

ARTICLE I. TIER 2 LARGE-SCALE, TIER 3 UTILITY-SCALE AND TIER 4 INDUSTRIAL-SCALE SOLAR ENERGY SYSTEMS

Authority

This Solar Energy Local Law is adopted pursuant to Sections 261-263 of the Town Law for the State of New York, which authorizes the Town 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 therefore.”

Purpose

- A. The Town of Royalton recognizes that solar energy is a clean, readily available, and renewable energy source. The development of solar energy systems offers an energy resource that can attract and promote green business development.
- B. The Town of Royalton 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 section is intended to promote the effective and efficient use of solar energy resources; set provisions for the placement, design, construction, and operation of such systems to uphold the public health, safety, and welfare; and to ensure that such systems will not have a significant adverse impact on the aesthetic qualities and character of the Town. The law will help to:
 1. Invest in a locally generated source of energy to increase employment and business development in the community known as Royalton to the extent reasonably practical by furthering the installation of solar energy systems;
 2. To take advantage of a safe, abundant, renewable, and non-polluting energy resource;
 3. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family dwellings.
 4. Provide other benefits to the Town and its residents to mitigate impacts from the solar project;
 5. Mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources and the community known as Royalton. The use of small-scale solar energy systems, on-farm sources alternative to energy generation is beneficial to local farmers, allowing them the ability to cut utility costs and/or supplement their income;
 6. Protect adjoining/surrounding property owners and the community known as Royalton’s Rural-Agrarian character by mitigating the potential impacts from large scale solar installations and locating them in areas that minimize these impacts;
 7. Aid in the energy independence of the community as well as the country.
 8. Create zoning regulations in accordance with the Town’s Comprehensive Plan, Niagara County’s Agricultural and Farmland Protection Plan, and other Regional Planning documents;
 9. Specifically, protect the agrarian and agri-business economy of the community known as Royalton;
 10. Allow for a sustainable number of acres of Tier 3 and Tier 4 Solar Energy Systems within appropriate areas of the community known as Royalton without impacting the community’s economy or character.

1. Definitions. As used in this section, the following terms shall have the meanings indicated:

BUILDING-INTEGRATED SOLAR/PHOTOVOLTAIC (BIPV) SYSTEM

A solar energy system incorporated into and becoming part of the overall architecture and design of a building or structure in a manner that the solar energy system is a permanent and integral part of the building envelope or structure.

BUILDING-MOUNTED SOLAR ENERGY SYSTEM

A solar energy system that is affixed to the side(s) of a building or other structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building. Solar energy systems constructed over a parking lot are considered building-mounted solar energy systems.

COMMUNITY IMPACT ANALYSIS

An analysis to determine impacts on the community known as Royalton and its residents caused by the project. Impacts such as the project making the community a less appealing place to live; does the project create new or unique threats to the residents; are there adverse social or family impacts such as substantial loss of the value of the home or anxiety among school age children or substantial change of home environment by proximity of the project.

GROUND-MOUNTED SOLAR ENERGY SYSTEM

A solar energy system that is affixed to the ground either directly or by support structures or other mounting devices.

HEIGHT

Solar equipment shall be measured from the ground to the highest point of any structure or equipment (for panels, this is at maximum tilt and its maximum height, if applicable).

HOST COMMUNITY AGREEMENT

A contract between a developer and a local governing body, whereby the developer agrees to provide the community with certain benefits and mitigate specified impacts of the solar project.

SOLAR ENERGY SYSTEM

The components and subsystems required to convert solar energy into electric energy suitable for use. A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy System as follows.

TIER 1 SMALL-SCALE SOLAR ENERGY SYSTEM

A roof top, building mounted or building integrated solar energy system.

TIER 2 LARGE-SCALE SOLAR ENERGY SYSTEM

Any solar energy system that cumulatively on a lot meets all of the following criteria:

- (1) Is an accessory use or structure, designed and intended to generate energy primarily for use on site, potentially by multiple tenants, through a distribution system or electrical grid that is not available to the general public. Net metering is allowed, but the solar energy system cannot generate more than 110% of the electricity consumed on the site over the previous 12 months.
- (2) Consists of an overall footprint not exceeding 5,000 square feet. Overall footprint shall be determined by the outline of the solar panels and related structures and fencing created on the ground.

