Officer and the local fire department at least three (3) business days prior to the initial energization of the Solar Energy System. Following such notification, the Town Code Enforcement Officer, or their designee, shall be permitted by the Operator to be present for the initial energization of the Solar Energy System. Failure to comply with the requirements this provision shall constitute a violation of the building permit.
- D. 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 departments.
- E. The Solar Energy System installer shall comply with all licensing and other requirements of the jurisdiction and the State as determined by the Code Enforcement Officer.
- F. When a battery energy storage system is included as part of the Solar Energy System it must be installed to meet the requirements of the NYS Building Code and the battery energy storage system regulations of this Chapter.

G. Issuance of permits and approvals by the Planning Board and/or 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")].

H. All site plan applications for Solar Energy Systems shall be subject to a public hearing to hear all comments for and against the application. Public notice of said hearing shall be printed in a newspaper of general circulation in the Town at least five days prior to the date thereof. The applicant shall, at least 7 days prior to the date of the hearing, give notice in writing by certified mail or by service in person with adequate proof of contact, to all property owners within 500 feet of the boundary of the property to be affected by the application or to all otherwise affected and interested property owners as may be designated by the Planning Board. All costs of sending or publishing any notices relating to the application shall be paid by the applicant and shall be paid to the Town prior to the hearing.

G-I. All solar energy systems shall be subject to an annual safety inspection performed by the Town Code Enforcement Officer, or designee.

#### § 106-6 **Permitting Requirements for Minor and On-Farm Solar Energy Systems.**

A. The Town of Caledonia has adopted the New York Unified Solar Permit for Minor Solar Energy Systems. Permits are issued through the Code Enforcement Officer. To qualify for the New York Unified Solar Permit for Minor Solar Energy System, the following criteria must be met:

1. The Solar Energy System has a rated DC capacity of 10025 KW DC or less.

2. Is mounted on a permitted roof structure, on a legal accessory structure, or ground mounted on the applicant's property. If on a legal accessory structure, a diagram showing the existing electrical connection to the structure is to be included with the application.
  3. If the structure is a sloped roof, solar panels are mounted parallel to the roof surface.
- B. Building-mounted and building-integrated Minor Solar Energy Systems are permitted in all zoning districts with a building permit and do not need a zoning variance or special use permit.
- C. Ground-mounted Minor Solar Energy System are permitted with a building permit as an accessory structure in all zoning districts and On-Farm Solar Energy Systems are permitted in R-R, R-1 and L-C Districts with a Building Permit as an accessory structure, subject to the following requirements:
1. The location of the Solar Energy System meets all applicable setback requirements of the zone in which they are located.
  2. The height of the Solar Energy Equipment shall not exceed seventeen (17) feet at its highest operating position.
  3. The total surface area of all solar panels on the lot shall not exceed ~~8,000~~4,000 square feet and shall not exceed ~~10~~5 percent lot coverage.
  4. The Solar Energy Equipment is located in a side or rear yard.
  5. Solar Energy Equipment shall be designed and located in a way so as to prevent reflective glare toward any inhabited buildings on adjacent properties, roads or from impacting aircraft flight path as provided in Federal Aviation Administration guidance.
  6. Where site plan approval is required elsewhere in the regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of proposed Solar Energy Systems.
  7. If a Solar Energy System is in disrepair or ceases to generate solar energy for more than 9 consecutive months, the property owner shall remove the Solar Energy Equipment within 90 days after the end of the nine-month period.
  8. Portable solar array (e.g. flower) units with a total panel surface area of 100 square feet or greater must adhere to the same guidelines as ground mounted Minor Solar Energy Systems.
  - ~~8-9.~~ Ground mounted Minor Solar Energy Systems greater than 25 kW DC but less than 100 KW DC shall require site plan approval from the Planning Board pursuant to Article XI of the Town of Caledonia Zoning Code (Chapter 130 of the Town Code).

§ 106-7 **Permitting Requirements for Medium Solar Energy Systems.**

Medium Solar Energy Systems are only permitted in RR, I-1, I-2, P-D, R-1, and L-C Districts and only following approval of a site plan by the Town Planning Board that meets the Site Plan Standards set forth in Section 106-9 below and in Article XI of the Town Zoning Code, and obtaining all other necessary approvals.

**Commented [DK1]:** Confirm, meeting notes differed with Chart.  
Also, potential mapping changes.

§ 106-8 **Permitting Requirements for Major Solar Energy Systems**

A. Major Solar Energy Systems are only permitted in R-R, I-1, I-2, and L-C Districts and only following: (a) first, the issuance of a special permit from the Town Board complying with the specific standards for special permits set forth in Section 106-9(D) below; followed by (b) approval of a site plan by the Town Planning Board that meets the Site Plan Standards set forth in Section 106-9(C) below and in Article XI of the Town Zoning Code, and obtaining all other necessary approvals.

B. Prior to submittal of the application for a Major Solar Energy System, the applicant shall schedule a presubmission conference with the Town Board. The purpose of this conference is to give both the Town Board and the applicant an opportunity to gain a better perspective on the ramifications of the proposal. It should facilitate the formal application review process to follow.

C. Prior to making a decision on a special permit for a Major Solar Energy System, the Town Board shall refer the special permit application to the Town Planning Board for a recommendation on the special permit and site plan application, including recommended approval conditions.

A-D. The Planning Board will be the lead agency for the purposes of the SEQRA review of Major Solar Energy System applications.

§ 106-9 **Site Plan Review Standards.**

B-E. Permit application. In addition to the requirements for site development plan review of Chapter XI of the Town Zoning Code, the application for a Solar Energy System shall consist of ten paper copies and an electronic (digital) filing that contains at least the following:

1. Summary. A narrative overview of the Solar Energy System, including its nameplate capacity.
2. Inventory. A tabulation describing the:
  - a. Number and type of each proposed solar array, including their nameplate capacity.
  - b. Dimensions and respective manufacturers.
  - c. Additional structures and/or facilities.
  - d. Documentation that the project will meet all the requirements of the nationally recognized electrical code.
3. Vicinity map. Identification of the property on which the proposed Solar Energy System will be located.

