TOWN OF HOMER
LOCAL LAW ___ OF 2026

LOCAL LAW #X of 2026 REGARDING SOLAR ENERGY SYSTEMS

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Section 1 - Authority.

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

Section 2 - Purpose and Intent.

This local law is enacted to promote the safe, effective, and efficient use of solar energy systems throughout Homer. It seeks to:

A. Protect public health, safety, and welfare, while minimizing adverse impacts to farmland, scenic resources, wildlife corridors, and community character.
B. Encourage the adoption of renewable energy in a manner that supports sustainability, resilience, and energy independence.
C. Provide property owners and developers with clear, consistent guidance for siting solar energy systems.

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D. Ensure long-term stewardship of project sites, including clear standards for decommissioning and site restoration.
E. Promote equitable and consistent enforcement through enforceable operating permit standards and financial assurances.
F. This law establishes standards that facilitate solar development at all scales — while prioritizing agricultural resource protection, visual compatibility, environmental safeguards, and meaningful community engagement.
G. To support the following statement from the Town's XXXX Plan adopted in XXX
H. To support the following statement from the Town's Comprehensive Plan adopted in 2010,

Commented [TH1]: Can reference Smart Growth / Ag and Farmland protection or any other reference Town wishes..

Commented [TH2]: Can add quote here referencing where the comprehensive plan talks about renewable or sustainable energy...

Section 3 - Definitions.

The word "shall" is always mandatory and not merely directory.

SOLAR ENERGY SYSTEM:All components and subsystems required to convert solar energy into heat or electric energy suitable for use. This term includes, but is not limited to, solar panels and solar energy equipment. The area of a solar energy system includes all the land and/or structures inside the perimeter of the solar energy system, which extends to any interconnection equipment. Battery energy storage systems and solar thermal systems are specifically excluded from this definition. A solar energy system in the Town of Homer is classified in Tiers 1 through 4.

TIER 1 SOLAR ENERGY SYSTEMS: Include Roof-Mounted Solar Energy Systems, Building-Integrated Solar Energy Systems, and Ground-Mounted Solar Energy Systems with a nameplate capacity not exceeding twenty-five (25) kW AC and a total solar panel surface area not exceeding 4,000 square feet.

TIER 2 SOLAR ENERGY SYSTEMS:Include Roof-Mounted Solar Energy Systems, Building-Integrated Solar Energy Systems, and Ground-Mounted Solar Energy Systems with a nameplate capacity exceeding twenty-five (25) kW but not exceeding twenty-five (25) MW AC or a total solar panel surface area exceeding 4,000 square feet and that do not obtain a siting permit through the New York Department of Public Service Office of Renewable Energy Siting and Electric Transmission.

TIER 3 AGRIVOLTAIC (Dual-Use Agricultural) SOLAR ENERGY SYSTEMS: Include Tier 2 solar energy systems integrated with agricultural use and either with a nameplate capacity exceeding one (1) MW AC but not exceeding five (5) MW AC or with a Facility Area exceeding eight (8) acres but not exceeding forty (40) acres in size, unless otherwise approved by the Homer Planning Board.

TIER 4 SOLAR ENERGY SYSTEMS: Include solar energy systems greater than or equal to twenty (25) MW that obtain a siting permit through the New York Department of Public Service Office of Renewable Energy Siting and Electric Transmission.

ACTIVE AGRICULTURAL LAND: Land used for a Farm Operation in accordance with Agriculture and Markets Law § 301 – uses of which include production of crops, livestock, and livestock products – within the past five years.

APPLICANT: Any individual, partnership, firm, corporation, limited liability company, trust, association, or other legal entity, or any authorized agent thereof, that submits an application for approval, permit, conditional permit, site plan approval, building permit, or other land-use authorization pursuant to this chapter for the construction, operation, modification, expansion, or decommissioning of a solar energy system within the Town. The Applicant, Property Owner, and

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Developer shall be jointly and severally responsible for compliance with the provisions of this chapter, including but not limited to conditions of approval, mitigation measures, maintenance, and decommissioning, unless otherwise expressly provided. The Applicant need not be the Property Owner, provided the Applicant demonstrates legal authority or written evidence of site control sufficient to seek the requested approvals.

ARRAY: Any number of electrically connected photovoltaic modules providing a single electrical output.

BATTERY ENERGY STORAGE SYSTEM: One or more devices, assembled together, capable of storing energy to supply electrical energy at a future time (not to include a stand-alone twelve (12) volt car battery or an electric motor vehicle).

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: A combination of solar panels and solar energy equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

DEVELOPER: Any individual or legal entity that plans, finances, constructs, installs, owns, operates, or manages a solar energy system, or that controls the design, development, or implementation of such system, whether or not such entity is the Applicant or Property Owner.

FACILITY AREA: The cumulative land area occupied during the commercial operation of the solar energy generating facility as defined, where such plan is required under applicable law, by the construction limit of disturbance set forth in the soil and water pollution protection plan, or, where no such plan is required under applicable law, the perimeter of the area enclosing all equipment, including the solar energy system, onsite interconnection equipment, onsite electrical energy storage equipment, and any other associated equipment, and any site improvements such as access roads, permanent parking areas, or other permanent improvements. The facility area shall not include site improvements established for impact mitigation purposes, including but not limited to vegetative buffers and landscaping features.

FARM OPERATION: Land and on-farm buildings, equipment, facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise (in accordance with Agriculture and Markets Law § 301[11]).

FOREST CONVERSION (SUBSTANTIAL): Substantial forest conversion shall be defined as more than five (5) acres or ten percent (10%) of the facility area, whichever is greater.

FOREST FRAGMENTATION: The breaking of large, contiguous, forested areas into smaller pieces of forest; typically, these pieces are separated by roads, agriculture, utility corridors, subdivisions, forest conversions, or other human development.

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

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

HEDGE: A dense planting of trees or shrubs designed to provide a year-round, opaque visual obstruction from ground level to a specific height.

HOST COMMUNITY AGREEMENT: A contract between a Developer and the Town, whereby such Developer agrees to provide the community with certain benefits to mitigate specified impacts of the solar project.

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IMPERVIOUS SURFACE: Any surface that impedes or prevents natural infiltration of water into the soil. Areas covered by gravel, pavement, concrete, or otherwise compacted soils under the panels to prevent infiltration are considered impervious.
INTERCONNECTION: The technical and practical link between the solar energy system and the public utility grid providing electricity to the greater community.
KILOWATT (kW): A unit of electrical power equal to 1,000 watts, which constitutes the basic unit of electrical demand. A watt is a metric measurement of power (not energy) and is the rate (not the duration) at which electricity is used. 1,000 kW is equal to one (1) megawatt (MW).
LOT COVERAGE: The area of the solar energy system that is covered by impervious surfaces, buildings, structures, and, except as described in this Law, solar panels (with area measured when their primary energy collective face is facing directly away from the earth).
MEGAWATT (MW):A unit of power equal to 1,000 kW. The nameplate capacity of larger solar energy systems may be described in terms of MW.
MINERAL SOIL GROUPS (MSGs) 1–4: Mineral Soil Groups (MSGs) 1 through 4 are soil classifications defined by the NYS Department of Agriculture and Markets for each soil type in each county identified by the United State Department of Agriculture, and are used to classify the state's agricultural lands based upon soil productivity and capability.
MODULE: A module is the smallest protected assembly of interconnected photovoltaic cells.
NAMEPLATE CAPACITY: A solar energy system's maximum electric power output under optimal operating conditions. Nameplate capacity shall be expressed in terms of Alternating Current (AC).
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 NYS Department of Environmental Conservation.
NONPARTICIPATING RESIDENCE: Residences and residential structures on a parcel adjacent to where a solar energy system is proposed or an existing solar energy system is located and over which the applicant for the permitting of such system has no property rights.
POLLINATOR: Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and include both wild and managed insects.
PROPERTY OWNER: The individual or legal entity holding fee title ownership of record to the parcel or parcels on which a Solar Energy System is proposed or located, as shown by the most recent deed filed with the Cortland County Clerk. Where multiple owners exist, all such owners shall be considered Property Owners for purposes of this chapter. Nothing herein shall relieve the Property Owner of responsibility for compliance with this chapter unless expressly stated otherwise.
QUALIFIED SOLAR INSTALLER: A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority, or who are certified as a solar installer by the North American Board of Certified Energy Practitioners, shall be deemed to be qualified solar installers for the purposes of this definition.
RESOURCES OF CONCERN: Specific natural, cultural, or scenic features identified by the Town of Homer Planning Board within a proposed facility area — or its immediate vicinity — that may be degraded, fragmented, or negatively impacted by the construction, operation, or decommissioning of a solar energy facility as determined pursuant to the pre-application meeting(s) held with the Town of Homer Planning Board. These resources require special

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consideration, mitigation, or avoidance during the permitting process to maintain ecological, agricultural, or community value.
ROOF-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.
SOLAR COLLECTOR: A photovoltaic cell, panel or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.
SOLAR ENERGY EQUIPMENT: Electrical material, hardware, inverters, conduit, energy storage devices, or other electrical and photovoltaic equipment associated with the production and storage of heat or electricity captured directly from the sun.
TOWN BOARD: The Town Board of the Town of Homer, New York.

Section 4 - Applicability.

A. The requirements of this Local Law shall apply to all solar energy systems permitted, installed, or modified in the Town of Homer after the effective date of this Local Law.

B. Solar energy systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements specified to each respective project, unless such projects are materially modified or cease use for a period of six (6) months, then such projects shall become subject to this Local Law.

Section 5 - Siting Location Requirement.

A. Spacing and Density - No Tier 2–5 Solar Energy System shall be located within 1 mile of another permitted or existing Tier 2-5 Solar Energy System, measured from the nearest property line of each project site.
   (1) The Town Planning Board may waive the separation distance upon finding that:
      a. Topography, existing vegetation, or land use conditions effectively screen the proposed facility; and
      b. The reduced spacing will not result in cumulative adverse impacts to agricultural land, scenic resources, or community character.

   For purposes of evaluating cumulative density, the Town Planning Board may require a map and analysis showing all approved or pending large-scale solar projects within a 4 mile radius of the project boundary.

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B.Preferred Locations — Previously cleared, disturbed, or developed non-agricultural areas are preferred locations for solar energy systems to minimize environmental and visual impacts.

A. Discouraged Locations — Wooded and steep slopes are important natural features that contribute to Homer's character and attractiveness. These areas should be protected from permanent alteration in order to protect and preserve Homer's community by minimizing clearing and development on them. Substantial forest conversions that result in forest

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fragmentation or the disruption of wildlife corridors are prohibited. Areas which have been cleared within the last three (3) years or following the initial contractual relationship for any solar development shall be considered a discouraged location.