TIER 3 UTILITY-SCALE SOLAR ENERGY SYSTEM

Any solar energy system that cumulatively on a lot meets the following:

- (1) Is a ground-mounted principal use or structure, designed and intended to supply energy solely or primarily into a utility grid;

- (2) Does not meet the definition of a Tier 2 or Tier 4 system and consists of an overall footprint of less than 20 acres. Overall footprint shall be determined by the outline created on the ground, building/structure surface, or combination thereof;

TIER 4 INDUSTRIAL-SCALE SOLAR ENERGY SYSTEM

An Industrial-Scale Solar Energy System exceeding the overall footprint requirements of a Tier 3 system as defined previously or not meeting the definition of a Tier 1, 2 or 3 Solar Energy System.

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.

NET METERING

A billing mechanism that credits *solar* energy system owners for the electricity they add to the grid. For example, if a residential customer has a PV system on their roof, it may generate more electricity than the home uses during daylight hours.

NON-PARTICIPATING PROPERTY

A property that is not affiliated with a Solar Energy System project in any contractual way related to the solar project.

PARCEL(S)

A tract of land owned by an individual or entity leased or otherwise controlled by an applicant upon which a Solar Energy System is proposed to be constructed.

PARTICIPATING PROPERTY

A property that is being leased for solar usage, or a property that has an agreement or lease related to the solar project.

POLLINATOR

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

PRIME FARMLAND

Land, designated as “Prime Farmland” or “Prime Farmland where drained” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

REFLECTOR, SOLAR

A device for which the sole purpose is to increase the solar radiation received by a solar collector.

ROOFTOP-MOUNTED SOLAR ENERGY SYSTEM

Any solar energy system that is affixed to the roof of a building and wholly contained within the limits of the roof surface.

SOLAR ACCESS

Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

SOLAR COLLECTOR

A solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure affixed to the ground, a building, or other structure that harnesses solar radiation to directly or indirectly generate thermal, chemical, electrical, or other usable energy, or that reflects or concentrates solar radiation to a solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure that directly or indirectly generates thermal, chemical, electrical, or other

usable energy.

SOLAR ENERGY SYSTEM

A complete system intended for the collection, inversion, storage, and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical, or other usable energy. A solar energy system consists of, but is not limited to, solar collectors, mounting devices or structures, generators/turbines, water and energy storage and distribution systems, storage, maintenance and/or other accessory buildings, inverters, combiner boxes, meters, transformers, and all other mechanical, electrical, and plumbing components. (For the purposes of this law; solar energy systems do not include battery energy storage components – they are defined and regulated under a separate law).

SOLAR SKYSPACE

The space between a solar collector and the sun through which solar radiation passes.

2. Applicability

- A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town after the effective date of this Local Law, excluding general maintenance and repair.
- B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
- C. Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 5% of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Local Law.
- D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”), and the Town Code.

3. General Requirements

- A. A Building permit shall be required for the installation of all Solar Energy Systems.
- B. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”).
- C. This Article shall take precedence over any inconsistent provision of the Zoning Law of the Town of Royalton.

4. Permits and Approvals Required and Applicable Zoning Districts

- A. Tier 1 Small-Scale Solar Energy Systems; see Article II of this law.
- B. Tier 2 Large-Scale Solar Energy Systems are considered a permitted use pursuant to this article and subject to site plan review by the Planning Board and requiring issuance of a building permit within all the Town of Royalton zoning districts except Residential and Multiple Residential.
- C. Tier 3 Utility-Scale Solar Energy Systems are a permitted use requiring a Special Use Permit pursuant to this Local Law and § 200-74 of the Town of Royalton Zoning Ordinance, and they shall be subject to site plan review by the Planning Board and requiring issuance of a building permit within the Business, Light Industrial and General Industrial zoning districts. These Tier 3 systems are also limited per the following:
 - (1) Tier 3 Utility-Scale Solar Energy Systems are restricted from any area within the Escarpment Overlay District.
 - (2) To reduce impacts, a Tier 3 Utility-Scale Solar Energy Systems shall not be located within one mile of another Tier 3 or Tier 4 system (as measured from property line to property line).

