

ARTICLE
§520-36 SOLAR ENERGY SYSTEMS

§ 520-36A.1. Authority.

This Solar Energy Local Law is adopted pursuant to §§ 261 through 263 of the Town Law and

§ 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town of Hamlin, hereinafter referred to as 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 therefor."

§520-36A.2. Statement of purpose.

This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of the Town by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:

- A. To take advantage of a safe, abundant, renewable and nonpolluting energy resource.
- B. To help decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses.
- C. To increase employment and business development in the Town, to the extent reasonably practical, by furthering the installation of solar energy systems that are complementary

to Town goals outlined in the community Master Plan and Hamlin Farm Land Protection Plan that include protection of high-value farmland.

- D. To make the potential benefits of solar energy development available to the Town, its residents and property owners.
- E. To manage and regulate solar development in a way that complements and protects rural residential neighborhoods, business and commercial districts and mitigates potential impacts solar installations will have on these community assets.
- F. To manage and mitigate the impacts of solar energy development to protect environmental and agricultural resources of the Town; such as high-value farmland and orchards, sensitive natural resources, and the recreation corridors of Lake Ontario.
- G. To create zoning regulations for solar energy systems that reflect the goals and policies of the Town's Comprehensive Plan, Town of Hamlin Farmland Protection Plan, and other regional planning programs.

§ 520-36A.3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM — A combination of solar panels and solar energy equipment integrated into any building envelope system such as vertical facades,

semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for

on-site consumption.

FARMLAND — Land in the R-VL (Residential – Very Low Density), R-L (Residential – Low Density), R-H (Residential – High Density), R-CW (Residential – Commercial Waterfront), C-NB (Commercial -Neighborhood Business), C-GB (Commercial – General Business), IND (Industrial), SR (Shoreline Residential), WROS (Waterfront Recreational – Open Space) SC – Senior Citizen Residential, RM (Residential Moderate Density) where there is sufficient open space, acreage and favorable soil conditions to support cultivation of agricultural crops.

- A. ACTIVE FARMLAND — Land where crops are currently grown or have been grown in the past five years, and includes any land that has received an agricultural exemption in the past five years.
- B. PRIME FARMLAND — Acreage designated and categorized by the U.S. Department of Agriculture (USDA) where soils and hydrology contain the best combination of physical and chemical characteristics for producing quality crops.
- C. PRIME FARMLAND IF DRAINED — Land that meets the USDA criteria for prime farmland, except for depth to the water table, and with managed drainage would be classified as prime farmland.
- D. FARMLAND OF STATEWIDE IMPORTANCE — Land that has soil characteristics of USDA classifications 1 through 3 or 4w, is available for farming and is important to statewide agricultural production, but does not meet the USDA criteria for

"prime farmland" or "prime farmland if drained."

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

GROUND-MOUNTED SOLAR ENERGY SYSTEM — A solar energy system that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for on-site or off-site consumption.

LOT, PARCEL or PROPERTY — These terms are often referred to interchangeably in this article and refer to land ownership designations as shown on the current Tax Map of the Town of Hamlin.

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.

PARTICIPATING PROPERTY — A participating property is one that develops a solar energy project on land they own, or leases rights to a developer that operates a solar energy project or equipment on the property owner's land. A property (neighboring, adjoining or other) that agrees to support a solar energy development on another property with land, facilities, equipment, financial or operational involvement is also a participating property. A non-participating property has no legal or operational relationship with a solar project on another property.

ROOF-MOUNTED AND
BUILDING-MOUNTED SOLAR ENERGY
SYSTEM — A solar

energy system located on the roof or attached to any legally permitted building or structure that primarily produces electricity for on-site use.

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 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. The components and subsystems required to convert solar energy into electric energy suitable for domestic and commercial use. The term includes, but is not limited to, solar panels and associated solar energy equipment, structures and facilities. The term refers to solar panels, equipment and facilities on a single property and the collective array of panels, equipment and facilities on multiple properties that are under a single ownership, leasing structure or management.

B. Solar energy systems for the purpose of this article are classified as follows.

- (1) Tier 1: Tier 1 solar energy systems are roof-mounted, building-mounted and building-integrated accessory equipment that generate net energy metering when installed on a conforming residence, facility or structure.

- (2) Tier 2: Ground-mounted solar energy systems are those intended to only provide energy for on-site use at residential, agricultural, business, commercial or community facilities. Tier 2 solar energy systems are limited to generating up to 110% of the electricity consumed on the site over the previous 12 months.

- (3) Tier 3: Utility-grade, commercial or other large solar energy systems that produce energy for off-site distribution, consumption and use. Tier 3 systems are those that do not meet the criteria for Tier 2 systems and do not exceed 50 acres and/or produce up to 10 megawatts of energy.

