Town of Hunter
Greene County : New York

Town of Hunter Local Law Regulating Solar Energy Systems

Local Law No. 1 of 2021

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Prepared by the Town of Hunter Town Board

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New York State Department of State
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Albany, NY 12231-0001
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Local Law Filing

Town of Hunter Local Law Regulating Solar Energy Systems

A LOCAL LAW establishing regulations for siting solar energy systems within the Town of Hunter.

BE IT ENACTED by the Town Board of the Town of Hunter as follows:

ARTICLE I: INTRODUCTORY PROVISIONS

A. Title.

This local law shall be known as "The Town of Hunter Solar Energy Law"

B. Authority.

This Local Law is enacted pursuant to the authority and power granted by Articles 2 and 3 of the New York State Municipal Home Rule Law, Article 2 of the New York Statute of Local Governments, and Article 16 of the New York State Town Law and the powers pursuant to Section 263 of Town Law, of the State of New York, which authorizes the Town of Hunter to adopt provisions that advance and protect the health, safety, and welfare of the community, and "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefore."

C. Purpose and Intent.

1. The Town of Hunter has determined that comprehensive regulations regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents, and its businesses. This Local Law aims to accommodate solar energy systems while balancing the potential impacts on neighbors, preserving community character, and encouraging the rights of property owners to install and sensibly site solar energy systems.

2. The Town of Hunter is a mountainous community located within the Catskill Park and the Catskill Watershed that is rich in history, scenic resources, and recreational opportunities. The purpose of this Local Law is to encourage sensible siting for solar energy systems such that scenic viewsheds, overlays, and vistas are preserved and protected.

3. Solar energy is a renewable and clean energy resource that can prevent fossil fuel emissions and reduce a municipality's energy load and reliance on fossil fuel thereby reducing the carbon footprint of Hunter. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is both a necessary and priority component of the Town of Hunter's current and long-term sustainability agenda. It is also consistent with the commitment of Hunter to be a "climate smart" community. Because it is in the public interest to provide for and

encourage renewable energy systems and a sustainable quality of life, the purpose of this Local Law is to facilitate the development and operation of renewable energy systems based on sunlight while minimizing adverse impacts on neighboring properties and scenic viewsheds so as to protect the public health, safety and welfare of the residents of the Town of Hunter.

4. This Local Law is intended to promote the effective and efficient use of solar energy systems; set provisions for the sensible placement, design, construction and operation of such systems in such a way as to be consistent with the Town of Hunter Comprehensive Plan; to uphold the public health, safety and welfare; and to ensure that such systems will not have a significant adverse impact on the environment or on the aesthetic qualities and character of the Town.

5. It is not intended by this Local Law to abrogate or impair existing conditions previously made or permits previously issued relating to the use of buildings. Whenever this Local Law imposes a greater restriction upon the use of buildings or premises than is required by existing provisions of law, ordinance or regulations, the provisions of this Local Law shall control. More restriction is intended.

ARTICLE II: DEFINITIONS

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM - A solar energy system that consists of integrating photovoltaic modules into the building envelope system such as vertical facades including glass and other material, semi-transparent skylight systems, roofing materials, and shading over windows.

BUILDING-MOUNTED SOLAR COLLECTORS - an array of solar collectors mounted securely to racks attached to roof mounts, or integrated into building materials such as roof tiles, siding, or windows of any legally permitted and/ or constructed building or structure for the purpose of producing electricity.

ACCESSORY USE – A use which is clearly and customarily incidental and subordinate to the principal solar energy system, and located on the same lot as where the principal solar energy system is sited.

DECOMMISSIONING PLAN - Detailed steps to remove unused or inactive solar energy systems, the elimination of all safety hazards, the remediation of the site, cost estimates to accomplish these requirements, and the provisions of financial security therefor.

FLUSH-MOUNTED SOLAR ENERGY SYSTEM - A rooftop-mounted solar energy system with solar panels which are installed flush to the surface of a roof and which cannot be angled or raised.

FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM - A solar energy system that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity.

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.

LARGE-SCALE COMMUNITY SOLAR ENERGY SYSTEM - A solar energy generation facility, whether a ground-mounted and/or rooftop installation, principally used to convert solar energy to electricity designed and intended to supply energy primarily into a utility grid for sale to the general public or to supply multiple users located off-site on which the energy system is located. For this purpose of this Local Law, the purpose of large-scale community solar energy systems is to principally benefit members and residents of the Town of Hunter community.

LOCAL CONTACT PERSON – A person 18 years of age or older designated by the owner or operator of a large-scale community solar energy system who, by such owner or operator designation, shall have the authority to make decisions regarding the operation and maintenance of the large-scale community solar energy systems and its components. The local contact person must reside in the Town of Hunter and be available at all times to respond to questions and concerns regarding the safety, maintenance, and immediate off-site impacts resulting from large-scale community solar energy systems.

MATURE FOREST -- A mature forest is any unimproved land in excess of one (1) acre with trees that are predominantly six (6) inches diameter at breast height (dbh) or more.

NET-METERING - A billing arrangement that allows solar customers to receive credit for excess electricity which is generated from the customer's solar collection and delivered back to the grid so that customers only pay for their net electricity usage for the applicable billing period.