D. Tier 4 Industrial-Scale Solar Energy Systems are a permitted use requiring a Special Use Permit pursuant to this Local Law and § 200-74 of the Town of Royalton Zoning Ordinance, within the Light Industrial and General Industrial zoning districts and they are subject to site plan review by the Planning Board and requiring issuance of a building permit. These Tier 4 systems are also limited per the following:

(1) Tier 4 Industrial-Scale Solar Energy Systems are restricted from any area within the Escarpment Overlay District.

E. Any solar energy system to be used strictly for agricultural use purposes in accordance with the NYS Agriculture and Markets Law, may have some requirements of this article waived by the Town Board and will include an expedited approval process, as necessary.

5. Application and Permitting Requirements for Tier 2 Large-Scale Energy Solar Systems

A. All applications for Tier 2 Large-Scale Solar Energy Systems shall be accompanied by an application for site plan review, and all applicable fees. The applicant is required to provide fifteen sets of plans and drawings to the Town.

B. All applications for Tier 2 Large-Scale Solar Energy Systems shall include the requirements of a Town of Royalton site plan application (stamped drawings) and meet the following requirements:

(1) Glare - All Solar Panels shall have anti-reflective coating(s) and proof of such must be provided with the site plan and then the building permit applications.

(2) Setbacks - Tier 2 Large-Scale Solar Energy Systems shall be setback a minimum of 50 feet from any side or rear property line. All Tier 2 Large-Scale Solar Energy Systems shall only be installed in the side or rear yards. In no case shall the Zoning Board of Appeals grant a variance for these setbacks that reduces this setback to less than 40 feet. In all cases, the solar panels shall be located a minimum of 75 feet from any dwelling unit on an adjoining non-participating property.

(3) Height - Tier 2 Large-Scale Solar Energy Systems shall be less than 12 feet in Residential, Multiple Residential and Agricultural Districts. Height shall be less than 15 feet for all remaining districts.

(4) Screening and Visibility (Refer to Paragraph F. under Section 10).

(5) Fire Safety code requirements and any recommendations of the Fire Department.

C. All Tier 2 Large-Scale Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable (as determined through the site plan process).

D. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north while still providing adequate solar access.

(1) Minimization of tree loss; Tier 2 Large-Scale Solar Energy Systems are to be located on a site to minimize the clearing/removal of existing trees.

6. Application and Permitting Requirements for Tier 3 Utility-Scale Solar Energy Systems

A. All applications for Tier 3 Utility-Scale Solar Energy Systems shall be accompanied by an application for Special Use Permit pursuant to this Local law and Town of Royalton Zoning Ordinance, an application for site plan review, and all applicable fees.

B. All applications for Tier 3 Utility-Scale Solar Energy Systems shall include the following:

(1) Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposed layout of the entire 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.

- (2) Documentation and design information for the access to the project site(s), including location of all access roads, gates, parking areas, etc.
 - (3) Plan for clearing and/or grading of the site. Erosion and sediment control and stormwater management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
 - (4) Documentation of utility notification, including an electric service order number.
 - (5) Decommissioning plan and description of financial surety that satisfies Paragraph K. under Section 10. hereunder.
 - (6) A sign not to exceed 8 SQ. FT. shall be displayed on or near the main access point and shall list the facility name, owner, and telephone number; and
 - (7) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers or substations not to exceed four square feet.
 - (8) A Plan illustrating property lines and physical features, including roads/access drives, for the project site.
 - (9) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
 - (10) A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
 - (11) 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 building permit.
 - (12) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
 - (13) Notarized form with name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
 - (14) Zoning district designation for the parcel(s) of land comprising the project site and adjoining sites.
 - (15) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming (or other methodologies).
 - (16) All Engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer.
 - (17) A completed SEQR Full Environmental Assessment Form.
 - (18) A Landscape Plan in accordance with the other requirements of this law.
 - (19) Fire Safety Plan (to be reviewed by the Building Inspector and Fire company).
- C. All applications shall address Agricultural Impacts: For projects proposed on agricultural lands (lands that have

been farmed within the last ten years), the project must be shown to not adversely impact the overall operation of the farm (the rest of the lands can continue to be farmed).