- (4) Tier 4: Utility-grade, commercial or other large solar energy systems that produce energy for off-site distribution, consumption and use and are over 50 acres in size and produce over 10 megawatts of energy.

SOLAR PANEL — A photovoltaic device capable of collecting and converting solar energy into electricity.

STORAGE BATTERY — A device that stores energy and makes it available for use and redistribution as electrical power. Tier 1&2 Solar storage batteries, equipment and facilities are permitted with Planning Board approval in specified zones, and Tier 3&4 solar storage batteries and equipment are permitted in Industrial, and Planned Unit Development Districts unless otherwise approved by the Planning Board. Solar energy storage must comply with provisions of the NYS Uniform Fire Prevention

and Building Code and, the local Town of Hamlin Battery Storage Law.

§ 520-36A.4. Applicability.

- A. The requirements of this article shall apply to all solar energy systems permitted, installed or modified in the Town after the effective date of this article, excluding general maintenance and repair.
- B. Solar energy systems constructed or installed prior to the effective date of this article shall not be required to meet the requirements of this article.
- 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 article.
- D. All solar energy systems shall be designed, erected and installed in accordance with applicable codes, regulations and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code, the NYS Energy Conservation Code and the Town of Hamlin Code.

§ 520-36A.5. General requirements.

- A. A building permit is required for installation of all solar energy systems. Certain Tier 2 and all Tier 3 and 4 systems require a site plan review and special use (SUP) permit. The Planning Board can require a site plan review for all solar installations where necessary.
- B. This article shall take precedence over any inconsistent provision of

the Zoning Law of the Town of Hamlin.

- C. Issuance of permits and approvals by the Town of Hamlin Planning Board, hereinafter referred to as the "Planning Board," shall include review pursuant to the State Environmental Quality Review Act, ECL Article 8, and its implementing regulations, 6 NYCRR Part 617 (SEQRA).
- D. Solar energy storage batteries, equipment and facilities are only permitted in the Industrial Zones, where they must meet placement, setback and other applicable provisions for Tier 3 and 4 solar energy systems. The Planning Board can consider applications for placement of Tier 1&2 battery storage after evaluating the size, capacity, location, safety and other impacts such batteries will have on properties in the area.

§ 520-36A.6. Permitting requirements.

1. PERMITTING REQUIREMENTS:

ZONING DISTRICT ABBREVIATION

R-VL (Residential – Very Low Density)

R-L (Residential – Low Density)

RM (Residential Medium Density)

R-H (Residential – High Density)

R-CW (Residential – Commercial Waterfront)

C-NB (Commercial -Neighborhood Business)

C-GB (Commercial – General Business)

IND (Industrial), SR (Shoreline Residential)

WROS (Waterfront Recreational – Open Space)

SC – (Senior Citizen Residential zones)

P - Permitted

SUP – Special Use Permit
X – Not permitted.

- A. General setback, height and area coverage requirements for Tiers 2, 3 and 4. Also see dimensional requirements for Tiers 2, 3 and 4 that follow in §§ 520-36.
- B. Minimum lot size for Tier 2 ground-mounted solar energy systems is 16,000 square feet; other setbacks and restrictions must be met.
- C. Minimum lot size for Tier 3 and 4 systems in the Industrial Zone is two acres.
- D. Maximum height (when positioned at maximum title).
- E. In R-M, R-H, R-CW, C-NB, WROS and SC zones is 12 feet (see note 1 below).
- F. In R-VL, R-L, and C-GB zones is 15 feet (see note 2 below).
- G. In IND zones is 20 feet.

Notes:

- 1 For Tier 2 systems, heights can be modified to a maximum of 14 feet when reasonable justification as determined by the Planning Board is provided (The application must be forwarded to the Planning Board for a site plan review if a special exception use permit is not required.). The Planning Board must consider how this modification will impact the visual and aesthetic character of the neighborhood and surrounding nonparticipating properties.
- H. Setbacks. For Tier 3 and 4 systems, the setback from side and rear property lines is 100 feet. Tier 2 systems, in residential zoned areas may have up to but no less than 30 feet, as modified with reasonable justification as determined by the Planning Board, and no less than the standard accessory structure setback established by the Town Zoning Ordinance for the applicable zoning district.
- I. Rear, side and front yard placement. Solar panel placements in rear yards are preferred and front yard placements are prohibited, except where no front yard structures exist. Side yard installations for Tier 2 systems may be approved by the Planning Board if the proposal is forwarded to the Planning Board for a site plan review. Appropriate justifications, dimensions and maps must be provided for evaluation by the Planning Board. Side yard placement must maintain setbacks from the road, neighboring property lines and residential structures.

J. Area coverage of solar energy systems and panels.

(2) General.