B. Tier 1 solar energy systems are permitted as principal use and accessory in all zoning districts.

C. Tier 2 and 3 solar energy systems are permitted as principal and accessory uses through the issuance of a Conditional Permit within the Town of Homer Agricultural and Zoning District. Tier 4 solar energy systems are permitted as principal and accessory uses through the issuance of a siting permit issued by the New York Department of Public Service's Offce of Renewable Energy Siting and Eclectic Transmission (ORES).

D. Solar energy systems are **not** permitted in the following areas:

(1) Areas of potential environmental sensitivity, such as unique natural areas, floodplains, historic sites, State-owned lands, conservation easements, trails, and parkland. Freshwater wetlands should be avoided; however, projects proposing to impact regulated freshwater wetlands may be approved if all necessary permits are obtained from the New York State Department of Environmental Conservation (NYSDEC) and/or the United States Army Corps of Engineers, as applicable.

(2) On Mineral Soil Groups (MSGs) 1-4; provided, however, that the impact of up to 10% of the Facility Area shall be considered incidental.

(3) On Critical Environmental Areas (CEAs) as officially designated by the NYSDEC, including any locally designated CEAs filed with the NYSDEC in accordance with 6 NYCRR Part 617.14(g).

(4) On slopes greater than eight percent (8%); provided, however, that up to 20% of the Facility Area may contain areas with slopes over eight percent (8%) but not more than fifteen percent (15%) if the SWPPP submitted by the applicant for the solar energy system includes features and/or practices certified by a licensed professional engineer to mitigate to the reasonable satisfaction of the Homer Planning Board the risk of impacts, including erosion and destructive stormwater runoff, to the Facility Area and neighboring properties for the anticipated life of the solar energy system.

(5) Within the front yards of residential lots.

(6) Within one hundred (100) feet of a public highway right-of-way for any above-ground portion of the system.

Section - 6 Standards and Codes.

A. NYS Building and Electrical Code — All solar energy systems and any related infrastructure must be constructed to comply with the New York State Building and Electrical Code, as amended, and any additional electrical and safety regulations adopted by the State of New York. The Town reserves the right to require developers to comply

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with any adopted codes which may have a future effective date, such right shall be limited to code's effective no greater than one (1) year in the future.

B. NYS Fire Code — All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (Uniform Code), as amended. The Town reserves the right to require developers to comply with any adopted codes which may have a future effective date, such right shall be limited to code's effective no greater than one (1) year in the future.

C. NYS Agriculture and Markets Law — All solar energy systems must comply with all other requirements of this law.

D. Qualified Solar Installer — All solar energy systems must be installed by a qualified solar installer as defined by this law.

E. NYS Licensed Professional Engineer or NYS Registered Architect — Prior to the issuance of the building permit or final approval by the Homer Planning Board, solar energy systems construction and/or site plan documents must be signed and stamped by a NYS Licensed Professional Engineer or NYS Registered Architect.

E. Fee Schedules — For all solar energy systems subject to review by the Town, the HomerTown Board, shall impose, and may update as appropriate, a schedule of fees related to the processing of such applications. The Town Board may set the fee schedule and amend from time to time by Resolution.

F. State and Federal Laws - All solar energy systems must conform to all applicable federal and state laws and all applicable rules and regulations promulgated by any federal or state agencies having jurisdiction.

G. Zoning Law — All solar energy systems must comply with all other requirements of the Town of HomerZoning Law.

H. Adopted Plans — All solar energy systems must conform to all adopted plans of the Town of Homer

I. Building Permit — All solar energy systems must file a building permit application with the Town of Homer's Building Code Department and obtain a valid building permit, prior to starting their installation.

J. State Environmental Quality Review Act — The approval of any application Conditional Permit under this Solar Energy Law shall be a Type 1 action for purposes of the New York State Environmental Quality Review Act, and the Homer Planning Board shall act as lead agency for such purposes in the absence of any other intervening agency assuming such status.

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Section 7 - Design and Installation Standards.

A. All Tier 1 solar energy systems shall be exempt from site plan review under the local zoning code or other land use regulation, subject to the following conditions for each type of Tier 1 solar energy systems:

(1) Roof-mounted solar energy systems and building-integrated solar energy systems.

(a) Conditional Permit:

[1] A Conditional Permit is not required unless a building-mounted system increases the overall height of the structure by six (6) feet or more.

(b) The following design requirements shall be met by each roof-mounted solar energy system and each building-integrated solar energy system (all exceptions need approval by the Homer Planning Board):

[1] Such systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions that apply to building-mounted mechanical devices or equipment.

[2] Such systems installed on a pitched roof that faces the front yard of a property: the system must be installed parallel to the roof on which it is installed with a maximum distance, measured perpendicular to the roof, of 8 inches between the roof and edge of the system.

[3] Such systems installed on a pitched roof: the highest point of the system shall not exceed the highest point of the roof to which it is attached.

[4] Solar panels on flat roofs shall not extend above the top of the surrounding parapet, or more than twenty-four (24) inches above the flat surface of the roof, whichever is higher.

[5] All solar panels shall have anti-reflective coating(s) or texture.

(2) Ground-Mounted Solar Energy Systems.

(a) Conditional Permit:

[1] A Conditional Permit shall be required for Tier 1 ground-mounted solar energy systems.

(b) The following design requirements shall be met by each Tier 1 ground-mounted solar energy system (all exceptions need approval by the Homer Planning Board):

[1] Height. Systems shall be subject to the height limitations specified for accessory structures within the underlying zoning district, or systems shall not exceed ten (10) feet in total height, whichever is lesser.

[2] Glare shall be minimized using anti-reflective materials consistent with current industry standards.

[3] Setbacks:

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[a] Such systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district, provided that the Homer Planning Board may approve reduced side or rear setbacks where screening is provided and no impacts to adjacent properties are anticipated.

[b] Such systems shall only be installed in the side or rear yards.

[c] Utility poles and underground equipment are exempt from setback requirements.

[d] Interior Property Line Setback Exemption:

(1) Setback requirements shall not apply to common interior property lines where two or more adjacent parcels are part of the same solar energy project and are under common ownership or control by the applicant. To qualify for this exemption, the applicant shall provide the Homer Planning Board with:

(a) A recorded easement, lease, or other legally binding instrument demonstrating control of all affected parcels; and
(b) Written acknowledgment from each participating Property Owner consenting to the shared use and waiver of interior setbacks.
(c) Such documentation shall be reviewed and approved by the Town of Homer's attorney prior to Building Permit approval and recorded with the County Clerk prior to the issuance of a Building Permit.

(2) Screening and Visibility.

(a) Such systems shall be placed to minimize visibility from public roads and nonparticipating residences.

(b) Such systems shall be fully-screened in such a way as to avoid visual impacts as viewed from public locations, public roads and highways, and other locations identified by the Homer Planning Board.

B. Tier 2 solar energy systems shall be permitted within the Agricultural Zoning Districts as principal and/or accessory uses and shall be subject to a Conditional Permit. Tier 2 solar energy systems shall adhere to the standards and requirements established for Tier 1 ground-mounted systems in Section 7(A(2)), in addition to (or in some cases amended by) the following requirements:

(1) Tier 2 solar energy systems that produce electricity or thermal energy "behind the meter" primarily for onsite active farming, agricultural, or other industrial uses, where the generation is less than one hundred ten percent (110%) of the property's historical use, shall be exempt from the requirement to apply for and obtain a

Conditional Permit, provided they otherwise comply with setback, height, and safety standards set forth for such systems below.

(2) No less than sixty (60) days before the date on which an applicant files an application with the Town of Homer the applicant shall contact the Town of Homer Building Code Department or Homer Planning Board to schedule a pre-application meeting with the Homer Planning Board. At this time, the applicant shall provide the opportunity for an on-site visit by Homer Planning Board members.

(3) Application submission requirements for Tier 2 Solar Energy Systems, shall include the following:
   (a) Name, address, and contact information of proposed or potential system installer and the Developer of the solar energy system.
   (b) Name, address, contact information, and signature of the project applicant, as well as all the Property Owners, with evidence of written consent to the application and the use of the property for the solar energy system.
   (c) Nameplate capacity of the solar energy system (as expressed in kW or MW).
   (d) Proof the Applicant has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.
   (e) Documentation of the major system components to be used, including, but not limited to: the panels, mounting system, and inverters.
   (f) Blueprints and drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, including roads, and the tallest finished height of the solar collector.
   (g) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
   (h) An electrical diagram detailing the solar energy system installation, associated components and electrical interconnection methods, with all disconnects and overcurrent devices identified. Additionally, the diagram should incorporate the power company infrastructure post-interconnection, showing utility meter upgrades, transformer capacity considerations, and any required grid protection equipment to accommodate the solar system's integration. (This detailing may illustrate other visual impacts off property and provide an understanding or onsite power company installations.)
      [1] Exterior electrical lines shall be buried underground unless required by the hosting utility company or applicable laws, regulations or codes. Any other overhead lines would need approval by the Homer Planning Board.
   (i) A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a building permit.
   (j) No Effect letter or approval letter from FAA.

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(k) Proof of mailing, at the applicant's expense, a notice of the proposed project to all owners of property and residents within a one (1) mile radius of the project boundaries regardless of municipality. Notices shall contain a summary of the application/project, a designated contact person with telephone number, email address and mailing address from whom information will be available on a going forward basis, as well as a proposed project website to disseminate information to the public. Further, upon receipt of application, the Town of Homer shall post notice of same on the Town of Homer's website and social media outlets. At the applicant's expense, publication of notice of application shall be made in newspapers designated by the Town of Homer. Additionally, upon submission of an application, the applicant shall conspicuously post signage on all roads abutting the proposed project and at the proposed entryways/exits to the project. Signage must be at least three (3) feet by four (4) feet and not greater than four (4) feet by eight (8) feet and shall contain the name of the proposed project, the application number, a rough concept map of the project and contact information for the Developer as well as a proposed project website address. The placement of signs shall be coordinated with the Town Building Code Department and the Town Highway Department.

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(l) Height. Systems shall not exceed the permitted height of accessory structures in the zoning district where the solar energy system is to be installed or an average of twenty (20) feet from the ground, whichever is less.

[1] This height restriction does not apply to any substation(s) or utility pole(s).

(m) Setback. Systems as a primary use or accessory use are subject to setback requirements in the zoning district in which the system is to be constructed in addition to the following:

[1] Systems as a primary use shall be one hundred (100) feet from any property line or two hundred (200) feet from any nonparticipating residence, whichever is greater.

[2] The required setbacks are measured from the property line to the nearest part of the system (except that the two hundred (200) foot setback from any nonparticipating residence shall be measured from the residence to the nearest physical part of the system). Fencing shall generally be considered to be the closest part of the solar energy system. No part of a ground-mounted system shall extend into the required setbacks due to a tracking system or other adjustment of solar energy-related equipment or parts.

[3] The following are excluded from the setback requirements: Access roads; utility poles; underground equipment and stormwater management facilities not creating a material deviation from surrounding ground level once installed.