- D. All applications shall submit a proposal for a Host Community Agreement (to be reviewed and approved by the Town Board prior to issuance of the Special Use Permit).

7. Application and Permitting Requirements Tier 4 Industrial-Scale Solar Energy Systems

- A. All applications for Tier 4 Industrial-Scale Solar Energy Systems shall include the following:
 - (1) All the information/requirements listed for a Tier 3 Utility-Scale Solar System plus the following additional information/requirements.
 - (2) Submittal of an Agricultural Impact Statement to determine the impact to Agriculture in the Town and community. The Planning Board, on a project-by-project basis, will work with the applicant on finalizing the requirements of this Agricultural Impact Statement, but at a minimum, will include whether the farmland is active (how long it has been farmed or not farmed) and if it is farmed by the property owner or leased. If leased, how the removal of this leased land will affect the farmer who leases this site and other farmlands and other leases that the farmer has in the Town. Include information on the improvements that have been made to the lands (tiling, irrigation, etc.), history of the farm and its products, number of workers, products purchased and used for farming operations, etc.
 - (3) Submittal of an Economic Impact Analysis to determine the impact to the economy of the Town. This includes the agricultural impacts in the Ag Impact statement and information as noted by the Town Planning Board (Town to work with the applicant on the scoping of this study).
 - (4) Submittal of a Community Impact Analysis on the community known as Royalton and its residents as set forth under definitions.
 - (5) Submittal of an overall Community Impact Analysis for the community known as Royalton, addressing the cumulative impacts on Community Character, quality of life, economics, and the other issues referenced by this law and/or identified by the Planning Board.
 - (6) Any proposed Tier 4 Industrial-Scale Solar Energy System shall not be located on a parcel that consists of Prime Farmland soils (including Prime where drained) or Farmland soils of Statewide Importance on more than 50% of the parcel.
 - (7) Proposal for a Host Community Agreement (to be reviewed and approved by the Town Board prior to any approvals granted by other boards or agencies).

- 8. Fees;** All fees for Tier 2 Large-Scale, Tier 3 Utility-Scale, and Tier 4 Industrial-Scale Solar Energy Systems shall be approved by the Town Board by resolution. Nothing in this article shall be read as limiting the ability of the Town to enter into Host Community Agreements with any applicant to compensate the Town for expenses or impacts on the community. The Town shall require any applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required under SEQRA if an EIS is required.

9. General Provisions

- A. All applications for Tier 2 Large-Scale and Tier 3 Utility-Scale Solar Energy Systems shall be in accordance with the following:
 - (1) All solar energy systems shall adhere to all applicable Town of Royalton building, plumbing, electrical, and fire codes.
 - (2) Development and operation of a solar energy system shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats such as Indian burial grounds or

others identified by the Town of Royalton or other federal or state regulatory agencies. The SEQR process shall be used to analyze all potential environmental impacts and determine the significance of these impacts.

- (3) The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks.
- (4) All structures and devices used to support solar collectors shall be nonreflective and/or painted a subtle or earth-tone color.
- (5) All transmission lines and wiring associated with a solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and Town requirements. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant to demonstrate that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components, for the project on the site plan.
- (6) All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.
- (7) Artificial lighting of 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.