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

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

ON-SITE CONSUMPTION – Energy generated primarily for the purpose of providing power to the owners, lessees, tenants, residents, or other occupants of the parcel on which the solar energy systems are erected,

PHOTOVOLTAIC (PV) SYSTEM - A solar energy system that produces electricity by the use of semiconductor devices, called "photovoltaic cells," that generate electricity whenever light strikes them.

PRIMARILY - For purposes of this local law, description of an amount of projected on-site energy demand not less than 90% of projected energy generation.

PRIME FARMLAND - Land designated as "prime farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service's Soil Survey Geographic Database that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops and is also available for these land uses (the land could be cropland, pastureland, rangeland, forest land, or other land, but not urban built-up land or water).

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 (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSERDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the Town's permit granting authority or such other Town officer or employee as the Town Board designates determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

ROOFTOP OR BUILDING-MOUNTED SOLAR SYSTEM - A solar energy system in which solar panels are mounted on top of the structure of a roof of any legally permitted building either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

SCENIC VIEWSHED – Large, undisturbed area of scenic quality, value and significance typically visible from an elevated area overlooking the viewshed area from a fixed vantage point. This term shall also encompass scenic overlay area and scenic vista.

SOLAR COLLECTOR - A solar 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 LOT - One or more contiguous parcels under direct control (ownership or lease) of a common owner.

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

SOLAR ENERGY SYSTEM - A system of components and subcomponents intended for the collection, inversion, storage and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical or other usable energy. This term includes Solar Panels and Solar Energy Equipment.

SOLAR PANEL – a photovoltaic device capable of collecting and converting solar energy into electricity.

STORAGE BATTERY - A device that stores energy from the sun and makes it available in an electrical form.

STREET FRONTAGE – That side of a lot which adjoins a dedicated Town, county or New York State highway.

ARTICLE III: APPLICABILITY

A. The requirements of this Local Law shall apply to all solar energy systems and equipment installations modified or installed after the effective date of this Local Law.

B. Solar energy system installations for which a valid building permit has been issued before the effective date of this Local Law shall not be required to meet the requirements of this Local Law. However, any modifications to existing solar energy systems that increase the solar energy system area by more than 5%, exclusive of fencing, of the original area shall be subject to this Local Law.

ARTICLE IV: PERMITTING AND REVIEW PROCESS

A. Required Approvals.

1. Rooftop and flush-mounted solar energy system with a rated capacity of 25 kW or less that generate electricity primarily for on-site consumption shall be permitted within the Town subject to the issuance of Unified Solar Permit granted by the Town's Code Enforcement Officer. Rooftop and flush-mounted solar energy system shall be subject to any additional requirements in this local law for such systems.

2. Ground-mounted and freestanding solar energy systems with a rated capacity of 25 kW or less that generate electricity primarily for on-site consumption shall be permitted within the Town subject to the issuance of a Unified Solar Permit granted by the Town's Code Enforcement Officer and site plan approval by the Planning Board. Ground-mounted and freestanding solar energy systems shall be subject to any additional requirements in this local law for such systems.

3. Large-scale community solar energy systems with a rated capacity of 2 MW or less that general electricity primarily for off-site consumption for the primary benefit of the Town of Hunter residents and community shall be permitted within the Town subject to the issuance of a Solar Building Permit granted by the Town's Code Enforcement Officer and site plan approval by the Planning Board. Any approvals issued to large-scale community solar energy systems shall be renewed every three (3) years by the Planning Board. Large-scale community solar energy systems shall be subject to any additional requirements in this local law for such systems.

4. Any solar energy system which is not listed as a permitted system is prohibited within the Town of Hunter.

B. Site Plan Review.

Where site plan review is required, the following provisions shall apply.

1. The Town of Hunter Planning Board shall review all project proposed pursuant to this Local Law for which site plan review and approval is required.

2. Procedures. The procedures to be followed by the Planning Board in conducting site plan reviews shall be those which are set forth in the Town of Hunter Site Plan Review Law (Local Law No. 11 of 2016).

3. Authority. In reviewing applications for site plan approval, the Planning Board shall have the authority as set forth in the Town of Hunter Site Plan Review Law at Article A, Section 4, entitled "Planning Board Authority to Review Site Plans." Specifically, the Planning Board shall be authorized to review and approve, approve with modifications, or disapprove site plan review applications under this Local Law in accordance with the standards set forth in this Local Law, and any applicable standards set forth in the Town of Hunter Site Plan Review Law. The Planning Board shall have the authority to impose reasonable conditions and restrictions as are directly related to, and incidental to a proposed site plan, utilizing the standards set forth in this Local Law and applicable standards in the Town of Hunter Site Plan Review Law. Upon approval of a site plan, any conditions imposed by the Planning Board must be met before the issuance of permits by the applicable enforcement agents or officers of the Town.

4. Waivers. The Planning Board shall have the discretionary authority to waive, subject to appropriate conditions, any of the standards set forth herein except the limits placed by this Local Law on the maximum generating capacity of solar energy generation facilities permitted by this Law. The standards for granting waivers shall be those set forth in the Town of Hunter Site Plan Review Law in Article H, Section 6 entitled "Waivers."

5. SEQRA. Any review by the Town of Hunter Planning Board shall include review pursuant to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA").