(n) Multiple Project Sponsors. Where more than one project sponsor is involved in a shared or adjacent development area, each sponsor shall be considered an applicant and shall be jointly and severally responsible for compliance with the provisions of this Law and shall execute a cooperative development agreement

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approved by the Town of Homer Planning Board. Such agreement shall define responsibilities for access, maintenance, emergency response, and decommissioning within the shared boundary areas and shall be recorded with the County Clerk prior to permit issuance, such agreement shall be binding on all successors, heirs and assigns.

(o) Screening and Visibility. For purposes of this subsection, consideration shall be given to any relevant portions of the current, amended and/or future Town of Homer's Comprehensive Plan and/or any other prior, current, amended and/or future officially recognized Homer Planning Board document or resource of general applicability, including but not limited to Open Space Plans.

[1] All on-site utility and transmission lines shall be placed underground unless required by the host utility company or applicable laws, regulations or codes.

[2] The plans shall show buffering and screening of solar energy systems that are visible from all adjoining property owners and roadways, regardless of municipality.

[3] The design, construction, operation and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar glare onto neighboring properties, public roads, and public parks in material excess of that which already exists. The Town reserves unto the Town of Homer Planning Board the right to individually assess what they deem to be sensitive areas potentially impacted by any proposed solar facility as part of their review to ensure that negative impacts of solar ray reflection will be prevented.

[4] All structures and devices used to support solar collectors shall be nonreflective and/or painted a subtle or earth tone color to aid in blending the facility into the existing environment.

(p) A vegetation management plan shall be submitted and approved by the Homer Planning Board. The vegetation management plan shall include both initial planting and long-term maintenance measures for all vegetated areas associated with the solar energy system, including but not limited to the facility substation, energy storage structures, point of interconnection switchyard, access roads, and perimeter screening areas, as appropriate to the facility setting. The vegetation management plan shall, at a minimum, address the following:

[1] Identification of all proposed plant species, sizes, spacing, and locations; specifications for seed mixes, soil preparation, and installation methods; and measures to prevent erosion and support pollinator habitat, if applicable.

[2] Installation Timing: The timing of planting and seeding relative to construction activities, including target planting seasons and deadlines for final stabilization following disturbance.

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[3] Establishment and Maintenance: Procedures for vegetation establishment and ongoing maintenance, including reseeding intervals, mowing or grazing schedules, weed and invasive species control, and replanting standards.

[4] Performance Standards: Any planting that fails to survive for a minimum of two years from the date of planting shall be replaced by the Developer of the solar energy system. For the avoidance of doubt, any replacement planting must also be replaced if it fails to survive for such period.

[5] Long-Term Management: The Developer shall guarantee the survival and health of all plantings required by an approved landscape and screening plan included in the vegetation management plan for the life of the project. After initial planting establishment and survival periods are met, at no time shall the amount of all healthy and living plantings fall below eighty percent (80%). In the event such survival rate is not met, replacement plantings of the same initial size and species of planting being replaced shall be made and shall be subject to the survival period standard set forth above; provided, however, that replacements may be of different varieties or species where planting failure reasonably appears due to site conditions not conducive to the long-term survival of the initially planted species.

[6] A minimum one hundred (100) feet-wide landscape buffer planting shall be provided around the perimeter of the solar energy system, inclusive of the Solar Energy Substation and any and all solar energy equipment, in any location not already screened to the applicable standard by natural vegetation or terrain, to provide screening from nonparticipating residences.

[a] The solar energy system and all components as described above shall be screened from adjacent, nonparticipating residences, with a goal of one hundred percent (100%) opacity at maturity of any vegetative screening from the view of a person standing at grade on such properties or public roads. The Planning Board may approve a combination of berms, fencing, and staggered plantings that effectively break up the massing of the facility and obscure equipment from such viewpoints. Screening plans must account for the loss of foliage during winter months by utilizing a majority of evergreen species.

[7] The solar energy system, including any proposed off-site infrastructure, shall be located and screened in such a way as to avoid visual impacts as viewed from public locations, public roads and highways, and other locations identified by the Homer Planning Board. To accomplish this screening, existing vegetation and/or terrain shall be utilized to the fullest extent practicable and/or at least two rows of native evergreen trees acceptable to the Homer Planning Board shall be planted. Initial plantings shall have a minimum height of six (6) feet. Trees shall form a continuous hedge of at least fourteen (14) feet in height at maturity. The Homer Planning Board may consider topography and slope when determining the appropriate height of plantings. Screening shall be required and maintained for the life of the project.

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[8] Acceptable screening would include maintenance of existing vegetation, new vegetative barriers or berms, landscape screen or other opaque enclosures, or any combination thereof capable of fully screening the site. The Developer shall perform physical inspection and maintenance of all barriers and vegetation twice annually at a minimum, once each during the spring and fall seasons.

[9] The vegetation management plan shall include a responsible forestry maintenance plan for removal of dead or diseased trees, which will be cut and removed to encourage healthy growth of existing trees.

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[10] Trees to be included in screening shall be native and non-invasive species of evergreen, e.g. Eastern red cedar and white spruce, a minimum of six (6) feet tall and three (3) inches in diameter at breast height. It shall be determined and documented by the Developer if at the time of planting any species are threatened due to regional blight, disease, etc. Final decisions on appropriate plantings will be made by the Homer Planning Board.

[11] Systems shall provide for the creation of a buffer that has an offset, double row of densely growing evergreens mixed with smaller native trees and shrubs in front to create a hedge-like habitat. While the evergreens should be the dominant tree for screening, the addition of some smaller trees and shrubs are to be provided to benefit wildlife and aesthetics.

[12] Appropriate shrubs and small trees to create a hedge could be shadbush, flowering dogwood, flowering raspberry, maple leaved viburnum, nannyberry and choke cherry.

[13] A vegetation management plan shall be required that includes the planting and/or protection of pollinators and perennial vegetation.

[14] The cutting of trees beyond what is deemed necessary by the Homer Planning Board to install and maintain the solar energy systems shall be prohibited.

G. Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction.

H. All on-site utility and transmission lines shall, to the extent feasible, be placed underground.

I. The plans shall show maximum buffering and screening of utility-scale solar systems that are visible from all adjoining property owners and roadways, regardless of municipality.

J. The design, construction, operation and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar glare onto neighboring properties, public roads, and public parks in excess of that which already exists. The [Permitting Authority – i.e., Planning Board] reserves the right to individually assess what they deem to be sensitive areas potentially impacted by any proposed

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solar facility as part of their review to ensure that negative impacts of solar ray reflection will be prevented.

K. All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth tone color to aid in blending the facility into the existing environment

[15] The Developer shall provide a bond or escrow in an amount as determined by the Town of Homer Planning Board to maintain and/or replace the landscaping and screening that is not adequately maintained and/or replaced by the developer, its successors and/or assigns as their interests may appear, and shall be replenished by same when required by the Town of Homer and shall be maintained for the life of the project.

Commented [TH8]: Does this protect adjacent property owner or negative impacts?

(q) Environmental Resources.

[1] A solar energy system that includes or requires substantial forest conversion must include a description/assessment of the benefits of the trees or forest to be cut and the environmental impacts of that forest conversion in the environmental inventory report. Such assessment shall also include an analysis of alternatives and mitigation measures to minimize impacts.

[2] Native Vegetation. The Developer shall develop, implement, and maintain vegetation native to the State of New York to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. When establishing perennial vegetation and beneficial foraging habitat, the Developer shall use native plant species and seed mixes. Vegetation shall be maintained below solar panels. It is encouraged that the ground within the fenced perimeter shall not be tamped, compressed, or otherwise conditioned to inhibit the growth of natural vegetation and natural percolation of rainwater.

[3] The orientation and layout of solar energy systems shall follow the existing lay of the landscape. Cut and fill shall be avoided.

(r) Impervious Surface Restrictions. The surface area of ground-mounted solar panels, where vegetation or pervious soils are maintained beneath and between arrays, shall not be considered impervious surface and shall not count toward lot coverage limitations for the zoning district, regardless of the mounted angle of the panels.

[1] Areas located beneath panels that are covered by gravel, pavement, concrete, or otherwise compacted soils that prevent infiltration shall be considered impervious and included in lot coverage and stormwater calculations.

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[2] Footings, foundations, equipment pads, and other hard surfaces placed underneath or around racking and mounting systems are considered impervious and shall be included in impervious surface calculations.

[3] The determination of impervious surface area shall be made consistent with the definitions contained in Section 3 - Definitions: "Impervious Surface" and "Lot Coverage" of this Law, and in accordance with applicable NYSDEC stormwater management standards.

[4] Roadways within the site shall be constructed in accordance with the project's SWPPP approved by NYSDEC, the NYS Fire Code, and shall be designed to minimize the extent of roadways constructed and soil compaction.

(s) Lighting Plan(s) shall address:

[1] Security lighting needs at substation and switchyard sites, as applicable, and any exterior equipment storage yards.

[2] Plan and profile figures to demonstrate the lighting area needs and proposed lighting arrangement and illumination levels to provide safe working conditions at the collection substation site, and any exterior equipment storage yards or other locations.

[3] Exterior lighting design shall be limited to lighting required for health, safety, security, emergencies and operational purposes and shall be specified to avoid off-site lighting effects to the greatest extent practicable.

[4] Maximum mounting height: twenty (20) feet above grade for pole-mounted fixtures, or fifteen (15) feet when adjacent to residential or scenic areas (as determined pursuant to the pre-application meeting(s) held with the Town of Homer Planning Board, or its designee).

[5] All lighting shall utilize fully shielded (cut-off) fixtures to prevent up light and glare and shall employ bulbs with a correlated color temperature (CCT) not exceeding 3,000 Kelvin (warm-white spectrum) to minimize blue-light emission and visual intrusion.

[6] Lighting controls, including timers, dimmers, or motion sensors, shall be used wherever practicable to reduce lighting intensity and duration.

(t) Safety/Emergency Response Plan. The application and site plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code and all applicable codes, along with a map of access points. The applicant shall consult with the Town of Homer Fire Department with primary coverage of the facility area on the best fire suppression system for the planned technology and preservation of surrounding properties. The applicant shall prepare a safety/emergency response plan based on such consulatation with Town of Homer emergency service providers. If the Town of Homer Fire Department determines that water is necessary, the Developer shall develop a well or retention pond(s) holding a

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sufficient amount of water as determined in site plan review, with dry hydrants (arrangement of piping with one end in the water and the other extending to dry land), for emergency firefighting use. A copy of the approved Safety/Emergency Response Plan shall be given to the Developer, the Town of Homer Fire Department and the Town Building Code Department. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, the Homer Fire Department, Homer Building Code Department and emergency responders. The Safety/Emergency Response Plan shall include the following information:

[1] 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.

[2] Procedures for inspection and testing of associated alarms, interlocks and controls.

[3] Procedures to be followed in response to notifications from the Developer that, when provided, could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel and providing agreed upon notification to the Town of Homer Fire Department personnel for potentially hazardous conditions in the event of a system failure. All means of shutting down the solar energy system shall be clearly marked.