4. Site plan. A plan showing the:

- a. Planned location of each solar array.
- b. All property lines within 1,000 feet of the property lines of the proposed site.
- c. Each array's setback distance from the closest Solar Energy System boundary.
- d. Access road and turnout locations.
- e. Substation(s) and ancillary equipment, buildings, fencing, and structures.
- f. Electrical cabling from the Solar Energy System to the substation(s), and from the substation(s) to where the electricity will leave the site, and associated distribution and transmission lines.
- g. Conservation areas on or adjacent to the site of the Solar Energy System and sensitive natural, historic, or recreational areas as identified during the SEQRA review, including regulated wetlands; water bodies; riparian buffers; populations of endangered or threatened species (federal or state), or habitat for such species; flyways; archaeological sites, cemeteries, and burial grounds; important local historic sites; existing healthy, native forests consisting of at least one acre of contiguous area; individual existing healthy trees that are at least 100 years old; other significant natural features and scenic view sheds; and existing trails or corridors that connect the tract to neighboring areas.
- h. A screening and landscaping plan, prepared by a landscape architect, that shows proposed screening and buffering of all arrays, buildings and other non-array structures on the site or sites. The plan shall include the proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures, and the plan for ongoing vegetation management. The screening and landscaping plan shall include locations, elevations, site lines, height, plant species, and/or materials that will comprise the structures, landscaping and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. Suggested plant species for screening are presented in Appendix A.
- i. The location of Designated Farmland on the site.

5. A visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to be submitted by the applicant at the discretion of the Planning Board.

- ~~5-6.~~          A completed SEQRA EAF (Environmental Assessment Form).
- ~~6-7.~~          Demonstration that the proposed Solar Energy System complies with the current construction and decommissioning and restoration guidelines established by the NYS Ag and Markets Solar Energy Project Guidance on Designated Farmland.
- ~~7-8.~~          Agricultural Integration Plan. For Solar Energy Systems constructed on Designated Farmland, an agricultural integration plan integrating ongoing agricultural activities with the Solar Energy System or a demonstration that such plan is not practicable, in which case a plan for seeding a minimum of 75% of the total surface area of all solar panels on the parcel with native perennial vegetation designed to attract pollinators
- ~~8-9.~~          Construction schedule. A proposed schedule for the completion of the project, including the proposed start date and proposed date of substantial completion, the expected date of connection to the power grid, and the expected date on which operation of the Solar Energy System shall commence.
- ~~9-10.~~          Drainage and Stormwater Management. Erosion, sediment control, and stormwater management plan prepared to NYSDEC standards and the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity, latest edition, if applicable, and that is acceptable to the Town Engineer and the Planning Board.
- ~~10-11.~~          Emergency Services: A fire protection and emergency response plan, created in consultation with the local fire department(s) having jurisdiction over the site of the Solar Energy System.
- ~~11-12.~~          Leases/Agreements/Easements. A demonstration that the Operator has obtained title to or a leasehold interest in the facility site, including ingress and egress access to a public street, or is under binding contract or option to obtain such title or leasehold interest, or can obtain such title or leasehold interest.
- ~~12-13.~~          Lighting plan.
- ~~13-14.~~          Noise: A study of the noise impacts of the construction and operation of the Solar Energy System demonstrating compliance with the approval standards for noise provided herein. Such noise study may demonstrate compliance by utilizing the methodology for solar energy systems and substations provided at 19 NYCRR §900-2.8, as amended.
- ~~14-15.~~          Parking plan.
- ~~15-16.~~          Signage plan.
- ~~16-17.~~          Security Plan. Design Plans to verify that the Solar Energy System is:
- a. Located, fenced, or otherwise secured so as to prevent unauthorized access inside the planted buffer.

- b. Installed in such a manner that they are accessible only to persons authorized to operate or service them, and inaccessible to nonauthorized individuals.

17-18. A signed and executed New York State Standardized Interconnection Contract from the utility company acknowledging that it will be connected to the utility grid in order to sell electricity to the public utility.

18-19. Operation and Maintenance plan. An Operation and Maintenance Plan describing continuing Solar Energy System maintenance and property upkeep, such as mowing and trimming. Such plan will provide for the inspection, and replacement by the following growing season if necessary, of landscaping and trees that are part of the approved landscaping plan to ensure compliance with the landscaping plan requirements. The plan shall also include:

- a. Storm and other severe weather event follow-up, and other actions that shall be taken to keep the Solar Energy System operating quietly, efficiently, and not polluting land, water, air.
- b. Plans to ensure proper operation of inverters, inverter filters and associated electrical equipment, including checks for electrical pollution.
- c. Preventive maintenance inspections at least every six months, and after any hail, wind, or other severe weather event likely to result in damage to the Solar Energy Systems. A wind event is defined as severe wind, which would be wind over 40 miles per hour for one hour or wind gust 58 miles per hour or greater as measured at the nearest available weather station. Each inspection shall consider solar panel condition, metal fatigue, fastener condition, leakage, and other potential failures that might impact public health and safety or the environment. Releases to soils from damaged solar panels shall be managed as hazardous material spills, including removal of all related soil contamination and confirmatory soil testing.
- d. Inspection reports provided to the Town of Caledonia Zoning or Code Enforcement Officer within 30 days of the inspection.
- e. Quarterly inspections of the integrity of security systems.
- f. Provision for an annual safety inspection of the Solar Energy System by the Town of Caledonia ~~Building Inspector~~ Code Enforcement Officer or designee.
- f.g. Maintaining a maximum vegetation height of 24 inches within the Solar Energy System or as otherwise provided in the approved agricultural integration plan.

19-20. A decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility. The decommissioning plan must ensure the site will be restored to a useful,

nonhazardous condition without delay, including, but not limited to, the following:

- a. Removal of all above-ground Solar Energy Equipment, structures and restoration of areas previously used for agricultural production, according to recommendations by the Owner, the Soil and Water Conservation District, and the Department of Agriculture and Markets; removal of concrete piers, footers, or other supports to a depth of 48 inches below the soil surface; and removal of access roads, unless otherwise specified by the Owner.
- b. Restoration of the surface grade and soil after removal of equipment.
- c. Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
- d. A time frame for the execution of the decommissioning plan work.
- e. For Solar Energy Systems constructed on Designated Farmland, the restoration of the Designated Farmland pursuant to the Decommissioning guidelines of the NYS Ag and Markets Solar Energy Project Guidance.
- f. Anticipated life of the Solar Energy System.
- g. The disconnection of the Solar Energy System from the utility power grid.
- h. Stabilization or revegetation of the site as necessary to minimize erosion.
- i. Estimated decommissioning costs, including contingency costs of at least 50% (in current dollars), consistent with the then current NYSERDA guidance or based on a detailed engineering assessment, and certified by a New York State licensed professional engineering.
- j. The verifiable means by which it can be determined that the Solar Energy System has not delivered electricity to the grid for any consecutive 30-day period.
- k. The plan to dispose or recycle all waste generated from the decommissioning of the Solar Energy System pursuant to local, state, and federal solid waste regulations.
- l. Method for ensuring that funds will be available for decommissioning and restoration as set forth in the decommissioning surety requirements of Section 106-10 of this Chapter.