6. Disapproval. As set forth in Town of Hunter Site Plan Review Law at Article A, Section 4, entitled "Planning Board Authority to Review Site Plans," the Planning Board is authorized to disapprove an application if the Planning Board determines that the application does not meet standards and criteria set forth in this Local Law and/or the Town's Site Plan Review Law. All determinations by the Planning Board disapproving applications made pursuant to this Local Law shall be set forth in writing and shall include a reasoned elaboration of the rationale of the Board's determination. All such decisions of the Planning Board shall be filed in the office of the Town Clerk.

7. Conflict. In the event of any conflicts between this Local Law and the Town of Hunter Site Plan Review Law, the provisions of this Local Law shall prevail and apply.

8. Appeal. Any person aggrieved by the decision of the Planning Board on a site plan application pursuant to this Local Law may apply to the New York State Supreme Court for a review by a proceeding pursuant to Article 78 of the New York State Civil Practice Law and Rules. Such proceedings shall be commenced within thirty (30) days after the filing of the decision of the Planning Board in the office of the Town Clerk. See also, Town of Hunter Site Plan Review Law, Article H, Section 5, entitled "Appeals."

C. Effect of Existing Violations or Non-Compliance.

1. No application, whether for a new solar energy system or renewal of a large-scale community solar energy system, pursuant to this Local Law shall be deemed complete for purposes of commencing review of the same by either the Town's Code Enforcement Officer or the Planning Board, as applicable, for any premises or property on which there is an existing violation or non-compliance of any Town, county or state law or regulation governing building construction and/or the development and use of land, buildings and structures within the Town of Hunter.

2. No permit or approvals for any solar energy system shall be issued by the approving authority for any premises or property on which there is an existing violation or non-compliance of any Town, county or state law or regulation governing building construction and/or the development and use of land, buildings and structures within the Town of Hunter.

3. For purposes of this section, a premises or property shall be deemed to be in violation where a stop-work order, notice of violation, order to remedy violation or similar notice or order has been issued by the Town's Code Enforcement Officer and/or Building Inspector in accordance with the provisions of the Local Laws of the Town of Hunter or the Town of Hunter has filed a criminal or civil action in a court of competent jurisdiction and the violation which is the subject of the order, notice or legal action has not been remedied by the property owner.

4. Such violations or noncompliance shall be remedied with 90 days of submitting an application for a solar energy system or submission for renewal. For purposes of this provision, remedy of a violation shall be deemed to have occurred when the officer who issued the order or notice has inspected the property and has notified the property owner in writing that the violation has been satisfactorily remedied.

ARTICLE V: GENERAL STANDARDS FOR SOLAR ENERGY SYSTEMS

The following standards shall apply to all solar energy systems permitted in the Town of Hunter.

A. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code (the "State Code"), the New York State Energy Conservation Code ("Energy Code"), as well as may be required by Public Service Commission regulations.

B. All solar energy systems shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent properties or public roadways.

C. Solar energy systems shall have a non-reflective finish and neutral paint colors, materials and textures to achieve visual harmony with the surrounding area.

D. Any on-site power lines shall be underground installations. In the event that such requirement is impossible or impracticable, the authorizing board shall have the discretionary authority to modify this requirement.

E. The proposed project shall be in harmony with the goals and objectives of the Town of Hunter Comprehensive Plan, and with the Mountain Cloves Scenic Byway Corridor Management Plan, and the Mountaintop Community Resource Strategy.

F. The location, size and intensity of the proposed project shall be in harmony with the orderly development of the district.

G. The character and appearance of the proposed project shall be in general harmony with the character and appearance of the surrounding neighborhood.

H. The character and appearance of the proposed project shall not detract from the scenic qualities, scenic vistas, rural character, and visual qualities of Hunter's landscape and historic character.

I. The proposed project shall complement existing public facilities, road networks, and existing development patterns.

J. All areas of the proposed project shall be readily accessible for fire, emergency services and police protection.

K. Nothing in this Local Law shall be deemed to allow any applicant the right to remove any trees, vegetation, or other obstruction located on any real property over which said applicant does not have fee title.

L. It shall be the sole responsibility of the applicant to acquire any necessary appropriate land use rights in order to provide and maintain appropriate solar access areas.

ARTICLE VI. SPECIFIC STANDARDS FOR SOLAR ENERGY SYSTEMS

A. Rooftop and Flush-Mounted Solar Energy Systems.

1. Rooftop installations shall incorporate, when practicable, the following design requirements:

   a. Solar panels on pitched roofs shall be mounted with a maximum distance of eight (8) inches between the roof surface and the highest edge of the system;

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

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

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

2. Rooftop and flush-mounted solar energy system shall be designed according to New York State Building Code to withstand wind and heavy snow loads. Appropriate access points required to maintain the solar panels and solar equipment in proper working order shall be incorporated in all plans for installations of rooftop and flush-mounted solar energy systems.

3. Rooftop and flush-mounted solar energy system shall be designed at the scale required to generate power for the reasonably projected on-site consumption by owners, lessees, tenants, residents, or other occupants of the parcel on which they are erected, but nothing contained in this provision shall be construed to unduly prohibit collective solar installations or the sale of small amounts of excess power through a net-billing or net-metering arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute.

4. Site Plan Required for Scenic Byway Corridor. Rooftop and flush-mounted solar energy systems which are to be located within 500 feet of the Scenic Byway

Corridor shall, in addition to a Unified Solar Permit, require site plan approval by the Planning Board.

a. The procedures to be followed by the Planning Board in conducting site plan reviews shall be those which are set forth in the Town of Hunter Site Plan Review Law (Local Law No. 11 of 2016).

b. Review by the Planning Board shall include, but not be limited to:

(1) Consideration of the requirements of this Local Law;

(2) The visual effect of the proposed solar installation;

(3) Impact on community character; and

(4) Any mitigation of impact that may be deemed reasonably undertaken.