[4] The property must be inspected after a National Weather Service designation of a severe weather event to ensure that the property did not sustain damage. Reports of said inspection shall be filed with the Town of Homer Building Code Department.

[5] Emergency procedures to be followed in case of fire, explosion, release of liquids, oils or vapors, damage to critical moving parts or other potentially dangerous conditions.

[6] Response considerations similar to a Safety Data Sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.

[7] Procedures for dealing with solar energy system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged equipment for the facility. Developer shall provide guaranteed non-emergency and emergency response times of a qualified subject matter expert to the Homer Highway Department and local emergency responders.

[8] Other procedures as determined necessary by the Town of Homer to provide for the safety of occupants, neighboring properties and emergency responders.

[9] Site must be made available upon no less than two weeks advanced written request of the emergency personnel for conducting drills of these

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procedures and for training local (all agencies within 15 miles) emergency responders on the contents of the plan and appropriate response procedures. Site specific training shall be taught by a New York State certified instructor, performed once within one year of commercial operation of the system and then at the discretion of the chief of the applicable fire department or when any changes occur that could impact the emergency response plan and shall include local and mutual aid emergency responders. Training and specialty equipment shall be paid for by the developer, As Their Interests May Appear/Its Successors And/Or Assigns (ATIMA/ISAOA).

[10] The Developer shall notify the Town of Homer Fire Department, Cortland County Emergency Management Office and the Town of Homer Building Code Department at least one week prior to any scheduled maintenance or equipment swap out.

[11] In the event of a fire, all contaminated soil must be removed and disposed of properly, in accordance with all applicable laws.

[12] Insurance. The holder of a Conditional Permit for a solar energy system shall agree to secure and maintain for the duration of the permit, liability insurance as follows (unless waived by the Homer Planning Board):

[a] Auto coverage: State mandated minimums.

[b] Workers' compensation coverage: State mandated minimums.

[c] 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 Homer and its officers, councils, employees, attorneys, agents and consultants as additional named insured on a non-contributory basis.

Commented [TH9]: Have Town Attny Review

[d] Umbrella coverage: $5,000,000 per occurrence, $10,000,000 aggregate.

[e] Insurance Company: 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".

[f] Insurance Policy Cancellation: The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town of Homer with at least thirty (30) days prior written notice in advance of cancellation.

[g] Insurance Policy Renewal: Renewal or replacement policies shall be delivered to the Town of Homer at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

[h] Copies of Insurance Policy: No more than fifteen (15) days after the grant of the permit and before construction is initiated, the permit holder shall deliver to the Town of Homer a copy of each of the policies or certificates representing the insurance in the required amounts.

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[i] Certificate of Insurance: A certificate of insurance that states it is for information purposes only and does not confer sufficient rights upon the Town of Homer shall not be deemed to comply with this law.

(u) Access and Parking. Solar energy systems shall be enclosed by security fencing to prevent unauthorized access. Warning signs identifying the Developer, emergency contact information, and site address shall be posted at each point of vehicular or pedestrian access, including the roadside entrance and gated entry to the fenced area(s). A Knox Box or equivalent emergency access lock shall be installed at all gated access points to allow emergency responders entry in accordance with Town of Homer Fire Department requirements.

[1] Fencing around systems will be between seven (7) feet and eight (8) feet in height, including any security features such as barbed or razor wire if granted, unless a greater height is demonstrated to be necessary for safety or regulatory compliance and approved by the Homer Planning Board.

[2] Fencing shall be constructed of non-reflective materials and designed to minimize visual impact. The use of barbed or razor wire is prohibited, except where specifically required by applicable codes or the electric utility for security at substations. Decorative or wildlife-permeable fencing may be used when compatible with site conditions and safety requirements.

[3] Prior to construction, the Developer shall execute a road use agreement for Town roads with the Town, subject to the approval of the Homer Highway Superintendent, identifying haul routes along Town roads, posting a road repair bond, and completing pre- and post-construction condition surveys of such Town roads. The minimum amount of such repair bond shall be $6,000.00 for dirt roads, $12,500 per mile for paved roads, and $50,000.00 for any road that the municipality will all to be degraded below its original condition until hauling is completed. During construction, roads shall be continuously maintained for safe public use as determined by the Highway Superintendent. The Developer shall restore all Town roads to equal or better condition at no cost to the Town of Homer. The Developer shall inform local residents by mail or in person of impending construction and delays no less than two weeks prior to beginning construction.

Commented [TH10]: Needs further review/editing

[4] Notwithstanding any other provision of the Town code, all site preparation, construction, and delivery activities shall be limited to Monday through Friday between the hours of 8:00 AM and 6:00 PM. No construction activities, including the idling of heavy equipment, shall occur on Saturdays, Sundays, or federal holidays. High-impact noise activities, such as pile driving or rock hammering, shall be further restricted to between 9:00 AM and 5:00 PM. The applicant shall submit a construction noise mitigation plan that includes baseline noise monitoring and identifies specific measures to reduce impacts on nonparticipating residences.

[5] Access roads from the public right-of-way to the facility shall be constructed and maintained to provide all-weather access for emergency and

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maintenance vehicles in accordance with Town of Homer Fire Department requirements.

[6] Minimum cleared width: sixteen (16) feet (or as otherwise required by the Town of Homer Fire Department or Highway Superintendent);

[a] Minimum vertical clearance: thirteen (13) feet six (6) inches (or as otherwise required by the Town of Homer Fire Department or Highway Superintendent).

[b] Turning radii and grades shall accommodate emergency apparatus. Have a sufficient turn radius (a minimum fifty (50) feet outer radius).

[c] Dead-end access roads exceeding one hundred fifty (150) feet in length shall provide a turnaround suitable for fire apparatus, such as a T-turn or cul-de-sac, with dimensions required by the International Fire Code (IFC) or NFPA standards, or as may otherwise be required by applicable laws and regulations.

[d] Surfaces shall be pervious or gravel, unless otherwise approved by the Homer Planning Board for safety or erosion control reasons, and roads shall be graded as required to comply with the NYS Fire Code.

[e] Roads shall be designed to minimize impervious coverage and stormwater runoff.

[f] The Developer shall maintain all access roads, and gates in good condition.

[g] Signage.

(1) Clearly identifies the name of the system developer.

(2) Provides a twenty-four (24) -hour emergency contact phone number.

(3) Is visible from the public right-of-way or site access road and legible at all times.

(4) Systems where the site entrance or access gate is separate from the fenced solar array area, signage shall be installed at both locations—at the primary site entrance (visible from the public right-of-way) and at the fenced perimeter of the solar array. Such signage shall ensure that contact and safety information is readily visible to emergency responders and the public even when the facility gate is closed or locked.

(5) Signage shall not be used for promotional or advertising purposes other than identification and required safety information.

(6) Clearly visible warning signs shall be placed at each pad-mounted transformer, inverter, substation, and at each gate or fencing perimeter, indicating solar electric hazard.

(7) Signs shall conform to the applicable local sign code in terms of size, setbacks, illumination, materials and construction.

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(8) If ownership, operation or contact information changes, the new Developer shall replace or update signage within thirty (30) days.

(9) Equipment and vehicles not used in the direct support, repair, or maintenance of the solar energy system shall not be stored or parked on the facility site. Support or maintenance vehicles may remain on-site only for the duration of active maintenance or repair work, and not for more than seventy-two (72) consecutive hours, unless otherwise approved in writing by the Homer Planning Board.

(v) Soil Sampling and Analysis Plan.

[1] A comprehensive Soil Sampling and Analysis Plan required to characterize and document the surface soil quality of the site before construction, annually during operation, and upon decommissioning of the panels, and pre and post restoration, as necessary to return the site to agricultural use.

[2] Scope of the Soil Sampling and Analysis Plan shall include baseline soil sampling, infiltration stormwater runoff sampling, composite surface soil sampling, and decommissioning soil events sampling in accordance with Cornell Waste Management Institute, Guide to Soil Testing and Interpreting Results, NYS Department of Agriculture and Market, Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands and shall test for: metals, total hydrocarbons, polycyclic aromatic hydrocarbons, PCBs, common herbicides, and PFOS/PFOA.

[3] Soil sampling events shall include pre-construction baseline, post construction, pre-decommissioning, pre-restoration and post-restoration samples.

[4] In the event a panel is broken, a sampling event shall be conducted at the location of the incident, and a report shall be provided to the Town of Homer.

[5] Agricultural Parameters will be compared to the baseline sampling event. Environmental Parameters will be compared to New York Code Rules and Regulations (6NYCRR) Part 375-6.8 Soil Cleanup Objectives Table (a) Unrestricted Use Soil Cleanup Objectives.

(w) Wildlife Corridor Impact Assessment.

[1] The applicant shall submit a wildlife corridor impact assessment as part of any application subject to this Chapter.

[2] The assessment shall be prepared by a qualified wildlife biologist, ecologist, or other environmental professional with demonstrated experience in habitat connectivity analysis in New York State. Applicants shall use the most recent NYSDEC survey protocols for grassland birds and winter raptors. For other wildlife, applicants shall follow NYSDEC guidance on

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appropriate survey methods using the NYSDEC Environmental Assessment Form Mapper tool for species of interest.

[3] The wildlife corridor impact assessment shall include, at a minimum:

(a) A description of existing site conditions, including:

(i) Adjacent and nearby forest blocks, wetlands, streams, hedges, and other natural features.

(ii) Known or mapped wildlife corridors, travel routes, or habitat linkages identified in local, county, regional, or state plans or databases.

(iii) The presence of, or material utilization of the site by, species of concern or threatened or endangered species as listed by NYSDEC.

(b) An analysis of how the proposed solar energy system may affect wildlife movement, including:

(i) Loss or fragmentation of habitat.

(ii) Barriers created by fencing, access roads, or grading.

(iii) Edge effects and changes in land cover.

(iv) Potential cumulative impacts in combination with other existing or approved development.

(c) Mapping that clearly depicts

(i) Existing wildlife corridors and habitat connections.

(ii) Areas of potential constraint or disruption.

(4) Proposed avoidance areas and mitigation measures.

(a) The applicant shall demonstrate that reasonable efforts have been made to avoid impacts to wildlife corridors through site selection and project layout.

(b) Where avoidance is not feasible, the applicant shall minimize impacts through design measures, which may include:

(i) Preservation of undeveloped corridor areas within or adjacent to the project site.

(ii) Clustering of solar arrays to maintain continuous open or vegetated pathways.

(iii) Use of wildlife-permeable fencing or raised fencing sections where appropriate.

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(iv) Strategic placement of access roads and infrastructure to reduce fragmentation.

(c) Mitigation measures may include:

(i) Establishment or enhancement of vegetated buffer areas using native species.

(ii) Restoration or enhancement of off-site habitat connections where on-site mitigation is insufficient.

(iii) Conservation easements or deed restrictions to protect identified corridor areas, where appropriate.