10. Bulk and Siting Requirements for Tier 3 Utility-Scale and Tier 4 Industrial-Scale Solar Energy Systems

- A. The maximum height of a ground-mounted Tier 3 Utility-Scale and Tier 4 Industrial-Scale Solar Energy System shall be 20 feet as measured from the finished grade.
- B. Tier 3 Utility-Scale Solar Energy Systems shall be located in their allowed zoning districts.
- C. Setbacks (Tier 3 and 4)
 - (1) All Tier 3 Utility-Scale and Tier 4 Industrial-Scale Solar Energy Systems (as measured from the fence line) shall be setback in accordance with the following paragraphs:•
 - (2) For a participating property, the setback from the road ROW and the rear and side lot lines shall be not less than 100 feet regardless of the zoning district.
 - (3) All solar energy equipment and components/structures developed as part of a Tier 3 Utility-Scale and Tier 4 Industrial-Scale Solar Energy System shall be set back from any non-participating property zoned Agricultural, Residential, Multiple Residential or Escarpment Overlay, a public road, or any public park a minimum of 450 feet.
 - (4) All solar energy equipment and components/structures developed as part of a Tier 3 Utility-Scale and Tier 4 Industrial-Scale Solar Energy System shall be set back from any non-participating property zoned Business, Light Industrial and General Industrial, a minimum of 300 feet.
- D. Following construction of a Tier 3 Utility-Scale and Tier 4 Industrial-Scale Solar Energy System, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low level vegetation capable of preventing soil erosion and airborne dust (In accordance with an approved SWPPP), and in accordance with the approved Operation and Maintenance Plan.
- E. Applications for Tier 3 Utility-Scale and Tier 4 Industrial-Scale Solar Energy System shall meet the following additional criteria:
 - (1) Photo simulations shall be included showing the proposed solar energy system in relation to the building/site along with elevation views and dimensions, and manufacturer's specs and photos of the proposed solar energy system, solar collectors, and all other components. These photo simulations must include before and after

simulations from locations where the solar energy system will be viewed from off-site and as determined by the Planning Board. "After simulations" must include landscaping at the condition when first planted and another at maturity.

- (2) Any site containing a Tier 3 Utility-Scale Solar Energy System shall contain fencing or other enclosure acceptable to the Town (and meeting State and National Code standards) enclosing all solar energy system components that present safety hazards.
- (3) A berm, landscape screen, or other opaque enclosure, or any combination thereof acceptable to the Town capable of screening the site, shall be provided along any property line that abuts an important community resource, an existing residence or any property zoned other than Business, Light Industrial or General Industrial.
- (4) After completion of a Tier 3 Utility-Scale Solar Energy System, the applicant shall provide a postconstruction 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.

F. Screening and Visibility

- (1) Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earthen berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
- (2) Solar Energy Systems shall be required to:
 - a) Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. As required previously, this analysis must consider conditions at day 1 of operation and when the landscaping has matured. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to be submitted by the applicant.
 - b) Submit a screening and landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible. The Planning Board will in good faith determine the adequacy of these measures in its sole and absolute discretion.
 - c) The screening and landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscaped screening shall be comprised of evergreen/coniferous trees (planted at recommended spacing for the type of tree), at least 8-10 feet high at the time of planting (depending on site conditions and the result of the visualizations; may need to be installed in a "zig-zag pattern to maximum screening), plus supplemental shrubs placed in between the evergreen trees at the reasonable discretion of the Town Planning Board. These plantings are to be planted within 10 linear feet of the Solar Energy System fencing or as directed by the Planning Board to achieve maximum screening. In some cases, existing vegetation located on participating properties, may be used to satisfy all or a portion of the required landscaped screening. A list of suitable evergreen tree and shrub species can be provided by the Town. All plantings shall come with a guarantee for the life of the project and must be replaced if dead or diseased (include in Operation and Maintenance Plan).

Landscape plans must be completed by a NYS registered Landscape Architect.

- d) For any buildings or structures (not panels) to be placed on the site, the applicant shall be required to submit plans illustrating how these structures will blend into the character of the area. For example, buildings can be made to look like agricultural structures such as barns.

G. Additional Agricultural Resources Requirements. For projects located on agricultural lands:

- (1) Tier 3 Utility-Scale and Tier 4 Industrial-Scale Solar Energy Systems allowed to be located on Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets (See NYS Agriculture and Markets Guidelines).
- (2) Tier 3 Utility-Scale and Tier 4 Industrial-Scale Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practical pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practical, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes. Once established, other agriculture uses such as pasturing livestock and agriculture are permissible and encouraged. Input from the local farmers and the Town Agricultural Committee (if one exists) will be needed to make these determinations.
- (3) Agricultural Restoration Requirements: once the system is decommissioned, the site shall be restored and remediated in accordance with the NYS Agriculture and Markets Guidelines (this will be a condition of the Special Use Permit).

H. Noise: The Tier 3 Utility-Scale and Tier 4 Industrial-Scale Solar Energy System project shall not result in any adverse noise impacts on any surrounding homes or other sensitive receptors (use of NYSDEC regulations concerning noise).