5. Building-integrated solar energy systems are permitted within the Town of Hunter, provided they are shown on the plans submitted for the building permit application for the building containing the system.

a. Building-integrated solar energy systems must be properly engineered to support Building-Mounted Solar Collectors.

b. The applicant for a building-integrated solar energy system must provide a signed and sealed certification from a New York State licensed professional engineer containing, but not limited to, the following information:

(1) The roof structure is strong enough to support the additional weight of the solar units as per applicable residential, building, electrical, and fire codes;

(2) All Building-Mounted Solar Collectors are in compliance with applicable residential, building, electrical, and fire codes; and

(3) The Solar Energy System is constructed and installed in compliance with applicable residential, building, electrical, and fire codes.

B. Ground-mounted and freestanding solar energy systems.

1. A parcel must have a minimum area of one acre in order for a ground-mounted or freestanding solar energy system to be permitted.

2. The location of the ground-mounted or freestanding solar energy system shall be at least 20 feet from any property line.

3. No ground-mounted or freestanding solar energy system shall be permitted between the principal building on the parcel and the fronting street or roadway. Ground-mounted or freestanding solar energy systems shall not be visible along the street frontage of any lot. In the event that such requirement is impossible or impracticable, the Planning Board shall have the discretionary authority to modify this requirement.

4. Ground-mounted or freestanding solar energy system and their associated support elements shall, at the time of installation, be designed according to New York State Building Code to withstand snow loads and wind pressures applied to exposed areas by

snow or wind from any direction. Appropriate access points required to maintain the solar panels and solar equipment is proper working order shall be incorporated in all plans for installations of ground-mounted or freestanding solar energy systems.

5. Ground-mounted or freestanding solar energy systems shall be designed to avoid ponding from heavy rainfall.

6. The maximum height of the top edge of any solar panel shall be 15 feet above ground level when the panel is oriented at a maximum vertical tilt.

7. Ground-mounted or freestanding solar energy system shall not be located in the following areas:

   a. Areas of potential environmental sensitivity, such as floodplains, historic sites, airports, state-owned lands, conservation easements, trails, parkland, and wetlands as identified by the New York State Department of Environmental Conservation, United States Army Corps of Engineers, or other Town, County, State and/ or Federal Agency;

   b. Slopes greater than fifteen percent (15%).

8. Ground-mounted or freestanding solar energy system shall be designed to minimize the migration of light or sound from the system and its components.

9. Ground-mounted or freestanding solar energy system shall be screened from adjoining residential parcels and public rights-of-way through the use of architectural features, earth berms, landscaping consisting of a naturally appearing blend of deciduous and coniferous species, fencing or other features which will harmonize with the character of the property and surrounding area. The Planning Board shall have discretion to determine the method and location of screening required.

10. Ground-mounted or freestanding solar energy system shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access. Ground-mounted or freestanding solar energy systems shall be installed in the rear of any building on the property to the greatest extent practicable.

11. Site Plan. In addition to the Unified Solar Permit, Site plan is required for all ground-mounted or freestanding solar energy systems.

   a. The applicant shall submit to the Planning Board a detailed plan showing the proposed location of the Ground-mounted or freestanding solar energy system in relation to all property lines and all structures (existing and/or proposed) on the lot.

      (1) Review by the Planning Board shall include, but not be limited to:

      (2) Consideration of the requirements of this Local Law;

      (3) The visual effect of the proposed solar installation, including on scenic and historic resources and viewsheds;

      (4) Impact on community character;

(5) The effect of the proposed installation on ecologically sensitive land or water resources; and

(6) Any related mitigation that may be deemed reasonably undertaken. As required in its review, the Planning Board may define and request the applicant to undertake appropriate visual impact analysis.

C. Large-Scale Community Solar Energy Systems

1. Purpose.

The purpose of large-scale community solar energy systems shall be to allow residents and community members from the Town of Hunter the opportunity to share in the benefits of solar power even if they cannot or prefer not to install solar panels on their property. Energy produced from large-scale community solar energy systems shall principally be provided for the benefit of the Town of Hunter and its residents.

2. General Requirements.

a. The parcel on which the large-scale community solar energy systems is sited shall be a minimum of 10 acres.

b. Large-scale community solar energy systems shall be set back at least 300 feet from all property lines. No component of any large-scale community solar energy system may be located within 150 feet of any roadway, other than a private service road used solely for access to the site of such energy system.

c. No more than fifty (50%) percent of the parcel shall be occupied by the entirety of the large-scale community solar energy systems.