- (a) Minimum lot sizes and lot size thresholds for Tiers 2, 3 and 4 are defined by the total number of acres that make up an ownership parcel or property, as defined on tax maps maintained by Monroe County and the Town of Hamlin.
- (b) The size of a Tier 3 and 4 system that covers up to or exceeds 50 acres is measured by the perimeter or collective perimeters of the solar system fence line(s).
- (c) For Tier 2, 3 and 4 systems, maximum square feet of panel coverage is determined by measuring the outer perimeter of a panel cluster, including all related solar equipment and structures. When there are two or more separated panel clusters, the coverage area is the sum of all clusters and equipment when each is measured around its perimeter.

(3) Tier 2 systems.

- (a) Tier 2 maximum panel coverage on lots from 16,000 square feet to two acres in C-NB, R-VL, R-L, and C-GB Zones is 1,000 square feet of panel coverage.
- (b) On lots over two acres in the C-GB, C-NB and IND Zones, maximum panel coverage for Tier 2 systems is 3,000 square feet.

(4) Tier 3 and 4 systems.

- (a) There is no limit on maximum panel coverage in the Industrial Zones; setbacks, safety and fire access requirements apply.
- (b) In all cases, property owners and developers must consider the extent of property they will dedicate to a solar energy system and panel coverage, while meeting requirements for safety, emergency and maintenance access, and also consider the potential for other uses of the property and the preservation of open space.

§ 520-36A.7. Requirements for Tier 1 solar energy systems.

- A. Tier 1 solar energy systems are roof-mounted, building-mounted and building-integrated accessory equipment that provide only on-site energy use for a conforming residence, facility or structure. Tier 1 systems require a building permit

and must meet design, code, height, safety and roof integrity standards and are permitted in all Zones.

B. Tier 1 solar energy systems are subject to the following conditions:

System	Height		Electrical Generation
	Pitched Roof	Flat Roof	
Tier 1 Roof-Mounted, Building-Mounted and Building-Integrated Systems	All solar surfaces and equipment shall not exceed 12 inches from the finished roof surface in all Zones except for C-NB, C-GA & IND; and 24 inches in Commercial and Industrial Zones. Panels shall not extend higher than the highest point on the roof surface. Panels and equipment must be at least 18 inches from the roof edge. Panels must be installed parallel with the roof surface orientation.	Panels 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.	Limited to energy required for on-site use

C. Glare, reflection and color. 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 spaces in excess of that which already exists. All solar panels shall have anti-reflective materials and/or coating(s), and proof of such must be provided with the building permit application. Panel and equipment color shall be consistent with industry standards; usually dark colors or shades of black, dark blue or grey.

- D. Fire safety. All roof-mounted systems shall be designed and installed in accordance with standards set by the NYS Uniform Fire Prevention and Building Code.
 - (1) Notification to the fire service. Notification in writing to the fire company having operational authority at the location where the system will be installed shall be made no later than 10 days following installation
 - (2) Notification shall include a site map showing the location of the solar energy electrical panel, as well as the proper operation of the disconnect switch(s) in the event of a fire or other emergency situation where the homeowner, tenant or other personnel are not available or familiar with the safe shutdown operation of unit so as to have the ability to cut power from the solar panels.
 - (3) In addition, a written statement showing the method of shutdown shall be posted inside the main electrical panel of the unit that can be readily accessible for and to firefighting personnel.
- E. Roof structural integrity. The building permit application for a rooftop solar system must include an architect- or engineer-approved report documenting the structural integrity of the roof to handle the solar energy system components to be mounted on the roof.
- F. Building-integrated solar energy systems shall be shown on the plans submitted for the building permit application for the building containing the system.

§ 520-36A.8. Requirements for Tier 2 solar energy systems.

- A. Tier 2 systems are accessory structures that provide only on-site energy for agricultural use, single- and multifamily residences, business, retail, commercial or community facilities. Maximum total surface area of all panels on the lot varies by zoning district. Ground-mounted solar energy systems can provide up to 110% of the electricity consumed on the site over the previous 12 months. Ground-mounted systems are subject to setbacks which limits their applicability on some lots. Solar energy systems are not permitted in front yards, and setback requirements apply for side and rear yard placement in zones C-NB,C-GB,R-VL,R-L,Ind. All Tier 2 systems require a building permit, and Tier 2 ground-mounted solar energy systems exceeding 1,000 square feet of solar panel coverage in C-NB, R-VL, R-L,IND, and C-GB Zones require a site plan review and special use permit.

Tier 2 Solar Energy Systems							
		CN-B	IND	R-VL	R-L	C-GB	
Permitted (P) Solar panel coverage is limited to 500 square feet. Minimum lot size is 16,000 square feet. Must meet all setback requirements.				Permitted (P) when solar panel coverage is 1,000 square feet or less; setbacks must be met Site plan review and special use permit (SUP) required when solar panel coverage exceeds 1,000 square feet.			