I. Hazardous Materials: The Tier 3 Utility-Scale and Tier 4 Industrial-Scale Solar Energy Systems project components shall not contain any hazardous materials that could contaminate soils or the air by their release (units shall not contain cadmium or other hazardous substances). Specific material data information/specifications shall be submitted on all components of the project. The applicant must ensure that no harmful chemicals will be leaked into the soils over the life of the project. For certain components of the project, information on spill containment systems will need to be provided.

J. Glare: All Tier 3 Utility-Scale and Tier 4 Industrial-Scale Solar Energy System projects must complete a glare study to be submitted to the Niagara Falls Air Reserve Station, Buffalo-Niagara International Airport, Niagara Falls International Airport, Royalton Airport and Akron Airport. The Town may also hire their own consultant to review that report.

K. Abandonment or Decommissioning

- (1) Unsafe, inoperable, and/or abandoned Tier 3 Utility-Scale Solar Energy Systems, and solar energy systems for which a Special Use Permit has expired or been revoked, shall be removed (equipment removed) by the owner within six months of a determination that the systems are unsafe, inoperable and or abandoned or the Special Use Permit having been expired or been revoked. A solar energy system shall be deemed abandoned when it fails to produce energy (50% or more of its total capacity) for at least one year (based on yearly reports provided to the Town by the applicant/owners). All safety hazards created by the installation and operation of the solar energy system shall be eliminated and the site restored (complete restoration of the site) to its preexisting condition (or as determined in the Decommissioning Plan) within six months of the removal of the solar energy system.
- (2) A Decommissioning Plan to ensure the proper removal of Tier 3 Utility-Scale Solar Energy Systems is to be submitted as part of the Special Use Permit application to the Town of Royalton for approval. The Plan must specify that after the Tier 3 Utility-Scale Solar Energy System is no longer in use (as determined by the owner/operator or the Building Inspector as outlined in paragraph (1)), it shall be removed by the applicant or any subsequent owner. The Decommissioning Plan shall identify the anticipated life of the project. The Plan shall demonstrate how the removal of all infrastructure and restoration shall be conducted to return the parcel to its original state prior to construction. In the case of Agricultural land or lands having Prime or Statewide important Agricultural soils, the Plan shall include, at a minimum, the standards of NYS Department of Agriculture and Markets. The plan shall also include an expected timeline for execution (not greater than 1 year) and a cost estimate for decommissioning prepared by a Professional Engineer or qualified Contractor.

Cost estimates shall take inflation into consideration and be revised every five (5) years during operation of the system and not include any salvage value. Removal of the Tier 2 Large-Scale Solar Energy System must be completed in accordance with the approved Decommissioning Plan and meet the minimum standards provided as follows:

- a) All structures and foundations associated with Tier 2 Large-Scale Solar Energy Systems shall be removed;
- b) All disturbed ground surfaces shall be restored to original conditions including topsoil and seeding as necessary; and
- c) All electrical systems shall be properly disconnected, and all cables and buried wiring shall be removed.
- d) The required recycling of solar panels and other components.

(3) Security

- a) The deposit, execution, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town Attorney and/or engineer and approved by the Town Board, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 125% of the cost of removal of the Utility Grade Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System. The decommissioning amount shall not be reduced by the amount of the estimated salvage value of the Solar Energy System. The bond shall be renewed every five (5) years or, as necessary, to reflect adjustments in the projected costs of decommissioning. Failure to provide an ongoing bond shall be the basis for revoking the Special Use Permit.
 - b) In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth and the decommissioning plan is completed.
 - c) In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in this law.
- L. Special Use Permits granted for Tier 3 Utility-Scale Solar Energy Systems shall be assignable or transferable so long as they are in full compliance with this article and all conditions, and the Building Inspector is notified of the transfer at least 15 days prior thereto.
- M. Any post-construction changes or alterations to the solar energy system shall be permitted only by Site Plan Review by the Planning Board, amendment to the Special Use Permit and shall be subject to the requirements of this article.