3. Siting Considerations.

a. It is a goal of the Town of Hunter to protect and preserve the mature forests, agricultural lands, and scenic viewsheds. Certain locations shall be considered more favorable than other locations in siting large-scale community solar energy systems.

b. Previously cleared or disturbed areas are preferred locations for large-scale community solar energy systems. The clearing of additional lands to accommodate a large-scale community solar energy system may be permitted, provided the percentage of newly cleared land on any solar lot does not exceed 10% of the existing woodlands on that solar lot in total. Removal of existing trees larger than 6 inches dbh should be minimized to the greatest extent practicable.

c. Unbuildable lands, such as landfills, brownfields, etc., are preferred locations for large-scale community solar energy systems.

d. Arrays shall be located on a solar lot in such a manner as to avoid, to the maximum extent feasible, soils classified as prime farmland.

e. Areas of open spaces, distant views, distinct natural features, and historic resources shall be avoided.

f. Areas of scenic viewsheds shall be avoided.

g. Lands which have the highest ecological values as evidenced by large, contiguous areas of forest, undisturbed drainage areas, wetlands or New York State Department of Environmental Conservation identified critical habitats or rare plant and animal populations shall be avoided.

h. Development and operation of the system shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats or other significant habitats identified by the Town of Hunter or other federal or state regulatory agencies.

4. Preserving Scenic Resources and Viewsheds.

a. The Town of Hunter is a mountainous community located within the Catskill Park and the Catskill Watershed that is rich in history, scenic resources, and recreational opportunities. The Town has established the importance of preserving these scenic resources in their Comprehensive Plan, the Mountain Cloves Scenic Byway Corridor Management Plan, and the Mountaintop Community Resources Strategy.

b. Large-scale community solar energy systems shall be sited in a manner as to have the least possible practical visual effect on the environment and visual resources of the Town of Hunter. At the applicant's expense, the applicant shall provide the Planning Board with a visual assessment report, including appropriate modeling and simulations and photography assessing the visibility from key viewpoints including existing tree lines, surrounding topography, and proposed elevations shall be required.

c. Large-scale community solar energy systems shall not be sited in any location that would detract from the scenic values, scenic viewshed, rural character, or visual qualities of Hunter's landscape and historic character.

d. Large-scale community solar energy systems shall avoid areas of visible open space, distant views, scenic viewsheds, distinct natural features, and cultural and historic resources.

e. Appropriate landscaping and/or site design features, including berms, the maintenance of existing natural vegetation and the introduction of new plantings consisting of a naturally appearing blend of deciduous and coniferous species, shall be required to help screen the large-scale community solar energy system and its accessory structures from scenic roadways, scenic overlay areas, park lands, historic properties, and neighboring residences.

f. Large-scale community solar energy systems, including its associated structures, may be further screened with plantings of evergreen and deciduous plantings at a height so as to provide a visual screen of the ground mounted system from residential uses and scenic viewsheds. The species, type, location and planted height of such landscaping shall be subject to the approval of the Planning Board.

g. The screening method must provide for year-round screening.

h. A survey and photo-simulation, at the applicant's expense, must be provided to the Planning Board for their review of the application. In

addition, the Planning Board may request, at the applicant's expense, additional photographs, visual test or other credible evidence that the area is not located in an area of scenic value.

5. Planning Board Review.

a. The procedures to be followed by the Planning Board in conducting site plan reviews shall be those which are set forth in the Town of Hunter Site Plan Review Law (Local Law No. 11 of 2016).

b. Review by the Planning Board shall include, but not be limited to:

(1) Consideration of the requirements of this Local Law;

(2) The visual effect of the proposed solar installation;

(3) Protection of the scenic values, rural character, visual qualities of Hunter's landscape and historic character;

(4) Impact on community character; and

(5) Any mitigation of impact that may be deemed reasonably undertaken.

c. All applications for large-scale community solar energy systems shall be referred to local emergency responders, including but not limited to the local Fire Department. The applicant shall coordinate with local emergency responders during the Planning Board review to clarify on-site safety procedures and shall receive written correspondence from the responding fire department and emergency care provider as to the acceptability of the proposed ingress to and egress from the Solar Energy Facility site.

d. All applications for large-scale community solar energy systems shall additionally be referred to the following agencies for comment during the Planning Board review:

(1) New York State Department of Environmental Conservation (NYSDEC);

(2) New York City Department of Environmental Protection (NYCDEP),

(3) Greene County Planning Department,

(4) New York State Historic Preservation Office (SHPO)

(5) Any other local or state agency that Planning Board deems necessary.

6. Application.

All applications to the Planning Board for site plan review for large-scale community solar energy systems shall include the following:

a. Plans and drawings of the large-scale community solar energy system installation signed by a professional engineer registered in New York State showing the proposed layout of the entire large-scale community solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading

of all sites involved. Property lines and physical features, such as roads, shall be included on all plans and drawings.

b. A one-or-three line electrical diagram detailing the large-scale community solar energy system installation, associated components and electrical interconnection methods, with all National Electrical Code compliant disconnects and over- current devices identified.

c. All existing and proposed access to the site, including road, electricpower, emergency access, land-based telephone line connection, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible and determined acceptable by the Planning Board through site plan review.

d. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a Solar Building Permit.

e. Landscape plan showing all existing natural land features, trees, forest cover, and all proposed changes to these features, including size and type of plant materials. The plan shall show any trees and/or vegetation which is proposed to be removed for purposes of providing greater solar access.

f. Property Operation and Maintenance Plan that describes the continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

g. A stormwater pollution prevention plan per New York State Department of Environmental Conservation requirements to detail stormwater runoff management and erosion control plans for the site.

h. Photo simulations showing the proposed large-scale community solar energy system in relation to thebuilding/site along the elevation views and dimensions and manufacturer's specs and photos of the proposed large-scale community solar energy system, solar collectors and all other components. Additional simulations may be required that include neighboring properties.