(x) Environmental Inventory Report (EIR) and Engineer of Record. The applicant shall submit an Environmental Inventory Report prepared and sealed by a New York-licensed Professional Engineer (Engineer of Record). The EIR shall, at minimum address:

[1] Wetlands, streams, floodplains, and hydrology.

[2] Stormwater quantity/quality and erosion/sediment control.

[3] Soils and steep slopes.

[4] Wildlife habitat and corridors (including coordination with NYNHP, as applicable).

[5] Agricultural resources and mitigation per NYS Ag and Markets guidance.

[6] Archaeological/historic resources (per NYS Office of Parks, Recreation, and Historic Preservation and State Historic Preservation Office coordination).

[7] Noise.

[8] Glare (Solar Glare Hazardous Analysis Tool or equivalent).

[9] Traffic and road use.

(y) Visual resources.

[1] Town of Homer Planning Board, at its discretion, may waive the requirement for the preparation of a visual impact assessment.

[2] The components of a visual impact assessment shall include identification of visually sensitive resources, viewshed mapping, confirmatory visual assessment fieldwork, visual simulations (photographic overlays), and a proposed visual impacts minimization and mitigation plan. The scope of the visual impact assessment shall be submitted to the Homer Planning Board at the pre-application meeting for its review and advisement. The visual impact assessment shall address the following issues:

(a) The character and visual quality of the existing landscape.

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(b) The visibility and appearance of the facility, including all proposed components therein.

(c) The visibility of all above-ground interconnections and roadways to be constructed within the facility as determined by the viewshed analysis.

(d) The proposed facility lighting (including lumens, location and direction of lights for facility site and/or task use, and safety including worker safety).

(e) Representative views (photographic overlays) of the facility, including relevant front, side and rear views, indicating approximate elevations.

(f) The nature and degree of visual change resulting from construction of the facility and above-ground interconnections.

(g) The nature and degree of visual change resulting from operation of the facility and above-ground interconnections.

(h) A description of all visual resources that would be affected by the facility.

[3] The viewshed analysis component of the visual impact assessment shall be conducted as follows:

(a) Viewshed maps depicting areas of site visibility within one mile of the site, as well as whether the site is visible from any notable scenic, historic, or recreational sites located outside the primary study area, shall be prepared on a topographic base map, the scale of which is acceptable to the Homer Planning Board.

(b) For the sites that are visible from Interstate 81, the viewshed maps shall be prepared within two miles of the site.

(c) Photographic simulations of the system shall be prepared from the representative viewpoints to demonstrate the post-construction appearance of the system.

(d) Additional revised simulations illustrating mitigation shall be prepared for those observation points for which mitigation is proposed in the application.

(e) A line-of-sight profile shall also be done for resources of concern, as approved by the Homer Planning Board, located within the visual impact assessment study area. The viewshed maps shall provide an indication of areas of potential visibility based on topography and vegetation, the highest elevation of facility structures and distance zone foreground, midground and background areas). The potential screening effects of vegetation shall also be shown.

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(e) Visually sensitive sites, cultural and historical resources, representative viewpoints, photograph locations, and public vantage points within the view shed study area shall be included on the map(s) or an overlay.

(f) The visual impact assessment shall include a detailed description of the methodology used to develop the viewshed maps, including the name and version of the software utilized, all input parameters and baseline data, and the date and source of all imagery, digital elevation models, and other datasets used in the analysis.

(g) The viewshed mapping shall be used to determine the potential visibility from viewpoints to be analyzed and locations of viewer groups in the vicinity of the facility, as determined pursuant to the pre-application meeting(s) held with the Town of Homer Planning Board or its designee. These shall include recreational areas, residential and business locations, historic properties, and travelers (interstate and other highway users).

(h) In developing the application, the applicant shall confer with the Homer Planning Board, or its designee, and where appropriate, the Office of Parks, Recreation, and Historic Preservation in its selection of important or representative viewpoints. Viewpoint selection is based upon the following criteria:

[1] Representative or typical views from unobstructed or direct line-of-sight views.

[2] Level of viewer exposure (i.e., frequency of viewers or relative numbers, including residential areas, or high-volume roadways).

[3] Proposed land uses; and

[4] Assessment of visual impacts pursuant to the requirements of adopted local laws or ordinances.

(i) The final viewshed analysis and associated visual impact assessment shall be submitted as part of the project record. Findings from the analysis may be used by the Homer Planning Board to determine appropriate visual mitigation measures and to establish enforceable conditions of approval under Site Plan Review.

(j) A visual impacts minimization and mitigation plan will be required where there are visual impacts from the system significant in scope and extent. The Homer Planning Board, at its discretion, may waive the requirement for the preparation of visual impacts minimization and mitigation plan where it determines there are not significant visual impacts from the system. The visual impacts minimization and mitigation plan

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shall include proposed minimization and mitigation alternatives based on an assessment of mitigation strategies, including screening (landscaping), architectural design, visual offsets, relocation or rearranging facility components, reduction of facility component profiles, alternative technologies, facility color and design, and lighting options for work areas and safety requirements.

(k) Solar panels shall have antireflective coatings, and the Visual Impacts Minimization and Mitigation Plan shall include an analysis using the Sandia National Laboratories Solar Glare Hazard Analysis Tool (SGHAT) methodology or equivalent, demonstrating that solar glare exposure at any nonparticipating residence, airport, or public roadway will be avoided or minimized, and will not result in complaints, impede traffic movements, or create safety hazards. If, following the commencement of operations, the Town of Homer receives a formal complaint or evidence of glare hazard that affects motorists on public roadways or pilots in flight—notwithstanding any prior FAA 'No Effect' letter or SGHAT analysis —the Developer shall, within thirty (30) days of notification by the Town Building Code Department, conduct a field assessment. If a glare hazard is confirmed, the Developer shall implement corrective measures within sixty (60) days, which may include the installation of additional screening, shielding, or the adjustment of panel tilt angles.

(z) Noise Level. Sound studies providing details of the proposed noise that may be generated by inverter fans, or other noise-generating equipment that may be included in the project, including actual readings of existing daytime and nighttime ambient noise at the boundary of the participating properties; the sound study shall reasonably estimate the potential increase in noise from the project over the existing ambient noise levels. Sound studies shall be provided for preconstruction, proposed-construction and post-construction periods. The one-hour average noise generated shall not exceed a noise level of 45 dBA as measured at the nearest outside wall of any nonparticipating residence or occupied community building. Any violation of such requirement confirmed by measurement by a qualified professional shall require that the Developer promptly take reasonable steps to bring such system into compliance with this requirement as presented to and approved by the Homer Planning Board.

(aa) Operation and Maintenance Plan. A written plan detailing the applicant's continuing maintenance and property upkeep, as well as information regarding the system's design, construction, installation, testing and commissioning which shall meet all requirements set forth in the Uniform Code and all applicable codes.

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(bb) Community Engagement Plan. A written plan detailing the applicant's proposed plans and strategies for ensuring adequate public awareness and encouraging community participation in siting and revisions to the design of the proposed solar energy system. Applicants are highly encouraged to discuss the contents and details proposed in this plan with the Town of Homer Planning Board during the pre-application meeting. Such plans shall include, but need not be limited to, identification and outreach to neighboring property owners and residents, a stakeholder identification list, public outreach timeline, project information materials, record of prior engagement, construction communication protocol, complaint resolution procedures, and proposed community benefit opportunities, each as reasonably deemed acceptable to the Homer Planning Board. The Developer shall update and maintain this plan throughout the permitting, construction, and operational phases of the system.

(4) Retention of Expert Assistance; Reimbursement by Applicant.

(a) The Town or Town Planning Board may hire any consultant and/or expert necessary to assist the Board in reviewing and evaluating the application and any requests for recertification.

(b) An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the review of any application. The initial deposit shall be in accordance with Section 11 herein. These funds shall accompany the filing of an application, and the Town will maintain a separate escrow account for all such funds. The Applicant's filing of an application shall not be deemed complete prior to the deposit of such funds. The Town's consultants/experts shall bill or invoice the Town no more frequently than monthly for their services in reviewing the application and performing their duties.

(5) The Homer Planning Board will conduct a public hearing in connection with the application for a Conditional Permit as required pursuant to the New York State Environmental Quality Review Act. All property owners within three hundred (300) feet shall be notified of the public hearing on the application for a Conditional Permit in the manner set forth in the Town of Homer Zoning Code. Additionally, privilege of the floor shall be allowed to the public at all subsequent Homer Planning Board meetings where such application is discussed.

(6) Operation and Maintenance. The following is required:

(a) Required Safety Measures. Before systems become active, the Developer shall arrange an on-site meeting with the fire department having primary coverage of the facility area to review the components of the system, safety issues and procedures for emergency response. This shall include details on the location of labeled warnings, access to the site and emergency disconnection of the system. In addition, the Town of Homer may require the installation of placards

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that provide mutual aid responders with sufficient information to protect them when responding to calls on site. A competent person from the solar company shall be present on site within one (1) hour of any event requiring emergency responders to remain at the facility.

(b) Certification. After completion of a system, the Developer shall provide a post-construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans. The Developer shall further provide certification from the utility that the facility has been inspected and connected.

(c) Storm Water. If determined to be required, a Storm Water Pollution Prevention Plan (SWPPP) as per NYSDEC to detail storm water runoff and erosion control plans for the site.

(d) Construction Phasing and Erosion/Sediment Control. In addition to any SWPPP required under the NYSDEC State Pollutant Discharge System (SPDES) General Permit (GP-0-25-001, or successor), Systems shall include a Construction Phasing Plan and Erosion and Sediment Control Plan prepared by a NY-licensed Professional Engineer that:

[1] Sequencing. Identifies the sequence of clearing, grading, trenching, installation, stabilization, and demobilization; shows limits of disturbance and construction entrances; and stages work to minimize concurrent disturbed areas.

[2] Maximum Open Disturbance. Caps active, unstabilized disturbance to no more than three (3) acres or five percent (5%) of total disturbance, whichever is less at any time, unless a higher limit is justified by the developer's project engineer and approved by the Homer Planning Board in consultation with the Town designated stormwater management official.

[3] Stabilization Deadlines. Provides temporary stabilization within fourteen (14) days of cessation of earthwork in any area (or the shorter timeline required by GP-0-25-001), and final stabilization promptly upon completion. Winter conditions shall follow SPDES seasonal stabilization requirements.

[4] Erosion and Sediment Control Measures. Details perimeter controls, diversion berms, check dams, inlet protection, sediment basins, stabilized construction entrances, dewatering practices, dust control, stockpile management, and concrete washout. All practices shall conform to the NYS Standards and Specifications for Erosion and Sediment Control.

[5] Close-Out. Requires Professional Engineer certification that final stabilization is achieved and that permanent stormwater practices were constructed per the approved plans.

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(e) Long-Term Site Stabilization, Erosion Control and Environmental Performance Bond.