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Tier 2 - Ground-Mounted Solar Energy Systems					
System	Minimum Lot Size	Maximum Area Coverage of Solar Panels	Setbacks	Height	Electrical Generation
Tier 2 Ground-Mounted Solar Energy Systems	16,000 square feet	Maximum panel coverage on lots in , C-NB, zones is 500 square feet.	Solar panels and equipment must be: 100 feet or more from the right-of-way edge of a road or street.	Maximum panel height in R1, R2 VB and MB Zones is 12 feet.	Generate up to 110% of energy consumed on the site over the previous 12 months
		Maximum panel coverage on lots from 16,000 square feet to two acres In R-VL, R-L Zones is 1,000 square feet.	50 feet from a neighboring zoning district boundary.	Maximum panel height in AR, RR, CF and IND Zones is 15 feet.	
		Maximum panel coverage on lots over two acres in the C-GB & IND Zones is 3,000 square feet. There is no limit on maximum panel coverage in the industrial zones; setbacks, safety and fire access requirements apply. Note: Panel coverage is measured as	30 or more feet from any side or rear property line. Note: See § 520-36A.6, Subsection D, for side and front yard installations. 200 feet from any dwelling or residence on an adjoining non-participating property. 60 feet from any dwelling or	Maximum height in the Industrial Zones is 20 feet. § 520-36A.6, Subsection C, Notes 1 and 2, for panel height modifications.	

		the outside perimeter of a panel cluster and equipment or the sum of the perimeters of multiple clusters and equipment.	residence on the participating property.		
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- B. Agricultural use. A Tier 2 solar energy system primarily used for agricultural operations and purposes in accordance with the NYS Agriculture and Markets Law may have some of the requirements of this article waived where they are inconsistent with the Agriculture and Markets Law.
- C. Emergency access. Any solar energy system shall be accessible for all emergency service vehicles and personnel.
- D. Glare, reflection and color. 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 spaces in excess of that which already exists. All solar panels shall have anti-reflective materials and/or coating(s), and proof of such must be provided with the site plan application and at the building permit application. Panel and equipment color shall be consistent with industry standards; usually dark colors or shades of black, dark blue or grey.
- E. Tree removal. The location and design of the Tier 2 systems shall minimize tree removal.
- F. Visibility and screening. All Tier 2 solar energy systems shall have views minimized from adjacent properties to the extent reasonably practicable (as determined through the building inspection and site plan review, where applicable). 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.

§ 520-36A.9. Requirements for Tier 3 and 4 solar energy systems.

- A. Tier 3 and 4 solar energy systems are utility-grade commercial systems primarily intended to collect energy for off-site distribution, consumption and energy markets. All require a site plan review, special use permit, fencing, maintenance and landscape plans (that include impacts on off-site drainage), SEQOR review, liability insurance, a safety plan and a decommissioning plan. The Planning Board will also require the analysis of agricultural and economic impacts commensurate with the size and potential community influence of the project. These systems may also be eligible for a solar energy system PILOT and may require a host community agreement as determined by

the Town Board.

(1) Tier 1 solar energy systems installed on property containing Tier 3 and 4 systems remain regulated by provisions in this article for Tier 1 installations. The Tier 1 installations are not included in the area coverage and are not considered part of the Tier 3 or 4 system.

Tiers 3 and 4 - Utility-Scale Solar Energy Systems				
System	Lot Size	Maximum Area Coverage of Solar Panels	Setbacks	Height
Tier 3 and 4 Utility-Scale Solar Energy Systems and those not meeting specifications for Tier 2	Minimum lot size is 2 acres; other setback and space requirements must be met.	On lots 2 to 5 acres, maximum panel coverage is 5% of the lot's total square feet where the lot contains an existing structure(s) and 25% on a vacant lot without a structure(s). On lots greater than 5 acres, maximum panel coverage is 50% of the lot's total square feet. There is no limit for panel coverage in the Industrial Zones; setbacks, safety and fire access requirements apply.	The solar energy system fence line must be: 200 feet from a road, street or public right-of-way, measured from the outer edge of the right-of-way. 300 feet from any dwelling or residence on an adjoining non-participating property, including those on the opposite side of a road or right-of-way. 100 feet from an on-site dwelling or residence. 150 feet from any zoning district boundary that does not allow Tier 3 and 4 systems, and 50 feet from an adjoining Industrial District boundary. 50 feet from any side property	Maximum solar panel and equipment height shall not exceed 20 feet.