i. Details of the proposed noise that may be generated by inverter fans. The Planning Board may require a noise analysis to determine potential adverse noise impacts.

j. Part I of the full environmental assessment form (FEAF).

k. Proof of insurance. The applicant and the owners of the property where the large-scale community solar energy system is to be located shall file with the Building Department proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation thereof as determined by the Planning Board.

l. Plan for post-construction maintenance of grounds and structures and town roadways. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

m. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the large-scale community solar energy system. Such information of the final system installer shall be submitted prior to the issuance of a Solar Building Permit.

n. Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the large-scale community solar energy system.

o. Name, address, and contact information of a local contact person. The local contact person must reside within the Town of Hunter and be available at all times to respond to questions and concerns regarding the safety, maintenance, and immediate off-site impacts.

p. If the property of the proposed project is to be leased, legal consent between all parties, specifying use(s) of the land for the duration of the project, including easement, decommissioning, and other arrangements shall be submitted.

q. Decommissioning plan.

r. The Planning Board may require the posting of a removal bond to be held in escrow to provide for the decommissioning of the large-scale community solar energy system.

7. Specific Design Standards.

In addition to the design standards set forth in the Town of Hunter Site Plan Review Law (Local Law No. 11 of 2016), the following standards shall be required for large-scale community solar energy systems:

a. Visual.

(1) Accessory buildings and structures associated with large-scale community solar energy systems shall, to the maximum extent practicable, use materials, colors and textures that will blend the facility into the existing environment.

(2) Any associated structure shall be screened, placed underground, depressed, earth bermed or sited below a higher topographic grade or the ridge line, particularly in areas of high visibility.

(3) Any large-scale community solar energy system located within two (2) miles of existing large-scale community solar energy system shall be reviewed with the additional consideration of the cumulative impacts of all large-scale community solar energy systems within this radius.

b. Fencing.

(1) Large-scale community solar energy systems shall be enclosed by perimeter fencing, with locking access gate, to prevent unauthorized access and vandalism to the large-scale community solar energy system.

(2) Fencing shall be designed to allow for the free range and movement of small animals. Subject to the Planning Board review and approval, this may include installing the perimeter fence

approximately 5" to 12" above the natural grade of the area, which would allow small mammals to move in and around the area.

(3) The fence shall be a minimum of seven (7) feet and a maximum of eight (8) feet in height. The height of the fence may be adjusted by the Planning Board considering visual impact upon neighboring properties.

(4) The type, material and color of perimeter fencing shall be subject to approval by the Planning Board.

(5) The perimeter fencing shall also be set back a minimum of 100 feet from the front property line and 250 feet from any other property line. In the case of a large-scale community solar energy system located on a parcel with frontage in the scenic byway corridor, a greater minimum front setback of 1000 feet shall be provided.

(6) There shall be created and maintained between the fence and the components, structures, or fixtures of the large-scale community solar energy system, a clear and unobstructed buffer area at least 25 feet in width encircling the entire perimeter of the facility, with a surface and grade suitable for the safe passage of fire trucks and other emergency vehicles.

(7) The fence may be further screened by landscaping needed to avoid adverse aesthetic impacts.

c. Glare.

(1) All large-scale community energy solar systems and related equipment shall be surfaced, designed, and sited so as not to reflect glare onto adjacent properties and roadways.

(2) All structures and devices used to support the large-scale community energy solar systems shall be non-reflective and/ or painted a subtle or earth-tone color to aid in blending the facility into the existing environment.

d. Lighting.

(1) A lighting plan shall be required for all large-scale community energy solar systems.

(2) Large-scale community energy solar systems shall be dark-skies compliant.

(3) Artificial lighting of large-scale community solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.

e. Vehicle Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

f. Warning Signage.

(1) Manufacturer and/or installer's identification and appropriate warning signage and 24-hour emergency contact information shall be posted at the site and clearly visible.

(2) Solar energy equipment shall be marked with weather resistant marking to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system.

(3) The marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the disconnect lever is operated.

(4) As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface.

(5) A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

g. Utility Connections. Utility lines and connections from a large-scale community solar energy system shall be installed underground, unless otherwise determined by the Planning Board for reasons that may include poor soil conditions, topography of the site, and requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

h. Accessibility.

(1) All areas of the large-scale community solar energy system site shall be able to be adequately accessible to local emergency responders in the event of an emergency or safety situation.

(2) The Applicant shall provide information to local emergency responders as to the layout of the property. This shall include, but not be limited to, information as to access points to every area of the property.

(3) This information shall be kept on file with the local emergency responders within the respective district of the proposed project site to be accessed in case of an emergency.

(4) The current owner and/or operator shall provide any update to the local emergency responders to any changes in known access points.

8. Maintenance Requirements.

a. Following construction of a large-scale community ground-mounted solar energy system, all disturbed areas where soil has been exposed shall be reseeded with native grass and/or planted with low-level native vegetation capable of preventing soil erosion and airborne dust.

b. Native grasses and native vegetation, preferably pollinator friendly, shall be maintained below the arrays.

c. The ground within the fenced perimeter of a large-scale community solar energy system installation shall not be tamped, compressed, or otherwise specially conditioned with herbicides, pesticides or similar other treatments to inhibit the growth of natural vegetation.

d. The local contact person shall be responsible for observing this maintenance requirements at all times.

e. The local contact person shall respond to any formal complaint issued by the Town Code Enforcement Officer as to the state of maintenance within 24 hours of being notified.