20-21. Ancillary materials. Other relevant studies, reports, certifications, and approvals as may be reasonably requested by the Town of Caledonia to ensure compliance with this chapter and SEQRA.

21-22. Changes. Throughout the permit application review process, the Operator shall promptly notify the Town Planning Board of any changes to the



information contained in the permit application. Changes that do not materially alter the initial site plan may be administratively accepted.

C.F. Solar energy system application review escrow account, application fee, and reimbursement for Town oversight expenses.

1. The Operator shall pay to the Town of Caledonia a nonrefundable application fee. The nonrefundable permit application fee shall be set annually by the Town Board.
2. The Town Planning Board shall require an escrow account agreement for the costs to the Town to obtain engineering, environmental impact, legal, or other professional services to aid it in the review of any submitted Solar Energy System application, including the review required by SEQRA. These costs are reimbursable only from the escrow account, not the application fee.
3. Escrow account set up; initial deposit; application determination.
  - a. The escrow account will be set up by the Town Clerk at the time of the Solar Energy System permit application. This escrow account will be a solely in the name of the Town of Caledonia and be managed by the Town of Caledonia (or designee appointed by the Town).
  - b. The Operator will make an initial escrow deposit to the Town Clerk in an amount determined by the Code Enforcement Officer in consultation with the Caledonia Town Planning Board, Town Engineer, and Town Attorney. A Solar Energy System permit application will not be processed until the escrow deposit has been made. A Solar Energy System permit application determination will not be made until all costs incurred to date have been reimbursed by the Operator.
  - c. Any escrow account interest shall stay with the account and be considered new principal.
4. If the Solar Energy System application is denied, all remaining escrow account funds will be returned to the Operator, less related expenses incurred by the Town of Caledonia. The money will be returned, along with a statement as to these costs, within 30 days of the application being formally denied, or receipt of a letter of withdrawal. Permit fees are nonrefundable.
5. The Operator shall reimburse the Town of Caledonia for all oversight expenses (the "Oversight Expenses") incurred by the Town relating to the Solar Energy System, from application through decommissioning. These Oversight Expenses include (but are not limited to) amounts required for building permits, licensing, relicensing, decommissioning, inspections, administration, engineering, required expert health and wildlife evaluations, handling complaints, and legal costs. "Legal costs" include reasonable attorney fees for the Town of Caledonia if the Town of Caledonia in the event that an action is commenced by the Town to enforce provisions of this chapter for the Solar Energy System.

6. An escrow account will be funded for the reimbursement of these Oversight Expenses for the life of the Solar Energy System by the Operator. The Operator will replenish any escrow funds used by the Town of Caledonia within 30 calendar days of being sent written notification (and explanation) of said withdrawals. Failure to maintain the escrow account at a minimum balance, equal to one year of anticipated Oversight Expenses as estimated by the Town of Caledonia Planning Board, Town Engineer, and Town Attorney, within 30 days of being given notice shall be cause for revocation of the Solar Energy System permit(s) issued by the Town.
7. Once the Operator believes that they have satisfactorily complied with the decommissioning conditions specified in this Chapter, they will send the Town of Caledonia written notification. The Town of Caledonia then has 90 days to verify to their satisfaction that all decommissioning conditions have been complied with. If there is material noncompliance, the Town of Caledonia will so notify the Operator. Upon confirmation by the Town that the requirements of the decommissioning plan have been met, the Town will return all escrow account funds to the Operator, less related expenses incurred by the Town of Caledonia, along with an explanatory statement.

D-G. Site Plan Approval Design Standards. In addition to site plan requirements under Article XI of the Town Zoning Law, prior to issuance of final site plan approval from the Planning Board for a Solar Energy System, the following requirements shall be met:

1. Setbacks.
  - a. Except as otherwise approved by the Planning Board pursuant to this subsection 106-9(C)(1), all Solar Energy Systems shall comply with the following setback requirements. Such minimum setbacks for a Solar Energy System shall be measured from the fencing surrounding the Solar Energy System that is nearest to the relevant property line, building or highway rights-of-way. Landscape buffers for screening may be placed in the setback area.
    - i. A minimum side and rear setback of 750 feet from a non-participating residence or commercial building as measured from the side and rear walls of the building.
    - ii. 250 feet from the property lines of a non-participating property containing a non-participating residence.
    - iii. 150 feet from the property lines of a non-participating property that does not contain a non-participating residence.
    - iv. 200 feet from the right of way line of a Town road.
    - v. 250 feet from the right of way line of a County road.
    - vi. 250 feet from the right of way line of a State road or highway.



following growing season with the approved plantings from the screening and landscape plan.

4. Power collection. All on-site utility, distribution, and transmission lines are, to the extent feasible, to be placed underground.
5. Agricultural Resources. Any Solar Energy Systems located on parcels containing Designated Farmland shall be located on no more than ~~2050~~ % of the Designated Farmland present on the parcel. If contiguous participating properties containing Solar Energy Systems are present, the collective parcels may be treated as one parcel for the purposes of the Designated Farmland location requirement of this subsection. Subject to discretion of the Planning Board, if the landowner demonstrates that – notwithstanding the classification as Designated Farmland – the land cannot be profitably employed due to excessive wetness, rocky conditions or slopes, the land may be excluded from the calculation required by this section.
6. All Solar Energy Systems shall be required to comply with an approved Agricultural Integration Plan or otherwise seed a minimum of 75% of the total surface area of all solar panels on the parcel with native perennial vegetation designed to attract pollinators.
7. To the maximum extent practicable, Solar Energy Systems located on Designated Farmland shall be constructed in accordance with the construction requirements of the NYS Ag and Markets Solar Energy Project Guidance.
8. Architectural Compatibility: All appurtenant structures, including, but not limited to, equipment shelters, storage facilities, transformers and substations, shall be architecturally compatible with each other and shall be screened from the view of persons not on the parcel.
9. Fencing: All Solar Energy Systems shall be enclosed by a minimum of seven-foot fence, or of a height as otherwise required by the National Electric Code, consisting of a high green or black-powder-coated fence with top rail system or of American Wire woven 4" by 6" fencing with a self-locking gate to prevent unauthorized access. Warning signs with the Operator's and Owner's contact information shall be placed on the entrance and perimeter of the property and of the Solar Energy System at locations acceptable to the Planning Board.
10. Glare: All solar energy production systems are designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties, roads or from impacting aircraft flight path as provided in Federal Aviation Administration guidance.
11. Lighting of Solar Energy Systems shall be consistent with state and federal law. Lighting of appurtenant structures shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.