11. Time for Completion, Inspection and Complaints

- A. Time limit on completion. After the granting of a Special Use Permit of a Tier 4 Utility-Scale Solar Energy System with concurrent site plan approval or site plan renewal of a freestanding or ground-mounted solar energy system by the Planning Board, the building permit shall be obtained within six months and the project shall be completed within twelve months. A six-month extension to obtain a building permit or the completion time can be issued by the Zoning Board of Appeals upon application by the applicant. If not constructed, the special permit and/or site plan approval shall automatically lapse within twelve months after the date of approval by the Town of Royalton Planning Board (unless an extension is granted).
- B. Inspection. Upon reasonable notice, the Town of Royalton Building Inspector or his or her designee may enter a lot on which a solar energy system has been approved for the purpose of compliance with any requirements or conditions. Twenty-four (24) hours advance notice by telephone to the owner/operator or designated contact

person shall be deemed reasonable notice. Furthermore, a utility-scale solar system shall be inspected annually by a New York State licensed professional engineer who has been approved by the Town or at any other time, upon a determination by the Town's Building Inspector that damage may have occurred, and a copy of the inspection report shall be submitted to the Town Building Inspector. Any fee or expense associated with this inspection shall be borne entirely by the permit holder.

- C. General complaint process. During construction, the Town Building Inspector can issue a stop order at any time for any violations of a special permit or building permit. After construction is complete, the permit holder of a Tier 3 Utility-Scale Solar Energy System shall designate a contact person, including name and phone number, for receipt of any complaint concerning any permit requirements.

12. Tier 3 Utility-Scale and Tier 4 Industrial-Scale Solar Energy System Liability Insurance

- A. The Holder of a Special Use Permit for a Solar Energy System shall agree to secure and maintain for the duration of the permit, public liability insurance as follows (unless waived by the Town Board for smaller Tier 3 Utility-Grade Solar Energy Systems):
 - a) Commercial general liability covering personal injuries, death and property damage: \$5,000,000 per occurrence (\$10,000,000 aggregate) which shall specifically include the Town of Royalton and its officers, councils, employees, attorneys, agents and consultants as additional named insured;
 - b) Umbrella coverage: \$10,000,000.
- B. 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".
- C. Insurance Policy Cancellation: The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town of Royalton with at least thirty (30) days prior written notice in advance of cancellation.
- D. Insurance Policy Renewal: Renewal or replacement policies shall be delivered to the Town of Royalton at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace. Failure to provide a renewal shall be the basis for revoking the Special Use Permit.
- E. 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 Royalton a copy of each of the policies or certificates representing the insurance in the required amounts.
- F. Certificate of Insurance: A certificate of insurance states that it is for informational purposes only and does not confer sufficient rights upon the Town of Royalton shall not be deemed to comply with this Law.
- G. Indemnification: Any application for a Solar Energy System within the Town of Royalton shall contain an indemnification provision. The provision shall require the Applicant/Owner/Operator to at all times defend, indemnify, protect, save, hold harmless and exempt the Town of Royalton and its officers, councils, employees, attorneys, agents and consultants from any and all penalties, damages, costs or charges arising out of any and all claims, suits, demands, causes of action or award of damages whether compensatory or punitive, or expenses arising therefrom either at law or in equity which might arise out of or are caused by the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said Solar Energy System, excepting however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town of Royalton or its employees or agents. With respect to the penalties, damages, or changes referenced herein, reasonable attorneys' fees, consultant' fees and expert witness fees are included in those costs that are recoverable by the Town of Royalton.

ARTICLE II. TIER 1 SMALL-SCALE SOLAR ENERGY SYSTEMS

1. Interpretation. The provisions of this chapter shall be interpreted as providing minimum requirements for Tier 1 Small-Scale Solar Energy Systems adopted for the purpose of promoting the health, safety, morals and general welfare of this community. Provisions for Tier 2 Large-Scale and Tier 3 Utility-Scale Solar Energy Systems (Tiers 2, 3 and 4) are provided in Article I hereof.
2. Intent; greater restrictions to prevail. It is not intended by this chapter to repeal, except as herein stated, abrogate, or impair existing conditions previously made or permits previously issued relating to the use of buildings or premises or to impair or interfere with any easements, covenants or agreements existing between parties. Except as otherwise provided herein, whenever this chapter imposes a greater restriction upon the use of buildings or premises than is required by existing provisions of law, ordinance, regulations or permits or by such easements, covenants or agreements, the provisions of this chapter shall control.
3. Tier 1 Small-Scale Solar Energy Systems
 - A. Installation of small-scale solar energy systems and equipment is encouraged on all preexisting structures; however, access to sunlight which is necessary therefor cannot be obtained through the provisions of this chapter. The installation of a solar collector, whether attached to the main structure or as a detached accessory structure, shall require a building permit. Height limitations for solar collectors shall be three feet above the level of the permitted building height in that zoning district. All solar collectors and their associated support elements shall be designed according to generally accepted engineering practice to withstand wind pressures applied to exposed areas by wind from any direction, to minimize the migration of light or sound from the installation and to minimize the development of sight obstructions for adjacent structures or land parcels.