[1] The Developer shall provide a performance bond to the Town of Homer to ensure installation, maintenance, and repair of all erosion and sediment control measures, stormwater practices, and site-stabilization features for the life of the project. The amount of the performance bond shall be the total estimated construction cost of the long-term site stabilization and erosion control submitted by the applicant and approved by the Town of Homer, plus 4% for inspection and 10% for contingencies. The performance bond shall include forfeiture provisions for failure to complete work specified in the SWPPP. The Town of Homer will make a final inspection of the stormwater control measures and features to ensure they are in compliance with the approved plan and the provisions of this chapter.

[2] This financial security shall guarantee that if the developer, its successors, or assigns fail to maintain effective erosion control, slope stability, stormwater infrastructure, or ground cover in accordance with the approved plans and applicable permits, the Town of Homer may draw on the financial security to correct deficiencies, complete necessary work, or restore the site.

[3] The bond shall be replenished upon written notice from the Town of Homer if drawn upon and shall remain in effect until the project is fully decommissioned and the Homer Planning Board has accepted final site restoration.

(f) Ownership Changes. If the direct or indirect ownership of the Developer changes or the owner of the property changes, all requirements of the Conditional Permit approval shall remain in effect. Approval to operate the system shall continue, provided that the successor Developer assumes in writing, and notice to the Town of Homer described below, all the obligations of the Conditional Permit, decommissioning plan, security, escrow and any other binding agreements. A new Developer of the solar energy system shall notify the Town of Homer Building Code Department of such change in Developer sixty (60) days prior to the ownership change. If a new Developer fails to provide written notification to the Town of Homer Building Code Department in the required timeframe, then all required permits shall be suspended upon written notification from the Town and in the Code Enforcement Officer's discretion a stop work order may be issued. All the terms set forth herein shall be binding on developers, ATIMA/ISAOA.

(g) Annual Report/Inspection. On a yearly basis, the Developer shall provide the Town of Homer a report showing the rated capacity of the system and the amount of electricity that was generated by the system and transmitted to the grid. The report shall be submitted no later than thirty (30) days after the end of the calendar year. Additionally, a Developer shall hire an independent third-party engineer/inspector approved by the Town of Homer to oversee compliance with site and operational requirements and the ongoing obligation of same for the lifetime of the project. The engineer/inspector shall perform a

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site inspection if a complaint regarding the solar energy system and any of its components is made to the Town of Homer Building Code Department. Annual inspections of the completed solar energy system shall be performed at the expense of the developer, ATIMA/ISAOA.

(h) Project Changes. Any post-approval changes to the solar energy system, except for immaterial modifications as defined herein, shall be done by amendment to the Conditional Permit shall be subject to the requirements of Section 6 of this law. Unless expressly limited by a condition imposed in the permit, the Town of Homer Building Code Inspector or other Town of Homer designee may, during project construction, allow immaterial modifications to the design of the project as represented in the final set of site plans reviewed by the Homer Planning Board. Such immaterial modifications shall only be allowed in response to a written request by the developer. All such requests shall be addressed to the authorized Town of Homer designee, with copies to the Homer Planning Board.

C. Tier 3 Agrivoltaic Solar Energy Systems (Dual Use) shall be permitted within the designated Agricultural and Light Industrial – 2 (I-2) Zoning Districts as principal and/or accessory uses and shall be subject to a Conditional Permit. An Agrivoltaic Energy System is designed and operated to achieve both solar energy and agricultural products including but not limited to – crop production, meat production, and grazing – on the land beneath and/or between the rows of solar panels for the operational life of the project. Tier 3 Solar Energy Systems shall adhere to the standards and requirements established for Tier 2 Solar Energy Systems in Section 7.B, unless otherwise permitted by the Homer Planning Board in furtherance of the integration of agricultural practices with such system, in addition to (or in some cases amended by) the following requirements:

(1) Agricultural Use Requirement:

(a) The applicant shall demonstrate that the land proposed for the agrivoltaic system has been in active agricultural production for at least two (2) of the previous five (5) years, or is formally enrolled in an agricultural district, conservation easement, or farmland preservation program.

(b) The applicant must submit a written Agricultural Dual-Use Plan describing how agricultural production will continue throughout the operational life of the project.

(2) Height and Layout:

(a) Panels shall be elevated and spaced to allow customary continuous agricultural activity beneath or between arrays.

(b) Minimum clearance between the lowest panel edge and grade shall be included in the Agricultural Dual-Use Plan to best suit the site's agricultural operations.

(3) Screening and Visibility:

(a) Screening shall prioritize use of existing hedges, tree lines, and farm edges. New vegetative screening shall not be placed in locations that:

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[1] Impede movement of agricultural equipment.

[2] Create shade that adversely affects crop productivity.

[3] Interfere with livestock movement or fencing.

[4] Where new vegetative screening is required, it shall be placed outside active agricultural production areas unless it uses existing non-productive edges.

[5] The Town of Homer Planning Board may waive or modify screening requirements if such measures would unduly interfere with agrivoltaic operations and the project otherwise maintains rural character through siting, layout, and use of existing vegetation.

D. All Tier 4 solar energy systems shall obtain a siting permit from ORES and shall be subject to the following requirements:

(1) Town Involvement in Utility Solar Energy System Application Process:

(a) Following any notice of intent to file an application for a Tier 4 solar energy system in the Town, the Town Board, Town Supervisor, or their representative or attorney will engage with a representative of ORES on a regular basis to ensure that ORES staff understands the intent of this Solar Energy Law, its context, and the unique concerns of the Town and its residents relevant to the application of this Solar Energy Law to such project.

(b) The Town's Code Enforcement Officer will not perform onsite inspections of any Tier 4 solar energy system in the Town, and the permittee of any such system shall provide for an independent third-party inspector to conduct such inspections on behalf of the Town's Code Enforcement Officer.

(2) Town Expenses, Host Community Agreements, and Payments in Lieu of Taxes:

(a) The Developer of any proposed Tier 4 solar energy system shall reimburse the Town for all costs associated with the Town's review of the proposed project not reimbursable by local agency account funds pursuant to 16 NYCRR 1100-5 or its successor regulation.

(b) Pursuant to 16 NYCRR 1100-6.6(b), or its successor regulation, any host community agreement entered into by the Town in connection with a Tier 4 solar energy system shall contain an obligation of the permittee to value its decommissioning security consistent with the provisions of Section 11.A(3) below.

(c) The total amount of economic benefit derived by the Town through any host community agreement and any agreement for payments in lieu of taxes with respect to a Tier 4 solar energy system shall not be less than the maximum amount of town-allocable taxes that would have been assessed on such Tier 4 solar energy system under applicable law in the absence of such agreements, regardless of any fees, costs or expenses incurred by the Developer in negotiating or entering into such agreements

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(3) Tier 4 Solar Energy System Conditions - After careful consideration of the public safety and health and welfare needs of the community, community character, natural resources available to the community, and other aspects unique to the Town, and the unique risks posed by Tier 4 solar energy system due to their scale, impact on the community, and their use of corporate and financial structuring and business models intended to limit their liability to third parties, including the Town, the Town Board requires any Tier 4 solar energy system installed all or partially within the Town meet the following substantive requirements in furtherance of, and in reasonable balance with, the goals and objectives of the New York State Climate Leadership and Climate Protection Act:

(a) Height. Systems shall not exceed the permitted height of accessory structures in the zoning district where the solar energy system is to be installed or an average of twenty (20) feet from the ground, whichever is less.

(b) Setbacks. Systems as a primary use or accessory use are subject to the setback requirements of the zoning district in which the system is to be constructed in addition to the following:

[1] Systems as a primary use shall be one hundred (100) feet from any property line or two hundred (200) feet from any nonparticipating residence, whichever is greater.

[2] Such required setbacks are measured from the property line to the nearest part of the system (except that the two hundred (200) foot setback from any nonparticipating residence shall be measured from the residence to the nearest physical part of the system). Fencing shall generally be considered to be the closest part of the solar energy system. No part of a ground-mounted system shall extend into the required setbacks due to a tracking system or other adjustment of solar energy-related equipment or parts.

[3] The following are excluded from the setback requirements: Access roads; utility poles; underground equipment and stormwater management facilities not creating a material deviation from surrounding ground level once installed.

(c) Screening and Visibility. For purposes of this subsection, consideration shall be given to any relevant portions of the current, amended and/or future Town of Homer Comprehensive Plan and/or any other prior, current, amended and/or future officially recognized Town of Homer Planning Board document or resource of general applicability, including but not limited to Open Space Plans.

[1] All on-site utility and transmission lines shall be placed underground unless required by the host utility company or applicable laws, regulations or codes.

[2] The design, construction, operation and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar glare onto neighboring properties, public roads, and public parks in material excess of that which already exists.

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[3] All structures and devices used to support solar collectors shall be nonreflective and/or painted a subtle or earth tone color to aid in blending the facility into the existing environment.

(d) Native Vegetation. The Developer shall develop, implement, and maintain vegetation native to the State of New York to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. When establishing perennial vegetation and beneficial foraging habitat, the Developer shall use native plant species and seed mixes. Vegetation shall be maintained below solar panels. It is encouraged that the ground within the fenced perimeter shall not be tamped, compressed, or otherwise conditioned to inhibit the growth of natural vegetation and natural percolation of rainwater.

(e) Lighting.

[1] Exterior lighting design shall be limited to lighting required for health, safety, security, emergencies and operational purposes and shall be specified to avoid off-site lighting effects to the greatest extent practicable.

[2] Maximum mounting height: twenty (20) feet above grade for pole-mounted fixtures, or fifteen (15) feet when adjacent to residential or scenic areas (as determined pursuant to the pre-application meeting(s) held with the Homer Planning Board, or its designee).

[3] All lighting shall utilize fully shielded (cut-off) fixtures to prevent up light and glare and shall employ bulbs with a CCT not exceeding 3,000 Kelvin (warm-white spectrum) to minimize blue-light emission and visual intrusion.

[4] Lighting controls, including timers, dimmers, or motion sensors, shall be used wherever practicable to reduce lighting intensity and duration.

(f) Access and Parking. Solar energy systems shall be enclosed by security fencing to prevent unauthorized access. Warning signs identifying the Developer, emergency contact information, and site address shall be posted at each point of vehicular or pedestrian access, including the roadside entrance and gated entry to the fenced area(s). A Knox Box or equivalent emergency access lock shall be installed at all gated access points to allow emergency responders entry in accordance with Town of HomerFire Department requirements.

[1] Fencing around systems will be between seven (7) feet and eight (8) feet in height, including any security features such as barbed or razor wire if granted, unless a greater height is demonstrated to be necessary for safety or regulatory compliance and approved by the Homer Planning Board.

[2] Fencing shall be constructed of non-reflective materials and designed to minimize visual impact. The use of barbed or razor wire is prohibited, except where specifically required by applicable codes or the electric utility for security at substations. Decorative or wildlife-permeable fencing may be used when compatible with site conditions and safety requirements.