12. Parking: There shall be two parking spaces or the number of parking spaces needed to accommodate the maximum number of anticipated maintenance personnel to be present at the Solar Energy System at one time, whichever is greater, to be used in connection with the maintenance of the Solar Energy System. Such parking spaces shall not be used for the permanent storage of vehicles.
13. Noise levels from the Solar Energy System will comply with the noise limits for solar energy facilities contained in the New York Office of Renewable Energy Siting regulations at ~~1649~~ N.Y.C.R.R. §~~9001100~~-6.5(b) by implementing the design required by ~~1916~~ N.Y.C.R.R. §~~9001100~~-2.8, or as such regulations may be amended from time to time, except that the standards applicable to existing non-participating residences shall also be met for existing participating residences.
14. The installation of a clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. The Solar Energy System will not contain any signs or other advertising. This does not include any identification plaques that may be required by the electric utility, fire department or emergency response or other governmental agency.
15. Surface Area: The total surface area of all solar energy equipment shall not exceed 80% of the total parcel area.

E.H. Standards for Town Board's Solar Energy System special use permit application decision.

In addition to the site plan approval standards of Article XI of the Town Zoning Code, approval of the special use permit application requires that the Town Board find:

1. That the proposed Solar Energy System protects adjacent land uses and will not adversely affect the existing character of the neighborhood in which the Solar Energy System would be located.
2. The proposed Solar Energy System is in harmony with local laws of the Town and complies with the design standards and other requirements of this Chapter and Applicable safety and safety-related codes and requirements.
3. The operation of the Solar Energy System would not create significant adverse impacts to human health and the environment.

F.I. The Solar Energy System approval shall include appropriate conditions to mitigate adverse impacts of the Solar Energy System, including, but not limited to:

1. Compliance with the approved Landscaping Plan, Vegetation Management Plan, and Operations and Maintenance Plan.
2. Prior to the issuance of a building permit, the Operator shall provide a copy of all necessary titles to or leasehold interests in the facility, including ingress and egress access to public streets, and such deeds, easements, leases, licenses, or other real property rights or privileges as are necessary for all interconnections for the facility.
3. Initial and annual site specific training for the Code Enforcement Officer, Fire Department, Emergency Response, Livingston County Emergency Management

System, and Police Department, with expenses for such training covered by the Operator.

4. The Decommissioning Plan shall run to the benefit of the Town of Caledonia and be executed by the Operator as well as the Owners and such signatures shall be notarized in a format that allows the plan to be recorded at the Office of the Livingston County Clerk. This document shall be recorded as an irrevocable deed restriction indexed against the property upon which the Solar Energy System is to be constructed.
5. Solar Energy System construction-related damage. The Operator of any permitted Solar Energy System shall, repair or replace all real or personal property, public or private, damaged as a result of the Solar Energy System construction.
6. Major Solar Energy Systems shall be considered major projects pursuant to Section 124-6 of the Town Code and shall be required to obtain a road use permit and enter into a road maintenance agreement acceptable to the Highway Superintendent pursuant to Article III of Chapter 124 of the Town Code. Prior to the commencement of construction of the Solar Energy System, an existing condition survey of the approved hauling routes for construction of the Solar Energy System. Any road damage during construction that is caused by the Operator or one or more of its subcontractors that is identified by the New York State Department of Transportation ("NYSDOT"), Livingston County Highway, and Town of Caledonia Highway (as appropriate) shall be repaired or reconstructed to the satisfaction of NYSDOT, Livingston County Highway, and Town of Caledonia Highway (as appropriate) at the Operator's expense, prior to the final inspection. In addition, the Operator shall pay for all costs related to NYSDOT, Livingston County Highway, and Town of Caledonia Highway (as appropriate) pre-inspection work prior to receipt of the final inspection.
7. Site access shall be maintained to a level acceptable to the local Fire Department and emergency medical services. All means of shutting down the Solar Energy System shall be clearly marked.
8. The Operator shall be responsible for the cost of maintaining the Solar Energy System and any access road(s), unless accepted as a public way.
9. The Operator shall identify a responsible person with contact information for public inquiries from the commencement of construction of the Solar Energy System until the completion of the decommissioning plan. The Operator shall also identify the contractors responsible for performing mowing and landscaping maintenance required by the approved Landscaping Plan, Vegetation Management Plan, and Operations and Maintenance Plan.
10. The Operator is responsible to provide the Town of Caledonia with a current written list of all chemicals used for maintenance and operation of the Solar Energy System (e.g., pesticides, herbicides, cleaners). This list shall include quantity and frequency of application of each of these chemicals. The Operator shall be liable for a civil

penalty of not more than \$500 for each day or part thereof during which violation of the requirements of this subsection continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Town of Caledonia.

11. The Operator shall secure and maintain public liability insurance from the commencement of construction of the Solar Energy System until the completion of the decommissioning plan, as follows:
  - a. Commercial general liability covering personal injuries, death and property damage: \$1,000,000 per occurrence (\$2,000,000 aggregate), which shall specifically include the Town of Caledonia and its officers, employees, board members, attorneys, agents and consultants as additional named insured.
  - b. Umbrella coverage: \$5,000,000.
  - c. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with at least a Best's rating of "A."
  - d. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town of Caledonia with at least 30 days' prior written notice in advance of cancellation.
  - e. Renewal or replacement policies shall be delivered to the Town of Caledonia at least 15 days before the expiration of the insurance that such policies are to renew or replace.
  - f. No more than 15 days after the grant of the permit and before construction is initiated, the permit holder shall deliver to the Town of Caledonia a copy of each of the policies or certificates representing the insurance in the required amounts.
  - g. A certificate of insurance that states that it is for informational purposes only and does not confer sufficient rights upon the Town of Caledonia shall not be deemed to comply with this chapter.

**§ 106-10 Solar Energy System Surety for Decommissioning.**

- A. The Operator shall place with the Town of Caledonia an acceptable letter of credit, performance bond, or other form of security reasonably acceptable to the Town attorney and engineer, that is sufficient to cover the cost of implementing the decommissioning plan. The amount of the letter of credit or other security shall be in the amount of one hundred fifty percent (150%) of the estimated cost of implementing the approved decommissioning plan. The estimated cost of implementing the decommissioning plan will be certified by a licensed professional engineer and reviewed by the Town Engineer. The salvage value of the solar energy equipment shall not be accounted for in the estimated cost of implementing the decommissioning plan. The

financial security shall be updated every fifth year thereafter specifying changes to the estimated cost of implementing the decommissioning plan.