9. **Renewals.** Any site plan approval issued for a large-scale community solar energy system shall be subject to renewal by the Planning Board every three (3) years from the initial issuance of approval to ensure the installation is being maintained in good working order, with particular emphasis on the maintenance of landscaping, fencing and/or other screening required by the Planning Board upon the issuance of the site plan approval.

10. Annual Reports.

a. The Applicant shall provide the Town Code Enforcement Officer on a yearly basis a report showing the rated capacity of the large-scale community solar energy system and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve (12) month period. The report shall also identify any change in ownership of the large-scale community solar energy system and/ or the land upon which the large-scale community solar energy system is located and shall identify any change in the party responsible for decommissioning and removal of the large-scale community solar energy system upon its abandonment. The annual report shall be submitted no later than forty-five (45) days after the end of the calendar year.

b. Every third (3rd) year upon the renewal of site plan approval, the annual report shall also include a recalculation of the estimated full cost of decommissioning and removal of the Solar Energy System. The Town may require an adjustment in the amount of the bond to reflect any changes in the estimated cost of decommissioning and removal. Failure to submit a report as required may be cause to require decommissioning of the system.

11. Change in Ownership. If the owner or operator of the large-scale community solar energy system changes or the owner of the property changes, the Site Plan Approval shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the Town of Hunter Code Enforcement Officer of such change in ownership or operator at least 30 days prior to any change of ownership.

ARTICLE VII: SAFETY AND MAINTENANCE

1. All solar collector installations must be performed by a qualified solar installer and designed, erected and installed in accordance with applicable codes, regulations and industry standards.

2. All solar energy systems and equipment shall be permitted only if they are determined by the Town Code Enforcement Officer not to present any unreasonable safety risks, including, but not limited to, the following factors:

   a. weight load;

   b. wind resistance;

   c. ponding from heavy rainfall;

   d. ingress and egress in the event of fire or other emergency.

3. In order to make this assessment, the Town Code Enforcement Officer shall require:

   a. certification from a New York State licensed professional engineer that the system design conforms with applicable codes, regulations and industry standards and that the system has been properly installed and anchored to prevent flotation, collapse or lateral movement.

   b. site visit and inspection from the local fire or other emergency responder to determine adequate ingress and egress for all local emergency responders in the event of a fire or other emergency on the site.

4. Prior to issuance of a permit and certificate of compliance by the Code Enforcement Officer and subsequent operation of the solar energy system, a report must be filed with the Code Enforcement Officer by a third-party electrical inspection person or agency stating that upon inspection all electrical connections have been found satisfactory.

5. Any connection to the public utility grid must be carried out in accordance with the standard interconnection requirements of the appropriate public utility and as may be regulated by the New York State Public Service Commission.

6. Solar energy systems shall be maintained in good working order.

7. Any connection to the public utility grid must be inspected by the appropriate public utility.

8. Solar energy systems and their components shall be accessible by emergency services vehicles and personnel.

9. Solar Energy Systems and Equipment shall be marked to provide emergency responders with appropriate warning and guidance with respect to isolating the solar centric system. Materials used for marking shall be weather resistant and shall comply with the standards of the applicable residential, building, fire, and electrical codes.

10. All solar energy collection systems described in this Local Law shall meet and comply with all relevant and applicable provisions of the New York State Uniform Fire Prevention and Building Code Standards and applicable electrical codes. To the extent the provisions of the New York State Uniform Fire Prevention and Building Code and applicable electrical codes are more restrictive than the provisions set forth in this Local Law, the provisions of the New York State Uniform Fire Prevention and Building Code and applicable electrical codes shall control and the provisions contained herein shall be deemed to be installation guidelines only.

ARTICLE VIII. BATTERY STORAGE

A. Storage batteries shall be permitted only as accessory uses for the on-site solar energy systems used for generating electricity primarily for on-site consumption.

B. Storage batteries shall not be larger than 50 cubic feet.

C. Storage batteries for large-scale community solar energy systems are prohibited.

ARTICLE IX: ABANDONMENT AND DECOMMISSIONING

A. Required. If a solar energy system ceases to perform its originally intended function for more than 12 consecutive months, the solar energy system shall be deemed abandoned and the property owner shall notify the Town of Hunter Code Enforcement Officer of the system's abandonment.

B. Responsible Parties.

1. Any Large-scale community solar energy system which has been abandoned shall be decommissioned and removed in accordance with the decommissioning plan. The owner of the facility and owner of the land upon which the system is located shall be jointly and severally responsible to physically remove all components of the system within six months of abandonment at the owner's expense. This obligation shall be binding upon the applicant's, owner's, landowner's and/or operator's successors and/or assigns for any large-scale community solar energy system. Upon such failure to either maintain operation or decommission the system as provided for herein, the approvals issued in relation to such system or facility shall terminate.

2. Any other solar energy systems and its associated equipment which has been abandoned shall be removed by the property owner.

    a. All solar energy systems and associated equipment shall be removed within one (1) year that the system is abandoned.

    b. In the event the solar energy system or its associated equipment is not properly removed after one year that the system is abandoned, the Town shall have the right to remove the solar energy system or its associated equipment. Such cost shall be borne unto the existing property owner of record.