		Note: Panel coverage is measured as the outside perimeter of a panel cluster and equipment or the sum of the perimeters of multiple clusters and equipment.	boundary and 100 feet from a rear property boundary. Solar panels, structures and equipment for all Tier 3 and 4 systems must be a minimum 25 feet from the solar system fence line.	
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- B. Requirements for Tier 3 and Tier 4 solar energy systems in prime agricultural areas. Development and land use policy in the Town of Hamlin, as identified in the Town Comprehensive Master Plan and the Town of Hamlin Farmland Protection Plan, emphasize the preservation of prime agricultural land and the protection of agricultural resources. 75% of the land in the Town of Hamlin is classified as "prime farmland" and/or "farmland of statewide importance." The extent of prime farmland in the Town of Hamlin exceeds that of other towns in Monroe County (see map of agricultural soil classifications at the Hamlin Town Hall or USDA offices).
- C. Other requirements for Tier 3 and Tier 4 systems.
- (1) Permitted zones: Tier 3 and 4 solar energy systems are permitted in the Industrial Zone when they follow provisions of this article and other state and federal regulations, and after a site plan review has been approved and a special use (SUP) permit is authorized.
 - (a) Discussions with the Town Board about the applicability of a solar energy PILOT and/or host community agreement must take place prior to the Planning Board considering and approving a special exception use permit.
 - (b) Solar energy system PILOT: Tier 3 and 4 systems can have significant implications for the financial and economic conditions of a community. A solar energy system PILOT may have advantages and/or disadvantages to a community that need to be evaluated. The Hamlin Town Board will determine if a PILOT should be considered.
 - (c) Host community agreement: In order to ensure that solar energy projects adequately benefit the overall community and that solar energy resources are used to support and mitigate the costs and impacts the solar development will have on the community, the Town Board of Hamlin may require that Tier 3 and 4 developers and/or property owners enter into a host community agreement.

- (2) Impact statements: Tier 3 and 4 solar energy projects are very large systems that have the potential to significantly impact the Town of Hamlin, its citizens and the economy of the community. Therefore, Tier 3 and 4 systems shall be required to provide the following analysis in addition to other requirements noted in this article:
- (a) Submittal of an agricultural impact statement to determine the solar system's impact on agriculture in the Town. The Planning Board, on a project-by-project basis, can amend the scope and detail of information required from the applicant; and the applicant should consult with NYS Agriculture and Markets, USDA and the Natural Resources Conservation District (NRCS) in preparation of this statement.
 - (b) Submittal of an economic impact analysis to determine the effect a solar energy project will have on the economy of the Town. This includes those outlined in the agricultural impact statement and other factors related to commerce, employment, housing, transportation, tourism, education, environmental protection, municipal services, revenues and taxation. The Planning Board, on a project-by-project basis, can amend the scope and detail of information required from the applicant.
- (3) Battery storage: Tier 3 & 4 Solar storage batteries, equipment and facilities are only permitted in Industrial Zones and Planned Unit Development Districts, unless otherwise approved by the Planning Board. Solar energy storage must comply with provisions of the NYS Uniform Fire Prevention and Building Code and the local Town of Hamlin Battery Storage Law.
- (4) Drainage: Solar energy systems must comply with NYS stormwater regulations. Developers must demonstrate that solar systems will not create adverse drainage, runoff or hydrology conditions that could impact adjoining and other non-participating properties. Developers are required to submit drainage design plans to the Planning Board that may be forwarded to the Town Engineer for review at the developer's expense.
- (5) Fencing: All solar panels, mechanical and electrical equipment, and battery storage shall be enclosed by a minimum eight-foot fence with self-locking gate(s) that will reasonably prevent unauthorized access. The fencing shall be commercial grade, well maintained, shall not include any barbed wire, and shall consider provisions for animal/wildlife protection where practical and reasonable.
- (6) Glare, reflection and color: 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 spaces in excess of that which already exists. All solar panels shall have anti-reflective materials and/or coating(s), and proof of such must be provided with the building permit application. Panel and equipment color shall be consistent with industry standards; usually dark colors or shades of black, dark blue or grey.