- B. The Town of Caledonia shall use this surety to assure the faithful performance of the decommissioning plan. The full amount of the bond or security shall remain in full force and effect until the decommissioning plan has been fully implemented.
- C. The surety for implementing the decommissioning plan shall not be released until the Town Engineer has confirmed that the approved decommissioning plan has been fully implemented and is satisfied that any road damage identified during and after decommissioning that is caused by the Operator and/or one or more of its contractors or subcontractors has been repaired or reconstructed to the satisfaction of the NYSDOT, Livingston County Highway and/or Town of Caledonia Highway Department at the Operator's expense. In addition, the Operator shall pay for all costs related to work of the NYSDOT, Livingston County Highway, and Town of Caledonia Highway (as appropriate) inspection prior to receipt of the release of the surety.

**§ 106-11 Permit Time Frame/Abandonment.**

- A. Permit Time Frame. The special use permit and site plan approval for a Solar Energy System shall be valid for a period of twenty-four (24) months, provided that a building permit is issued for construction and 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 Planning Board, within 24 months after approval, the Town may extend the time to complete construction for up to two consecutive extensions each of twelve (12) months. If the Owner and/or Operator fails to perform substantial construction after 48 months, the approvals shall expire. If the Owner or Operator fails to perform, the Town may notify the Owner or Operator to implement the decommissioning plan. In such instance, the decommissioning plan must be completed within 150 days of notification by the Town.
- B. Upon notification by the Operator, made to the Code Enforcement Officer by certified mail, of the proposed date of discontinued operation of the Solar Energy System, or by cessation of activity of a constructed facility for a period of one year, the Town may notify the Operator that the Operator must implement the decommissioning plan within 150 days.
- C. If the Owner or Operator of the facility fails to fully implement the decommissioning plan within the required timeframe, the Town may, at its discretion, implement the decommissioning plan and may recover all of the expenses incurred for such activities from the defaulted Owner or Operator, or, at the Town's sole discretion, from any financial security made with the Town as set forth herein. The Operator and the Owner of the real property on which the Solar Energy System is located shall be jointly and separately liable for all costs and expenses of the Town incurred during and relating to the removal of the Solar Energy System pursuant to the decommissioning plan. Notwithstanding the foregoing, the Town shall first attempt to secure payment for such costs and expenses from the security made with the Town as set forth herein. In the



event the costs incurred by the Town to implement the decommissioning plan are not obtained from the security, the Town shall next attempt to secure payment for such costs and expenses from the Operator; however, in the event the Town is not made whole following reasonable attempts to collect such costs and expenses from the operator of the installation, the Town reserves all rights to pursue payment for such costs and expenses from the Owner of the real property on which the installation in question is located. Such costs shall be assessed against the property, shall become a lien and tax upon the property, and shall be enforced and collected with interest by the same officer and in the same manner as other taxes. Legal counsel of the Town shall institute appropriate action for the recovery of such cost, plus attorney's fees, including, but not limited to filing of municipal claims pursuant to the cost of such work, 9% interest per annum, plus a penalty of 9% of the amount due plus attorney's fees and costs incurred by the Town for the removal work and filing the claim.

- D. With the consent of the Owner, the Code Enforcement Officer along with the Town Engineer and the Planning Board may allow the Operator to implement the decommissioning plan while allowing the landscaping to remain.

**§ 106-12 Non-Conformance.**

- A. If a Building-Mounted Solar Energy System is to be installed on any building or structure that is non-conforming because its height violates the height restrictions of the zoning district in which it is located, the building-mounted system shall be permitted, so long as the building-mounted system does not extend above the peak or highest point of the roof to which it is mounted and so long as it complies with the other provisions of this law.
- B. If a Building-Mounted Solar Energy System is to be installed on a building or structure on a non-conforming property that does not meet the minimum setbacks required and/or exceeds the lot coverage limits for the zoning district in which it is located, a Building-Mounted System shall be permitted, so long as there is no expansion of any setback or lot coverage non-conformity and so long as it complies with the other provisions of this law.

**§ 106-13 Project Ownership and Transfer.**

If the Operator changes, the special use permit and/or site plan approval shall remain in effect, provided that the successor Operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. The new Operator shall notify the Code Enforcement Officer of such change within 30 days of the change. The new Operator must provide such notification to the Code Enforcement Officer in writing. The special use permit and all other local approvals for the Solar Energy System shall become void if a new Operator fails to provide written notification to the Code Enforcement Officer in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this Chapter.

**§ 106-14 Real Property Tax Law § 487.**

- A. Where the Solar Energy System is not designed, installed, and operated so that the anticipated annual total amounts of electrical energy generated do not exceed the anticipated annual total electricity consumed on the property by more than 110 percent, the Operator shall be required to enter into an agreement for a Payment in Lieu of Taxes (PILOT) with the Town pursuant to Real Property Tax Law § 487. This PILOT Agreement shall be drafted by the Town Attorney in consultation with the Town Assessor, Town Supervisor, and the Livingston County Industrial Development Agency (IDA). A PILOT Agreement executed with the Livingston County IDA, acceptable to the Town, in its sole discretion, for the Solar Energy System may serve to meet the requirements of this subsection.
- B. No building permit shall be issued or construction commenced for a Solar Energy System requiring a PILOT until such time as the PILOT agreement has been executed by all parties and recorded at the Office of the Livingston County Clerk.
- C. The PILOT shall run to the benefit of the Town of Caledonia and be executed by the Operator and the Owners of the real property upon which the Solar Energy System is to be located and such signatures be notarized in such a way that allows the PILOT agreement to be recorded at the Office of the Livingston County Clerk. Prior to commencement of construction, the PILOT agreement shall be recorded at the Office of the Livingston County Clerk as a lien on the property and indexed against the property(ies) upon which the Solar Energy System is to be constructed. The intent of the above provisions is so that should the Operator of the Solar Energy System default with regard to such PILOT agreement, that such obligation will become the responsibility of the then Owner of the property upon which the Solar Energy System is sited and that failure to satisfy the terms of such agreement will permit the Town of Caledonia to enforce such agreement as against the Owner.
- D. Community Host Agreement. Prior to issuance of a building permit for the Solar Energy System, the Operator for which a Solar Energy System with a nameplate capacity of over 1MW is to be developed shall enter into a Community Host Agreement with the Town for payment by the Operator to the Town of an agreed upon monetary amount or provision of a specified public improvement or improvements that shall act to offset the potential adverse impacts that may be associated with a Solar Energy System.

**Article III**

**BATTERY ENERGY STORAGE SYSTEMS**

**§ 106-15 Applicability.**

- A. The requirements of this Chapter shall apply to all battery energy storage systems permitted, installed, or modified in the Town after the effective date of this Chapter, excluding general maintenance and repair.
- B. Battery energy storage systems constructed or installed prior to the effective date of this Chapter shall not be required to meet the requirements of this Chapter.