C. Objectives of Decommissioning.

The following requirements shall be met for decommissioning:

1. Physical removal of all above and below ground equipment, structures and foundations, including but not limited to all solar arrays, buildings, security barriers, fences, electric transmission lines and components, roadways and other physical improvements to the site.

2. Any access roads created for building or maintaining the system shall also be removed and replanted with vegetation. The site terrain shall be restored and regraded, if necessary, to a condition generally comparable to its original condition and replanted with native vegetation.

3. The site shall be restored to as natural a condition as possible within six (6) months of the removal of all equipment, structures and foundations. Such restoration shall include, where appropriate, restoration of the surface grade and soil after removal of all equipment and revegetation of restored soil areas with native seed mixes;

4. Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.

5. All safety hazards created by the installation and operation of the large-scale solar energy system shall be eliminated

6. Removal of utility-scale solar energy systems must be completed in accordance with the decommissioning plan.

D. Submission.

The decommissioning plan shall address those items listed in this Section and shall include:

1. An estimate of the anticipated operational life of the system;

2. Identification of the party responsible for decommissioning;

3. Description of any agreement with the landowner regarding decommissioning;

4. Schedule showing the time frame over which decommissioning will occur and for completion of site restoration work;

5. A cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the solar PV system, Cost estimates shall take into account inflation;

6. A financial plan to ensure that financial resources will be available to fully decommission the site;

7. The Planning Board may, as a condition of approval, require the posting of a removal bond in an amount adequate to provide for the removal of the large-scale community solar energy system's structures and equipment and for restoration of the site.

E. Bond.

1. If a removal bond is required, the Planning Board shall require a bond placed in an escrow account to ensure the removal of any large-scale community solar energy system. The amount of the bond shall be 125% of the cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the large-scale community solar energy system.

2. In the event that the large-scale community solar energy system is not removed within six (6) months of becoming inactive or the site is not remediated and restored to a condition approved by the Planning Board, the Town of Hunter, by resolution of the Town Board after 30 days' written notice and opportunity of the landowner and system operator to be heard, may cause the same to be removed and the site remediated using the financial security.

3. In the event that the system is not removed within six months of abandonment and the site restored as required, the Town of Hunter, after notice and hearing, may cause the same to be removed and the site restored using the finds in such escrow account. All costs and expenses incurred by the Town in connection with any proceeding or work performed by the Town or its representatives to decommission and remove a large scale solar collector system, including legal costs and expenses, shall be reimbursed from the financial surety posted by the system owner or landowner as provided in this Section. Any costs incurred by the Town for decommissioning and removal that are not paid for or covered by the required surety, including legal costs, shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become part of the taxes to be levied and assessed thereon, and shall be enforced and collected with interest by the same officer and in the same manner, by the same proceedings, at the same time and under the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town.

ARTICLE X: ADMINISTRATION AND ENFORCEMENT

A. Fees.

A fee schedule shall be established by resolution of the Town Board. Such fee schedule may thereafter be amended from time to time by resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Unified Solar Permit, Solar Building Permit, and other actions of the Code Enforcement Officer described in or contemplated by this Local Law.

B. Reimbursement by Town.

The Town of Hunter shall require any applicant to pay all associated costs for any site plan review, including but not limited to, engineering, legal, environmental, planning and the review required under this Local Law or under SEQRA. When the Planning Board determines that a review is anticipated to require engineering, legal, environmental or planning costs, they shall provide an estimate to the applicant. Subsequently, funds adequate to cover such estimated costs shall be placed into escrow by the applicant prior to commencement of any further Planning Board review and shall be replenished or increased at the direction of the Planning Board.

C. Site Plan Compliance.

The Code Enforcement Officer shall not issue a permit for projects requiring site plan approval under this Local Law until the Site Plan has been approved by the Planning Board, signed by the Planning Board Chairperson. No Certificate of Occupancy shall be issued by the Code Enforcement Officer until all improvements are constructed in conformity with the approved site plan and any conditions imposed on that approval. See also, Town of Hunter Site Plan Review Law, Article H, Section 1, entitled "Site Plan Compliance."

D. Enforcement.

1. A violation of this law is hereby declared to be an offense punishable by a fine not exceeding $250.00 or imprisonment for a period not to exceed six (6) months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed

misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate violation.

2. In addition to the penalties provided for above, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with, or to restrain by injunction, the violation of this Local Law. By submitting an application for a solar energy system pursuant to this Local Law, the applicant hereby agrees that Greene County shall serve as the venue for any litigation based on this Local Law.

E. Amendments.

1. The Town Board may amend this Local Law on its own motion, on petition, or on recommendation of the Planning Board, after public notice and hearing, and subject to full compliance with the procedures for the amendment of Local Laws set forth in the New York State Municipal Home Rule Law.

2. All proposed amendments shall be referred to the Town Planning Board for a report and recommendation. The Planning Board shall submit its report within thirty (30) days after receiving such referral. The Planning Board may request, and the Town Board may grant, reasonable extensions to the thirty-day time period. If the Planning Board fails to report by the deadline set forth in this section or as extended by agreement between the Planning Board and Town Board, such failure shall be deemed to be a recommendation supporting approval of the proposed amendment.

F. Severability.

Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

G. Conflict with other Laws.

Where this Law differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or Federal government, the more restrictive or protective law of the Town and the public shall apply.

H. Effective Date.

This Local Law shall take effect immediately, as provided by law, upon filing with the Secretary of State.