- (7) Ground screw supports: Ground screw columns or similarly effective support structures are required in prime farmland areas instead of concrete pads or platforms, to provide an advantage when returning the land to farm production after the solar facility is no longer in use. The Planning Board can authorize alternate support structures that meet this goal, when required and appropriate for technical or engineering considerations.
- (8) Hazardous materials: The project components shall not contain any hazardous materials as classified by state and federal standards; or potential contamination by hazardous materials to the soil, water and air must be mitigated by meeting state and federal regulatory requirements.
- (9) Solar energy system liability insurance:
 - (a) The holder of a special exception use permit for a solar energy system shall agree to secure and maintain for the duration of the permit, public liability insurance as follows:
 - [1] Commercial general liability covering personal injuries, death and property damage must be in place at the following levels: \$1,000,000 per occurrence, \$3,000,000 aggregate and a \$1,000,000 umbrella. This coverage shall specifically include the Town of Hamlin and its officers, councils, employees, attorneys, agents and consultants as additional named insureds.
 - [2] 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".
 - [3] Insurance policy cancellation: The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town of Hamlin with at least 30 days' prior written notice in advance of cancellation.
 - [4] Insurance policy renewal: Renewal or replacement policies shall be delivered to the Town of Hamlin at least 15 days before the expiration of the insurance that such policies are to renew or replace.
 - [5] Copies of insurance policy: No more than 15 days after the grant of the permit before construction is initiated, the permit holder shall deliver to the Town of Hamlin a copy of each of the policies or certificates representing the insurance in the required amounts.
 - [6] Certificate of insurance: A certificate of insurance that states that it is for informational purposes only and does not confer sufficient rights upon the Town of Hamlin shall not be deemed to comply with this article.
 - (b) Indemnification: Any application for a solar energy system within the Town of Hamlin 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 Hamlin 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 Hamlin 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 Hamlin.

- (10) Lighting: Lighting for solar energy systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from neighboring properties and minimize off-site exposure.
- (11) Maintenance plan(s): The owner/developer of a solar project must prepare a plan for maintenance of the structures, equipment, grounds and photovoltaic components of the property, facilities and system. Plans should include provisions for panel cleaning and the prevention of chemical and corrosive contamination to the land.
- (12) Natural protection and restoration: Tier 3 and 4 solar energy system owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan that uses native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, 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 beekeeping are permissible and encouraged. Input from local farmers and County Agricultural Agents can help to make these determinations.
- (13) Noise: The project shall be shown to not have adverse or unreasonable noise impacts on surrounding homes or other sensitive receptors. (The solar energy system must meet NYSDEC regulations and noise abatement requirements that may be more stringent than those outlined in the Town's local noise law.)
- (14) Ownership changes: If the owner or operator of the solar energy system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval and decommissioning plan, prior to said sale or transfer. The new owner must agree in writing to abide by the obligations and terms of the special use permit, or until the solar energy system is decommissioned or removed according to the provisions of this article. A

potential new owner or operator of the solar energy system shall notify the Code Enforcement Officer of an upcoming change in ownership or operator at least 30 days prior to the date of a planned ownership change. Failure to comply with this subsection may result in the revocation of the special use permit.

(15) Signs:

- (a) No signage or graphic content shall be displayed on the solar energy systems or property, except that identifying the manufacturer and operator's name(s), logo, equipment specifications, safety information and twenty-four-hour emergency contact information. Said information shall be depicted on a sign(s) that complies with the sign ordinance of the Town of Hamlin.
- (b) As required by the National Electrical Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light-reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

(16) Screening, visibility and landscape:

- (a) All Tier 3 and Tier 4 solar energy projects must submit a screening and landscaping plan to show measures being taken to use plantings, landscaping, existing natural buffers and related means to minimize views of solar panels and solar energy equipment. Reasonable and practical measures must be implemented to limit sightlines of solar panels, facilities and equipment from public roadways and adjacent properties. The Planning Board will evaluate screening and visibility requirements based on the size and location of the project and its visual impact on adjacent properties and public areas.
- (b) For all Tier 3 and Tier 4 systems, solar energy system developers and/or property owners must conduct a visual assessment of the impacts of the solar energy system on public roadways and adjacent properties. At a minimum, a visual evaluation commensurate with the size of the project, topography and existing natural screening shall be provided. Depending upon the scope and potential significance of the project's visual impacts, the Planning Board can require that the applicant submit a digital elevation model, line-of-sight profile analysis or viewshed report, and a graphic or visual representation of how the landscaping and screening will look today and will be expected to appear after 10 years.
- (c) For all Tier 3 projects, the recommendations of a landscape professional are required. The Planning Board can require that Tier 3 systems involving complex or sensitive visual and/or aesthetic concerns be approved by a NYS registered landscape architect. All Tier 4 solar energy systems must be approved by a NYS registered landscape architect.

(d) The screening and landscaping plan shall specify the locations, elevations, height, plant species, grading and/or materials that will comprise the landscape design. The landscape plan should also incorporate existing trees, plants and shrubs into the landscape design to the extent practical and possible.