- C. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Chapter.

**§106-16 General Requirements.**

- A. A building permit and an electrical permit shall be required for installation of all battery energy storage systems.
- B. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”).]
- C. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Local Laws and Ordinances of the Town.

**§106-17 Schedule of Zoning Districts where Battery Energy Storage Systems Are Permitted**

| Battery Energy Storage System Classification | R-R    | R-1    | B-3    | I-1, I-2 | P-D    | L-C    |
|--|--------|--------|--------|----------|--------|--------|
| Building-Mounted Tier 1                      | P      | P      | P      | P        | P      | P      |
| Ground-Mounted Tier 1                        | P      | P      | P      | P        | P      | P      |
| Tier 2                                       | SPR/SP | SPR/SP | SPR/SP | SPR/SP   | SPR/SP | SPR/SP |

P=Permitted Use      SPR=Site Plan Review required      SP=Special Permit Required

- =Not permitted

#### §106-18 Permitting Requirements for Tier 1 Battery Energy Storage Systems

- A. Building-mounted and ground-mounted Tier 1 battery energy storage systems shall be permitted in all areas of the Town, subject to the Uniform Code and the battery energy storage system Permit and are exempt from site plan review.
- B. Ground-mounted Tier 1 battery energy systems are permitted as accessory structures and are subject to the following requirements:
  - 1. The height of the ground-mounted Tier 1 battery energy storage system and any mounts shall not exceed fifteen (15) feet.
  - 2. The total surface area of the ground-mounted Tier 1 battery energy storage system on the lot shall not exceed 5 percent lot coverage.
  - 3. The ground-mounted Tier 1 battery energy storage system is not the primary use of the property.
  - 4. The ground-mounted Tier 1 battery energy storage system is located in a side or rear yard.
  - 5. The ground-mounted Tier 1 battery energy storage system shall comply with the minimum setbacks for accessory structures applicable to the zoning district in which the battery energy storage system is sited.
  - 6. The ground-mounted Tier 1 battery energy storage system shall be screened from adjacent residences through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.

Where site plan approval is required elsewhere in the regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of proposed ground-mounted Tier 1 battery energy storage system.

#### §106-19 Permitting Requirements for Tier 2 Battery Energy Storage Systems

Tier 2 battery energy storage systems are conditionally permitted within all zoning districts through the issuance of a special use permit and site development plan approval by the Planning Board of the Town of Caledonia pursuant to this chapter and in accordance with Article XI of Chapter 130 Zoning of the Code (Zoning Code) of the Town of Caledonia, and subject to the site development plan application requirements set forth in this Section.

- A. The Town shall require any Operator to enter into an escrow agreement to pay the engineering and legal costs of any application review, including but not limited to the costs for engaging an independent peer review of the Applicant's Tier 2 battery energy

storage system special use permit application, including the review required by SEQRA, and for battery energy storage system emergency response training for the local and mutual aid fire departments. Payment of said escrow and all application fees shall be made at the time of application submission.

- B. The Operator shall submit ten copies of the application and site plan. Applications for the installation of Tier 2 battery energy storage system shall include the following:
- 1) The appropriate Environmental Assessment Form pursuant to the NY State Environmental Quality Review act.
  - 2) Site plans of the battery energy storage system signed by a licensed Professional Engineer showing the proposed layout of the system.
  - 3) Property lines and physical features, including roads, for the project site.
  - 4) A screening and landscaping plan prepared by a landscape architect showing proposed screening and buffering of all structures on the site. The plan shall include the proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures, and the plan for ongoing vegetation management. The screening and landscaping plan shall include locations, elevations, site lines, height, plant species, and/or materials that will comprise the structures, landscaping and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. Suggested plant species for screening are presented in Appendix A. Invasive species that shall not be planted as part of the landscape buffer, include, but are not limited to, winter creeper, garden loosestrife, Chinese silver grass, yellow flag iris, bamboo, Norway maple, Japanese barberry, sweet autumn clematis, burning bush and siebold's viburnum, or other invasive species as identified by the NYSDEC or the NY Invasive Species Clearinghouse at Cornell University.
  - 5) A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
  - 6) A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
  - 7) Verification that the battery energy storage system will be constructed and operated in compliance with all applicable Federal and State standards.
  - 8) Name, address, and contact information of proposed or potential system installer and the Owner and/or Operator. Such information of the final system installer shall be submitted prior to the issuance of building permit.

- 9) Name, address, phone number, and signature of the Operator, as well as all the Owners, demonstrating their consent within the prior three months to the application and the use of the property for the battery energy storage system.
- 10) Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code.
- 11) Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code and have been developed in consultation with the local fire district and Livingston County Office of Emergency Management.
- 12) Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code.
- 13) 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.
- 14) A study of the noise impacts of the construction and operation of the battery energy storage system demonstrating compliance with the approval standards for noise provided herein. The name(s) of the preparer(s) of the study and qualifications to perform such analyses shall be stated. If the study is prepared by certified member(s) of a relevant professional society or state, the details of such certification(s) shall be stated. Such noise study may demonstrate compliance by utilizing the methodology for solar energy systems and substations provided at 19 NYCRR §900-2.8, as amended.
- 15) Emergency ~~Operations-Response~~ Plan. The emergency ~~operations-response~~ plan shall include the following information:
  - a. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
  - b. Procedures for inspection and testing of associated alarms, interlocks, and controls including on-site physical inspection no less frequent than quarterly.
  - c. Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.

- d. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
- e. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
- f. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
- g. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.
- h. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures, including the Livingston County Office of Emergency Management, and the fire districts of Mumford, Scottsville, and Caledonia.

16) Decommissioning Plan. The Operator shall submit a decommissioning plan, developed in accordance with the Uniform Code, to be implemented upon abandonment and/or in conjunction with removal from the facility. The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:

- a. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site.
- b. Restoration of the surface grade and soil after removal of equipment.
- c. Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
- d. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations. No on-site disposal of such waste shall be permitted.
- e. The anticipated life of the battery energy storage system.
- f. The estimated decommissioning costs and how said estimate was determined.
- g. The method by which the decommissioning cost will be kept current.
- h. The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the

battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed.