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[3] Prior to construction, the Developer shall execute a road use agreement with the Highway Superintendent identifying haul routes, posting a road repair bond in the amount then-determined necessary to reconstruct the total number of miles of Town roads to be used by the Developer during construction of the solar energy system, and completing pre- and post-construction condition surveys with respect to such Town roads. All Town roads shall be restored to equal or better condition at no cost to the Town of Homer. Developer shall inform local residents by mail or in person of impending construction and delays no less than two weeks prior to beginning construction.

[4] Notwithstanding any other provision of the Town code, all site preparation, construction, and delivery activities shall be limited to Monday through Friday between the hours of 8:00 AM and 6:00 PM. No construction activities, including the idling of heavy equipment, shall occur on Saturdays, Sundays, or federal holidays. High-impact noise activities, such as pile driving or rock hammering, shall be further restricted to between 9:00 AM and 5:00 PM.

[5] Access roads from the public right-of-way to the facility shall be constructed and maintained to provide all-weather access for emergency and maintenance vehicles in accordance with Town of Homer Fire Department requirements.

[6] Minimum cleared width of access roads shall be sixteen (16) feet (or as otherwise required by the Town of homer Fire Department or Highway Superintendent).

[a] Minimum vertical clearance: thirteen (13) feet six (6) inches (or as otherwise required by the Town of Homer Fire Department or Highway Superintendent).

[b] Turning radii and grades shall accommodate emergency apparatus. Have a sufficient turn radius (a minimum fifty (50) feet outer radius).

[c] Dead-end access roads exceeding one hundred fifty (150) feet in length shall provide a turnaround suitable for fire apparatus, such as a T-turn or cul-de-sac, with dimensions required by the International Fire Code (IFC) or NFPA standards, or as may otherwise be required by applicable laws and regulations.

[d] Surfaces shall be pervious or gravel, unless otherwise approved by the Homer Planning Board for safety or erosion control reasons, and roads shall be graded as required to comply with the NYS Fire Code.

[e] Roads shall be designed to minimize impervious coverage and stormwater runoff.

[f] The Developer shall maintain all access roads, and gates in good condition.

[g] Signage.

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(1) Clearly identifies the name of the developer.

(2) Provides a twenty-four (24) -hour emergency contact phone number.

(3) Is visible from the public right-of-way or site access road and legible at all times.

(4) Systems where the site entrance or access gate is separate from the fenced solar array area, signage shall be installed at both locations—at the primary site entrance (visible from the public right-of-way) and at the fenced perimeter of the solar array. Such signage shall ensure that contact and safety information is readily visible to emergency responders and the public even when the facility gate is closed or locked.

(5) Signage shall not be used for promotional or advertising purposes other than identification and required safety information.

(6) Clearly visible warning signs shall be placed at each pad-mounted transformer, inverter array, substation, and at each gate or fencing perimeter, indicating solar electric hazard.

(7) Signs shall conform to the applicable local sign code in terms of size, setbacks, illumination, materials and construction.

(8) If ownership, operation or contact information changes, the new Developer shall replace or update signage within thirty (30) days.

(9) Equipment and vehicles not used in the direct support, repair, or maintenance of the solar energy system shall not be stored or parked on the facility site. Support or maintenance vehicles may remain on-site only for the duration of active maintenance or repair work, and not for more than seventy-two (72) consecutive hours, unless otherwise approved in writing by the Homer Planning Board.

(g) Emergency Operations.

[1] Site must be made available upon no less than two weeks advanced written request of the emergency personnel for conducting drills of these procedures and for training local (all agencies within 15 miles) emergency responders on appropriate response procedures. Training shall be taught by a New York State certified instructor, performed annually or when any changes occur that could impact emergency response and shall include local and mutual aid emergency responders. Training and specialty equipment shall be paid for by the developer.

[2] The Developer shall notify the Town of Homer Fire Department, Cortland County Emergency Management Office and the Town of Homer Building Code Department at least one week prior to any scheduled maintenance or equipment swap out.

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(h) Insurance. The holder of a Conditional Permit for a solar energy system shall secure and maintain for the duration of the permit, liability insurance as follows (unless waived by the Homer Planning Board):

[1] Auto coverage: State mandated minimums.

[2] Workers' compensation coverage: State mandated minimums.

[3] 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 Homer and its officers, councils, employees, attorneys, agents and consultants as additional named insured on a non-contributory basis.

[4] Umbrella coverage: $5,000,000 per occurrence, $10,000,000 aggregate.

[5] Insurance Company: 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".

[6] Insurance Policy Cancellation: The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town of Homer with at least thirty (30) days prior written notice in advance of cancellation.

[7] Insurance Policy Renewal: Renewal or replacement policies shall be delivered to the Town of Homer at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

[8] Certificate of Insurance: No more than fifteen (15) days before construction is initiated, the permit holder shall deliver to the Town of Homercertificates representing the insurance in the required amounts.

[9] Certificate of Insurance: A certificate of insurance that states it is for information purposes only and does not confer sufficient rights upon the Town of Homershall not be deemed to comply with this law.

Section 8 Host Community Agreement and Payment-in-Lieu-of-Taxes.

A. Host Community Agreement, Tiers 2 and 3.

(1) Mitigative Purpose of the host community agreement.

The Town finds that Tier 2 and 3 solar energy systems within its jurisdiction are likely to result in substantial adverse impacts to its residents and businesses and that the Town is positioned to mitigate some or all of those impacts. Applicants for such projects shall agree to directly or indirectly mitigate such impacts by entering into an host community agreement with the Town that may include the payment of money to the Town to be administered in mitigating and offsetting such impacts as they arise.

Such host community agreement shall address the unique physical, operational, and social impacts imposed upon the Town and its residents by the project identified by the

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HomerPlanning Board at a pre-application meeting, which may include, but need not be limited to:

(a) Permanent impacts to agricultural practices in the Town.
(b) Impacts to transportation and traffic during construction, operation, repowering, and decommissioning.
(c) Environmental impacts.
(d) Loss of community character, identity, and aesthetic.
(e) Generalized impact to property values in the community.

Any amounts paid under a host community agreement shall be distinct from any real property tax or payment in lieu thereof. Host community agreements shall remain in place until the applicable solar energy system has been fully decommissioned and the participating property has been restored as evidence by approval of the relevant governmental agency.

(2) Calculation of Fee and CPA Certification.

An annual host community agreement fee shall be no less than the amount published by the Town on an annual basis.

(3) Reservation of Rights and Modification Authority.

Nothing in this Chapter shall be construed to limit the rights of the Town of Homer under New York law, including Real Property Tax Law § 487, or to preclude Homer from entering into a PILOT or similar agreement with an IDA.

B. Payment-in-Lieu-of-Taxes (PILOT).

(1) Each Tier 2 and Tier 3 solar energy system shall enter into a PILOT agreement as required by the Solar Energy System PILOT Law of the Town of Homer, New York (Chapter 130 of this code).

(2) If the Cortland County Industrial Development Agency (CCIDA) negotiates a PILOT in connection with a solar energy system, Homer will participate in the IDA's PILOT agreement.

(3) If CCIDA does not negotiate a PILOT agreement in connection with a particular solar energy system, Homer may execute its own PILOT agreement with respect to such system.

Section 9 - Decommissioning and Site Restoration.

A. A decommissioning plan signed by the Developer of the solar energy system shall be submitted by the applicant for all Tier 2 and Tier 3 solar energy systems. The decommissioning plan shall address the following:

(1) The Developer will identify the anticipated life of the project.

(2) A plan for restoring the property to its pre-installed condition, including grading and vegetative stabilization to mitigate any negative impacts to surrounding properties, and where, if it was previously used for farming, with vegetation suitable for farming purposes, i.e. a hay field, crops or grazing. Such restoration shall follow NYS

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Department of Agriculture and Markets Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands, as updated.

(3) A schedule and methods for the removal of the solar energy system and/or the solar energy equipment, including any ancillary structures, subsurface wires and footings from the parcel and removing and replanting all access roads created for building or maintaining the system.

(4) The estimated hours of labor required to restore the property to its pre-installed condition and to repair any damage caused to the property by the installation and removal of the solar energy system based on customary "critical path" estimation methodology and using standard RSMeans productivity estimates. The Developer shall provide an updated estimate of hours of labor if requested at any time prior to decommissioning of the system by theHomer Planning Board if in its reasonable understanding that customary methods or tasks required in performing decommissioning have materially changed.

(5) The estimated cost of removing the entire solar energy system based upon prevailing wages, FEMA equipment rental rates, federal per diem rates, and any other requirements applicable to municipalities under state or federal law, and no salvage value shall be attributed to any of the components of the solar energy system and/or the solar energy equipment.

(6) Applicant shall provide a proposed decommissioning agreement to the Town of Homer Planning Board for review and consideration. No building permit shall be issued for a solar energy system unless and until a decommissioning agreement in a form approved by the Homer Planning Board has been executed by the Town of Homer and the developer, and the Developer has provided the required financial security.

(7) The remedies to address a failure to decommission a system pursuant to this Section are not exclusive and may be pursued simultaneously, this includes enforcement of the decommissioning agreement, calling in of the security required under this Section and using all enforcement and penalty provisions available under the the Town of Homer Zoning Code.

B. Baseline Study Requirement.

(1) A study shall be prepared, signed, and sealed by a qualified professional, which may include a NY-licensed Professional Engineer, Certified Soil Scientist, Certified Crop Advisor, and/or Certified Wildlife Biologist, or other professional acceptable to the Homer Planning Board, that addresses the points set forth below.

(2) Baseline Study shall include, at a minimum:

(a) Existing soil conditions, including levels of heavy metals and PFAS, at no less than three representative sample sites across the site or as otherwise required by the Homer Planning Board.

(b) Existing ground and surface water (if any) conditions, including levels of heavy metals and PFAS, at no less than three representative sample sites across the site or as otherwise required by the the Town of Homer Planning Board.

(c) Topographic and drainage mapping across the entire Facility Area.

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(d) Site photos or video of the entire Facility Area.

(e) Historical agricultural productivity data for the Facility Area and areas of agricultural production immediately adjacent to the Facility Area.

(f) Existing vegetation cover mapping of the entire Facility Area.

(3) Annually after completion of construction of a Tier 2 or Tier 3 solar energy system, the Developer shall perform testing of ground and surface water (if any) conditions consistent with, and at the same locations as, the testing performed for the Baseline Study and shall provide a report of the results of such tests to the Homer Planning Board promptly following completion.

C. Restoration Study and Verification.

(1) A study shall be prepared, signed, and sealed by a qualified professional, which may include a NY-licensed Professional Engineer, Certified Soil Scientist, Certified Crop Advisor, Certified Wildlife Biologist, or other professional acceptable to the Homer Planning Board to address the points set forth below.

(2) The Post-Decommissioning Restoration Verification Report shall include, at a minimum:

(a) Post-restoration soil, groundwater, and surface water (if any) conditions at the same locations and same testing methodology as the samples analyzed in the Baseline Study for the system.