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

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

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.

- B. Glare: All Solar Panels shall have anti-reflective coating(s) and proof of such must be provided with the building permit application.
- C. Fire safety: All Roof mounted systems shall be designed and installed in accordance with the Uniform Fire Prevention and Building Code Standards.
- D. Installation of building-integrated photovoltaic (BIPV) systems, as defined herein, are exempt from the requirements of this article. BIPV systems are still required to meet applicable building codes and obtain all necessary permits. The Code Enforcement Officer may request assistance from the Planning Board to determine whether a solar energy system should be considered a BIPV system.
- E. Other alternative natural energy conservation devices shall be considered accessory structures and shall require a building permit. All permit applications for such devices will be reviewed and considered pursuant to the Zoning Ordinance of the Town of Royalton.
- F. Tier 1 Small-Scale Solar Energy Systems located in the Agricultural, Residential, Multiple Residential, Business, Light Industrial, General Industrial and Escarpment Overlay are permitted if they contain solar collectors located on the rooftops of principal or accessory buildings. The solar collectors must be completely contained within the limits of the building roof. All other equipment and components (not panels) of the solar energy system (not located on or in the building/structure) shall be located within the rear yard only and are subject to setbacks for accessory structures.

G. Tier 1 Small-Scale Solar Energy Systems featuring rooftop-mounted solar collectors on the rooftops of principal or accessory buildings are also permitted in the Business, Light Industrial and General Industrial zoning districts. Rooftop mounted solar collectors must be completely contained within the limits of the principal or accessory building's roof.

H. General Provisions

1. Allowing or permitting the reflective glare of solar rays of any solar energy system/or array of solar panels, of any nature or kind or description, onto neighboring properties, public roads, or public parks, under any circumstances whatsoever, is strictly prohibited.
2. It is the responsibility of any landowner, resident, manager, tenant, or lessee of any premises upon which there is situated a solar energy system or array of solar panels of any nature, kind, or description to keep reflective glare of any description from going onto neighboring properties, public roads or public park at any time. In that regard it is the ongoing responsibility of such persons to conduct regular inspections of such systems or array to prevent the direction of reflective glare onto the property of another and, if necessary, to make appropriate adjustments to prevent the same from occurring.
3. In the event such persons (paragraph 2 above) become aware of, or with the exercise of reasonable care would have become aware of, or has received a complaint, that reflective glare from his solar energy system or array of solar panels is upon the property of another, such person shall undertake action to immediately block the reflective glare. This may be accomplished by adjusting the angles of the system or array, if possible, or by physically blocking the glare by covering the panels or by removing them.
4. Upon the failure, refusal, or neglect of such person to immediately block the reflective glare as directed by paragraph C above, Town of Royalton workforces, at the direction of the Town Building Inspector and/or Code Enforcement Officer, shall cover such system or array of panels, if possible, to block the reflective glare. If not, the system or panels shall be physically de-constructed or removed to the point the reflective glare is blocked.
5. In the event the system or panels are removed or de-constructed as set forth in paragraph 4 above, the owner or person responsible for the system or array shall not replace or reconstruct the system or panels until he applies to and received from the Planning Board of the Town of Royalton a permit after submitting to the Building Inspector a plan of operation that will ensure no further incidents of reflective glare onto neighboring properties, public road, or public park will occur.
6. Further, or additional complaints of such incidents shall be grounds to revoke any permit received from the Town of Royalton for the system or array and the system or array shall be fully dismantled and removed from the premises.

ENFORCEMENT

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

SEVERABILITY

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

EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State.