- i. For battery energy storage systems constructed on Designated Farmland, the restoration of the Designated Farmland pursuant to the Decommissioning guidelines of the NYS Ag and Markets Solar Energy Project Guidance.
- j. A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

C. Review Procedure

- 1) The battery energy storage system application shall be reviewed by the Code Enforcement Officer for completeness. An application shall be complete when it addresses all matters listed in this Chapter including, but not necessarily limited to: (i) compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code and (ii) matters relating to the proposed battery energy storage system and floodplain, utility lines and electrical circuitry, signage, lighting, vegetation and tree-cutting, noise, decommissioning, site plan and development, special use and development, ownership changes, safety, permit time frame and abandonment.
- 2) Applicants shall be advised within 45 days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
- 3) The application will be subject to the Site Development Plan Review procedures of Article XI of the Zoning Code.
- 4) The application shall be referred to the Livingston County Planning Board pursuant to General Municipal Law § 239-m.

D. Site Plan and Special Use Permit Approval Standards. In addition to the Site Development Plan Review standards of Article XI of the Zoning Code, approval of the site plan application requires that the Planning Board find that the proposed battery energy storage system protects adjacent land uses, will not adversely affect the neighborhood, and conforms to the following minimum requirements:

- 1) Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
- 2) Signage. No signage or graphic content may be displayed on the battery energy storage system except the manufacturer's badge, safety information and



equipment specification information. A sign not to exceed nine square feet shall be displayed on or near the main access point and shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.

- 3) As required by the 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.
- 4) Lighting. Lighting of the battery energy storage systems shall be dark sky compliant and limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
- 5) Vegetation and tree-cutting. Areas within 10 feet on each side of Tier 2 battery energy storage systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.
- 6) Setbacks.
  - a. Except as otherwise approved by the Planning Board pursuant to this subsection, all Tier 2 battery energy storage systems shall comply with the following setback requirements. Such minimum setbacks shall be measured from the fencing surrounding the battery energy storage system that is nearest to the relevant property line, building or highway rights-of-way. Landscape buffers for screening may be placed in the setback area.
    - i. A minimum side and rear setback of 750 feet from a non-participating residence or commercial building as measured from the side and rear walls of the building.
    - ii. 250 feet from the property lines of a non-participating property containing a non-participating residence.
    - iii. 150 feet from the property lines of a non-participating property that does not contain a non-participating residence.
    - iv. 200 feet from the right of way line of a Town road.
    - v. 250 feet from the right of way line of a County road.
    - vi. 250 feet from the right of way line of a State road or highway.

- b. The Planning Board may approve a lesser setback from the requirements of subsections §106-19(D)(6)(a)(i), (ii), (iii), and (iv) if the Operator demonstrates, in consideration of such factors as the subject property's natural characteristics and proposed mitigation including, but not limited to, topography, existing and proposed vegetative buffers, the proximity to the non-participating residence, seasonality of the Town road, and the presence of participating properties on adjoining parcels separated by a Town road, that:
- 7) Screening and Visibility. The screening and landscaping plan should demonstrate that the landscaped buffer will provide year-round screening so that to the maximum extent practicable the battery energy storage system is not visible from roadways and adjacent non-participating properties. The vegetation plantings shall be planted within 25 feet of the fencing surrounding the perimeter of the battery energy storage system. In lieu of plantings, berms or existing vegetation may be used to satisfy all or a portion of the required landscaped screening. If the buffer utilizes vegetative planting, the plantings shall consist of evergreen trees or bushes or the deer and weather resistant plant species presented in Appendix A, or as otherwise recommended by the landscape architect, planted no more than 8 feet apart and at least 4 feet tall at time of planting. The buffer shall obtain a height of at least 10 feet within 5 growing seasons. The vegetation management plan shall ensure that any landscaping and trees that die off will be replaced by the following growing season with the approved plantings from the screening and landscape plan.
  - 8) There will no adverse impact on the Town road or on the adjacent non-participating residence from the construction, maintenance, and operation of the battery energy storage system.
  - 9) Height. Tier 2 battery energy storage systems shall not exceed fifteen (15) feet in height.
  - 10) Fencing Requirements. Tier 2 battery energy storage systems, including all mechanical equipment, shall be enclosed by a minimum of seven-foot fence, or of a height as otherwise required by the National Electric Code, consisting of a high green or black-powder-coated fence with top rail system with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building.
  - 11) Warning signs with the Owner's contact information shall be placed on the entrance and perimeter of the property and of the battery energy storage system at locations acceptable to the Planning Board.
  - 12) Security. Buildings must be protected from vehicle impact, including but not limited to protection provided by bollards.
  - 13) Secondary Containment. To the extent permitted under Uniform Code, secondary containment shall be provided to contain any release of electrolyte or other hazardous materials.

14) Noise. Noise levels from noise sources of battery energy storage systems will comply with the noise limits for substation and solar energy facilities contained in the New York Office of Renewable Energy Siting regulations at 19 N.Y.C.R.R. §900-6.5(b) by implementing the designed required by 19 N.Y.C.R.R. §900-2.8 except that the standards applicable to existing non-participating residences shall also be met for existing participating residences.

G.J. The Tier 2 Batter Energy Storage System approval shall include appropriate conditions to mitigate adverse impacts of the Batter Energy Storage System, including, but not limited to:

1. Compliance with the approved Landscaping Plan, Vegetation Management Plan, and Operations and Maintenance Plan.
2. Prior to the issuance of a building permit, the Operator shall provide a copy of all necessary titles to or leasehold interests in the facility, including ingress and egress access to public streets, and such deeds, easements, leases, licenses, or other real property rights or privileges as are necessary for all interconnections for the facility.
3. The Decommissioning Plan shall run to the benefit of the Town of Caledonia and be executed by the Operator as well as the Owners and such signatures shall be notarized in a format that allows the plan to be recorded at the Office of the Livingston County Clerk. This document shall be recorded as an irrevocable deed restriction indexed against the property upon which the Battery Energy Storage System is to be constructed.
4. Battery Energy Storage System construction-related damage. The Operator of any permitted Battery Energy Storage System shall, repair or replace all real or personal property, public or private, damaged as a result of the Battery Energy Storage System construction.
5. Tier 2 Battery Energy Storage System shall be considered major projects pursuant to Section 124-6 of the Town Code and shall be required to obtain a road use permit and enter into a road maintenance agreement acceptable to the Highway Superintendent pursuant to Article III of Chapter 124 of the Town Code. Prior to the commencement of construction of the Battery Energy Storage System, an existing condition survey of the approved hauling routes for construction of the Battery Energy Storage System. Any road damage during construction that is caused by the Operator or one or more of its subcontractors that is identified by the New York State Department of Transportation ("NYSDOT"), Livingston County Highway, and Town of Caledonia Highway (as appropriate) shall be repaired or reconstructed to the satisfaction of NYSDOT, Livingston County Highway, and Town of Caledonia Highway (as appropriate) at the Operator's expense, prior to the final inspection. In addition, the Operator shall pay for all costs related to NYSDOT, Livingston County Highway, and Town of Caledonia Highway (as appropriate) pre-inspection work prior to receipt of the final inspection.
6. Site access shall be maintained to a level acceptable to the local Fire Department and emergency medical services. All means of shutting down the Battery Energy

Storage System shall be clearly marked.