- [1] The landscape screening (buffer) shall be comprised of evergreen/coniferous trees and supplemental lower growth shrubs planted between the evergreen/ conifers. The evergreen/coniferous tree plantings must be six feet or more in height at the time of planting and planted at recommended spacing for preferred growth and screening coverage. A staggered, zig-zag or similar planting pattern shall be used that will achieve healthy growth and maximum screening.
- [2] Plantings and landscaping must be undertaken in a way that is appropriate for the type of soil, drainage and other conditions at the planting site. A site inspection and analysis of soil and drainage factors is required; the USDA, Soil and Water Conservation District and/or a landscape professional should be consulted to assist with the selection and placement of appropriate species.
- [3] Where possible and practical, these planting will be placed within 20 feet of the solar system fence line or solar equipment where no fence is required, unless an alternative planting proposal approved by the Planning Board will ensure equal or better natural growth and desired screening.
- [4] Existing trees, shrubs, vegetation, ground elevations and structural features at the site may be used to satisfy all or a portion of the required landscape screening. Solar energy system owners and developers shall use and maintain native vegetation, to the extent practicable, that reinforces and supplements native growth, foraging and habitats.
- [5] All plantings, existing screening features, materials and structures that make up the screening profile of a solar energy system must be restored or replaced if their capability to provide desired screening is diminished or compromised, from the time the solar system is installed until removal (decommissioned).
- [6] Any buildings or structures (not panels) that are constructed as part of, or in support of, the solar energy system shall be designed to blend with the appearance and character of the area. For example, buildings in rural areas should be designed to look like agricultural structures such as barns.
- [7] The Planning Board can require modifications to the plan that will enhance screening and/or mitigate adverse visual aesthetics that impact views and neighboring properties. The Planning Board can reduce or amend landscape screening requirements when adjoining properties are participating properties.
- [8] Where this article authorizes the Planning Board to consider modifications to these landscape requirements, a review and recommendations by a landscape professional or architect are required.

- (17) Sky space easements: A property owner or developer who has or intends to install a Tier 3 or Tier 4 solar energy system may choose to negotiate with other property owners in the vicinity for necessary solar sky space easements. The issuance of a special exception use permit does not constitute solar sky space rights and the Town shall not be responsible for ensuring impermissible obstruction to the solar sky space as a result of uses or development performed in accordance with the Town Code. In the event that solar easements are negotiated by a utility-scale solar energy system applicant or property owner, a copy or documentation of any solar sky space easements shall be provided and properly recorded with affected property owners. The easement shall, at a minimum, include the following:
- (a) Restrictions on buildings, structures, vegetation and other objects or uses that would potentially obstruct the solar sky space of the solar energy system.
 - (b) A description of the dimensions of the easement expressed in measurable terms, such as the maximum height of buildings and structures, vertical or horizontal angles measured in degrees, or the hours of the day on specified dates during which direct sunlight to a specified surface of a solar collector may not be obstructed, or a combination of these descriptions.
 - (c) The amount, if any, of permissible obstruction of the solar sky space through the easement, expressed in measurable terms, such as a specific percentage of the solar sky space that may be obstructed or hours during the day.
 - (d) Provision for trimming vegetation that would impermissibly obstruct solar sky space, including any compensation for trimming expenses.
 - (e) Provisions for compensation of the owner/operator benefitting from the easement in the event of impermissible obstruction of the solar sky space that would be in violation of the easement.
 - (f) The terms or conditions, if any, under which the easement may be revised or terminated.
- (18) Tree removal: Removal of existing trees larger than six inches in diameter should be minimized to the extent possible. Where possible and practical, existing trees should be incorporated into the landscape design of the project.
- (19) Underground requirements: All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

- (20) Vehicle paths: Vehicle paths within the site shall be designed to minimize the use of impervious materials and the disruption of soil compaction, while providing an adequate base, width and height for emergency vehicles.
- (21) Damage to public roadways: Any damage caused to public roadways, as determined by the Town's Highway Superintendent due to development of site, shall be repaired to Town/County/State minimum requirements within six months of notification to the Developer. If said repairs are not completed within six months, the Town's Highway Department may make the repairs and the cost of said repairs shall be borne by the developer and if not paid within 6 months of the invoice being supplied to the developer SHALL be added to the next Town Tax bill.
- (22) Notification of systems being connected to grid: Prior to the Solar Energy System being connected to the grid, notification MUST BE made to the Town Code Enforcement Officer. If notification is not made prior to the connection, the Town Code Enforcement Officer may revoke all permits for said Solar Energy System.

D. Application requirements for Tier 3 and Tier 4 solar energy systems.

- (1) Applications will be made to and reviewed by the Town of Hamlin Building Inspector, who will review proposals with the Town Attorney, The Planning Board Attorney, and Planning Board Chair for Planning Board action as appropriate.
- (2) All applications for Tier 3 and 4 solar energy systems shall include the appropriate fees as set by the Hamlin Town Board.
- (3) Tier 3 and 4 solar energy system applications must be accompanied by the following maps, documentation and resources for review by the Planning Board:
 - (a) A plot (map) showing property lines and dimensions, natural and physical features, as well as structures, roads and utilities for the entire project site and bordering areas.
 - (b) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures
 - (c) 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 overcurrent devices.
 - (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 building permit.