(b) Topographic and drainage mapping of the entire Facility Area after restoration.

(c) Vegetation establishment testing.

(d) Photographic comparison of post-restoration site conditions to the Baseline Study for the system.

(e) Professional certification the site has been restored as required pursuant to all applicable laws and regulations.

D. Notification and Abandonment. A Developer of a Tier 2 or Tier 3solar energy system that has not generated electricity for a period of six (6) months must notify the Town of Homer in writing within ten (10) days that the system is no longer operating. If the system ceases to operate for an additional six (6) months, the system shall be deemed to be abandoned and shall be decommissioned within six (6) months by the Developer of the solar energy system. Any such solar energy system for which such notice is not provided within such period shall be deemed abandoned immediately.

E. Coordination with Public Utility Provider. As part of the decommissioning process, the Developer shall provide a detailed plan outlining the steps for proper disconnection and coordination with the public utility provider to ensure a safe and compliant removal of the solar energy system. The plan shall include:

(1) Interconnection Termination and Notification: The Developer shall notify the utility provider before decommissioning begins, and a copy of such notification shall be contemporaneously provided the Town of Homer. Such notification shall include system details such as interconnection agreement reference, system capacity and point of interconnection.

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(2) Disconnection and Infrastructure Removal: The Developer shall comply with all requirements set forth in the utility interconnection agreement and ensure that all grid-tied equipment is safely disconnected by a licensed electrical contractor. Any dedicated transformers, switchgear and metering equipment installed specifically for the solar system shall be removed or decommissioned per the utility provider's specifications. If any infrastructure, such as utility poles, transmission lines or underground conduits, is no longer required, the Developer must coordinate with the utility provider for removal or repurposing.

(3) Final Inspection and Compliance: No solar energy system shall be considered decommissioned or restored until the utility provider has completed, and the Developer has provided, written confirmation of final site inspection verifying that all interconnection points have been properly de-energized and that no risks to grid stability or public safety remain.

F. Public Notice of Decommissioning.

(1) At least 30 calendar days prior to the commencement of physical decommissioning activities pursuant to the approved decommissioning plan, the Developer shall provide public notice of the decommissioning. The notice shall include:

(a) Name of the project and site address/parcels.

(b) Name, contact information of the Developer or designee.

(c) Start date and estimated timeline of decommissioning work.

(d) Description of restoration work to be performed (e.g., removal of panels, roads, regrading, revegetation).

(e) Statement of availability of the full decommissioning plan and restoration verification.

(2) Proof of publication, mailing/notice and posting shall be submitted to the Town of Homer Planning Board prior to the onset of ground disturbance for decommissioning.

Section 10 Enforcement, Inspection, and Penalties.

A. Any violations of this Local Law are enforceable pursuant to the enforcement and penalty Provisions of the Town of Homer Zoning Code. Any Developer shall be liable for any violations of this Chapter, including failures to maintain decommissioning security or costs incurred by the Town of Homer in performing decommissioning and site restoration and failures to pay any amounts due under any applicable host community agreement or PILOT. Such liability may be enforced against the Property Owner by the Town instituting a tax lien against such property for unpaid amounts due.

B. Right of Entry and Inspection.

(1) The Town of Homer may enter the property upon reasonable notice to ensure compliance with the terms and conditions of the permit, the approved plans, and this Local Law.

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(2) The Town of Homer may inspect the facility at least annually and after any complaint or observed issue.

(3) In order to verify that the Developer place, construct, modify, and maintain such systems, including solar collectors and solar inverters, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other applicable requirements, the Town may inspect all facets of said system's placement, construction, modification and maintenance.

(4) Any inspections required by the Town of Homer Building Code Department that are beyond its scope or ability shall be at the expense of the developer.

C. If the Developer fails to maintain the facility in good working order or violates any provision of this local law the Town of Homer may issue a written Notice of Violation.

D. Each week that a violation continues shall constitute a separate offense.

E. If the violation is not cured within 30 days, the Town of Homer may revoke the permit, impose fines, draw from the decommissioning security to decommission the system and restore the property, and take any other action authorized by law.

F. The Town of Homer may take such actions as necessary to prevent, mitigate, or remedy violations including, but not limited to, issuing stop-work orders, commencing civil proceedings, or requiring removal of equipment.

G. Violations are punishable by a civil penalty of up to $2,000 per day, plus all costs of enforcement, including legal fees.

H. Emergency Action. In the event that the violation poses an immediate threat to public safety, the Town of Homer may take immediate corrective action at the Developer's expense.

The Town of Homer may draw on the decommissioning security, landscaping/screening maintenance security, or long-term site-stabilization security and the Developer must replenish any funds drawn within 30 days of written notice to correct any violation related to:

(1) Erosion and sediment control.

(2) Failure to maintain landscaping or buffers.

(3) Stormwater system failure.

(4) Fencing or safety issues.

(5) Abandonment.

(6) Failure to decommission.

(7) Other conditions of approval.

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Section 11 - Financial Assurance Requirements.

A. The applicant shall be responsible for all costs associated with independent third-party review and inspection incurred by the Town of Homer in connection with any application for a Tier 2 or Tier 3 solar energy system. Prior to the Town being obligated to initiate any such review, the applicant shall deposit funds into a municipal escrow account established by the Town of Homer for this purpose.

(1) Escrow Fee Schedule. The initial escrow amount shall be based on project scale and anticipated review needs, as follows:

(a) Tier 2 solar energy systems less than 1 MW in size: $5,000 initial escrow deposit.

(b) Tier 2 or Tier 3 solar energy systems greater than 1 MW in size: $20,000 initial escrow deposit.

(c) The Town of Homer Planning Board or Town Board shall have discretion to increase or decrease the required deposit based on project specific factors that may impact the amount of work necessary to appropriately review such application, including acreage disturbed, number of consultants required, and proximity to environmentally sensitive resources.

(d) On-Site Monitor Costs: The independent third-party inspection costs to be covered by the application fee and escrow deposit shall include the reasonable costs incurred by the Town of Homer to hire a licensed professional engineer or firm to perform inspection of the applicant's solar energy system during and after completion of construction for consistency with the site plan for the solar energy system, the requirements of the NYS Building and Electrical Code, the NYS Fire Code, the conditions of any applicable special use permit, and this Law. Such engineer shall be selected by the Town in its sole discretion, and the applicant shall be notified of the estimated fees for such services upon approval of its application, and, if the then-current balance of the escrow deposit is insufficient to reimburse the Town of Homer for such fees, the applicant shall, within thirty (30) days after approval of its application, increase the escrow through an additional deposit equal to the difference between such estimate and the then-current balance.

(e) Replenishment and Administration: The Town of Homer may require the applicant to replenish the escrow whenever the balance falls below twenty five percent (25%) of the initial deposit, or when additional review is necessary due to project revisions, inspections, or post-construction compliance checks. The Town of Homer may postpone review of an application until the applicant replenishes escrow. The Town of Homer shall administer the escrow and disburse payments directly to its consultants in accordance with a written escrow or professional services agreement executed between the applicant and the Town of Homer. All unused escrow funds shall be refunded to the applicant upon completion of all required reviews and final decision on the application.

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(2) Financial Security for Construction and Maintenance: Prior to the issuance of a Building Permit for any Tier 2 or Tier 3 solar energy system, the Developer shall provide financial security acceptable to the Town of Homer, such as a performance bond, letter of credit, or other surety, to guarantee completion of required improvements, including access roads, landscaping, stormwater management infrastructure, and any other mitigation measures identified through the review process.

(a) The amount and form of financial security shall be approved by the Town of Homer Attorney and maintained in full force for the duration of construction and the first year of operation.

(b) In the event of a change in Developer of the solar energy system, the decommissioning security, landscaping/screening maintenance security, and long-term site-stabilization security shall not be released to the original Developer until the successor Developer has deposited replacement security in a form and amount acceptable to the Town. There shall be no period during which the facility is not fully bonded. The successor must provide written proof of the replacement security at least sixty (60) days prior to the transfer of the permit. In the event the new Developer fails to replace any required security after sixty (60) days, the Town may deem such failure an abandonment of the solar energy system triggering decommissioning of such system.

(3) Decommissioning Security.

(a) Security shall be provided by the Developer of any Tier 2 or Tier 3 solar energy system in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal of the solar energy system and restoration of the site subsequent to removal by the Town of Homer or its contractors or subcontractors in the event such actions are not taken by the Developer as required by the applicable decommissioning plan. Such security shall be established prior to the start of construction of the system and shall be in the form of a non-cancellable, evergreen performance bond or letter of credit issued an A-rated financial institution or an A3 rating financial institution on behalf of the Developer. The amount of the security shall be 125 percent of the estimated cost of decommissioning and removal of the solar energy system and restoration of the property set forth in the decommissioning plan. No salvage value of project components shall be used to offset the required security amount. If the updated estimate (plus the twenty five percent (25%) contingency) exceeds the current value of the held security, the Developer shall increase the financial assurance to the new amount within 60 days. The security established by the agreement shall not be subject to disclaimer or rejection in a bankruptcy proceeding.

(b) In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the security shall be forfeited to the Town of Homer

(c) which shall be entitled to maintain an action thereon. The security shall remain in full force and effect until ninety (90) days after the restoration of the property, as set forth in the decommissioning plan, is completed.

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Section 12 - Battery Storage.

If a solar energy system includes a battery energy storage system component, such component shall be subject to the Town of Homer's Battery Energy Storage System Law. No battery system shall be approved under this Solar Energy Law alone.

Commented [TH11]: Is there going to be one?

Section 13 - Severability.

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgement of any court of competent jurisdiction to be impaired, illegal, invalid, unenforceable or unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision or phrase, which shall remain in full force and effect and shall be fully severed from this code and there shall be automatically added in lieu thereof, a provision as similar in terms and intent to such severed provision as may be legal, valuable and enforceable.

The following provisions of this Solar Energy Law are intended to be applicable to Tier 4 solar energy systems and are each intended to apply to all solar energy systems to be permitted by ORES pursuant to Section VIII of the New York Public Service Law: Sections, 2, 3, 4, 6, 7.F, 9, 11.A(3), and 13. Such provisions are not intended to be procedural and are each intended to be substantive in nature. The invalidity or unenforceability, including preemption, of any section, subsection, paragraph, sentence, clause, provision, or phrase of the following provisions of this Solar Energy Law, as may be declared by ORES or a valid judgment of any court of competent jurisdiction (administrative or otherwise) shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect. Any request by an applicant to ORES for a siting permit for a solar energy system for non-application of any Town law shall be narrowly construed to the specific express request of such applicant so as to have the minimal impact on the provisions of this Solar Energy Law and for which the applicant has provided an adequate justification under applicable laws and regulations. For the avoidance of doubt, none of the provisions of this Solar Energy Law pertaining to Tier 2 and Tier 3 solar energy systems are intended to apply to Tier 4 solar energy systems.

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