7. The Operator shall be responsible for the cost of maintaining the Battery Energy Storage System and any access road(s), unless accepted as a public way.

~~8.~~ The Operator shall identify a responsible person knowledgeable about the Battery Energy Storage System and associated hazards to be immediately available via phone with contact information for public inquiries from the commencement of construction of the Battery Energy Storage System until the completion of the decommissioning plan.

~~8-9.~~ In the event of a Battery Energy Storage System fire, qualified personnel or representatives of the Operator with knowledge of the Battery Energy Storage system installation must be dispatched within 15 minutes of notification of such fire and fire mitigation personnel and must be able to arise on the scene of the fire within four hours to provide expert guidance to local first responders. Such personnel must have successfully completed ICS-100, ICS-200, and IS-700B training courses (or equivalent) so they can effectively coordinate with local emergency services during the event.

~~9-10.~~ The Operator is responsible to provide the Town of Caledonia with a current written list of all chemicals used for maintenance and operation of the Battery Energy Storage System (e.g., pesticides, herbicides, cleaners). This list shall include quantity and frequency of application of each of these chemicals. The Operator shall be liable for a civil penalty of not more than \$500 for each day or part thereof during which violation of the requirements of this subsection continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Town of Caledonia.

~~10-11.~~ The Operator shall secure and maintain public liability insurance from the commencement of construction of the Battery Energy Storage System until the completion of the decommissioning plan, as follows:

- h. Commercial general liability covering personal injuries, death and property damage: \$1,000,000 per occurrence (\$2,000,000 aggregate), which shall specifically include the Town of Caledonia and its officers, employees, board members, attorneys, agents and consultants as additional named insured.
- i. Umbrella coverage: \$5,000,000.
- j. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with at least a Best's rating of "A."
- k. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town of Caledonia with at least 30 days' prior written notice in advance of cancellation.



new Owner shall notify the Code Enforcement Officer of such change within 30 days of the change. The new Owner must provide such notification to the Code Enforcement Officer in writing. The special use permit and all other local approvals for the battery energy storage system shall become void if a new Owner fails to provide written notification to the Code Enforcement Officer in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this Chapter.

§106-20 **Safety.**

- A. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:
  - a. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
  - b. UL 1642 (Standard for Lithium Batteries),
  - c. UL 1741 or UL 62109 (Inverters and Power Converters),
  - d. Certified under the applicable electrical, building, and fire prevention codes as required.
- B. Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.
- C. Emergency ~~Action-Response~~ Plan. A copy of the approved Emergency ~~Operations Response~~ Plan shall be given to the Owner, Livingston County Emergency Management, the local fire department, and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The Owner and Operator are responsible for ensuring any updates to the approved Emergency ~~ResponseOperations~~ Plan are provided to the above holders of the Emergency ~~ResponseOperations~~ Plan, and for providing, and paying for, initial and annual training drills with emergency responders to the Mumford, Scottsville, and Caledonia Fire Departments and the Livingston County Office of Emergency Response.
- D. Site Access. Battery energy storage 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 and, if the Tier 2 battery energy storage system is located in an ambulance district, the local ambulance corps.
- E. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within

weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

**§106-21 Permit Time Frame/Abandonment**

- A. Permit Time Frame. The special use permit and site plan approval for a battery energy storage system shall be valid for a period of twenty-four (24) months, provided that a building permit is issued for construction and 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 Planning Board, within 24 months after approval, the Town may extend the time to complete construction for up to two consecutive extensions each of twelve (12) months. If the Owner and/or Operator fails to perform substantial construction after 48 months, the approvals shall expire. If the Owner fails to perform, the Town may notify the Owner to implement the decommissioning plan. In such instance, the decommissioning plan must be completed within 150 days of notification by the Town.
- B. Upon notification by the Owner, made to the Code Enforcement Officer by certified mail, of the proposed date of discontinued operation of the battery energy storage system, or by cessation of activity of a constructed facility for a period of one year, the Town may notify the Owner that the Owner must implement the decommissioning plan within 150 days.
- C. If the Owner of the facility fails to fully implement the decommissioning plan within the required timeframe, the Town may, at its discretion, implement the decommissioning plan and may recover all of the expenses incurred for such activities from the defaulted Owner, at the Town's sole discretion, from any financial security made with the Town as set forth herein. The Owner of the real property on which the battery energy storage system is located shall be jointly and separately liable for all costs and expenses of the Town incurred during and relating to the removal of the battery energy storage system pursuant to the decommissioning plan. Notwithstanding the foregoing, the Town shall first attempt to secure payment for such costs and expenses from the security made with the Town as set forth herein. In the event the costs incurred by the Town to implement the decommissioning plan are not obtained from the security, the Town shall next attempt to secure payment for such costs and expenses from the Owner; however, in the event the Town is not made whole following reasonable attempts to collect such costs and expenses from the operator of the installation, the Town reserves all rights to pursue payment for such costs and expenses from the Owner of the real property on which the installation in question is located. Such costs shall be assessed against the property, shall become a lien and tax upon the property, and shall be enforced and collected with interest by the same officer and in the same manner as other taxes. Legal counsel of the Town shall institute appropriate action for the recovery of such cost, plus attorney's fees, including, but not limited to filing of municipal claims pursuant to the cost of such work, 9% interest per annum, plus a penalty of 9% of the amount due plus attorney's fees and costs incurred by the Town for the removal work and filing the claim.

- D. With the consent of the Owner of the real property on which the installation in question is located, the Code Enforcement Officer along with the Town Engineer and the Planning Board may allow the Owner to implement the decommissioning plan while allowing the landscaping to remain.

Article IV  
**ENFORCEMENT**

**§106-22 Enforcement**

Any violation of this Chapter shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in Article XX of Chapter 130 of the Code of the Town of Caledonia ~~the zoning or land use regulations of the Town.~~

- II. Local Law No. 4 of 2024, known as the Extension of the Moratorium on Major/Medium Solar Energy System and Local Law No. 2 of 2024, known as Moratorium on Major/Medium Solar Energy Systems, are hereby repealed and the moratorium on the permitting of solar farms and large battery energy storage systems is hereby terminated.
- III. If any provision of this law is determined to be unconstitutional or invalid by court of competent jurisdiction, the validity and enforceability of the remainder shall not be affected.
- IV. This local law shall take effect immediately.