- (e) 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 a building permit.
- (f) 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.
- (g) Zoning district designations for all participating, adjoining and neighboring properties that comprise the project site(s).
- (h) Property operation and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- (i) Drainage, 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.
- (j) Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) licensed professional engineer or NYS registered architect.
- (k) A completed SEQR full environmental assessment form.
- (l) A landscape plan, when required in accordance with the special exception use permit requirements of this article.
- (m) Agricultural assessment and economic impact analysis when required by provisions of this article.
- (n) Maintenance plan: Applications shall include a maintenance plan for all leased or owned lands; to include areas where solar equipment is placed, accessory use and maintenance areas, storage sites, landscaping, setback, screening and buffer areas.
- (o) Safety: Applications shall include a safety plan (including communication and coordination with emergency service providers).
- (p) Environmental and cultural resources: Information on the environmental and cultural resources (as identified through the NYSDEC mapping system and by the Town of Hamlin) on the subject property and surrounding

properties.

- (q) Any such additional information as may be required by the Town's professional engineer, consultant, Planning Board, Town Board, Attorney, Building Inspector or other Town official.
- (4) Once a solar energy application is under review by the Planning Board, it shall also be referred to the Town Board for consideration of a host community agreement and PILOT, if appropriate. These agreements, if necessary, will need to be finalized before the Planning Board acts on the special exception use permit.
- (5) The solar energy application is subject to a public hearing to provide citizens and interested parties the opportunity to learn about the proposal, ask questions and offer input. A public notice of the hearing and written notification to nearby residents of the hearing shall be completed in accordance with the Town Zoning Ordinance. Notice of the public hearing should also be widely distributed throughout the community by the town and the property owner/developer using publications, notices and social media.
- (6) The solar energy application must be referred to the Town of Hamlin Planning Board pursuant to General Municipal Law § 239-m.
- (7) After conducting the public hearing and completing the SEQR review, the Planning Board shall act on the special exception use permit application. This action can include approval, approval with conditions or denial.

§ 520-36A.10. Decommissioning requirements for Tier 3 and Tier 4 solar energy systems.

A. Decommissioning plan and financial surety.

(1) A system decommissioning plan shall be required as a result of any of the following conditions:

(a) The land lease, if any, ends, unless the project owner has acquired the land.

(b) The solar array system ceases to generate electricity on a continuous basis for 12 months.

(c) The solar array system is damaged and will not be repaired or replaced by the owner of the solar energy system.

(2) If any of the above conditions are met, and upon notification or instruction by the Town of Hamlin, the owner of the solar development in question shall implement the decommissioning plan. System decommissioning and removal, as well as all necessary site restoration or remediation activities shall be completed within 12 months.

(3) The owner of the solar array system, hereafter referred to as the facility, shall be responsible for the

decommissioning plan and all related costs to decommissioning.

(4) The owner of the facility, as provided for in its lease with the landowner, and in accordance with the requirements of the Town of Hamlin zoning law, shall restore the property to its condition as it existed before the facility was installed, pursuant to which shall include the following:

(a) Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations in their entirety.

(b) For projects located on areas consisting of MSG 1 to 4 and/or active agricultural lands, removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations in accordance with the decommissioning requirements contained in the NYS Department of Agriculture and Markets "Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands."

(c) Removal of any solid and hazardous waste caused by the facility in accordance with local, state and federal waste disposal regulations.

(d) Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

(5) The cost of system decommissioning and removal, as well as all necessary site remediation and restoration activities shall be estimated on the date and time that development applications are filed.

(6) A decommissioning security shall be executed in the amount of 115% of the cost of system decommissioning, removal, and site restoration.

(7) The cost estimate and decommissioning surety shall be re-visited every five years and updated as needed to account for inflation or other cost changes.

§ 520-36A.11. Safety.

- A. Solar energy systems and equipment shall be certified under applicable solar and/or electrical industry standards and comply with the NYS Uniform Fire Prevention and Building Code.
- B. Solar energy systems shall be maintained in good working order in accordance with the approved maintenance plan and industry standards. Maintenance and site access, including snow removal and debris clearance, shall be performed at a level acceptable to the local fire department and the Town Building Inspector.
- C. If battery storage is included as part of the solar energy system, it shall meet requirements of the NYS Uniform Fire

Prevention and Building Code and other local laws, where applicable. When no longer used, even when the solar energy system remains operational, the battery storage shall be removed and disposed of in accordance with the laws and regulations of the Town and any applicable federal, state or county laws and regulations.

§ 520-36A.12. Permit time frame; abandonment.

- A. The special use permit and site plan approval for a solar energy system shall be valid for a period of 12 months, provided that a building permit is issued for construction or construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved by the Planning Board, within 12 months after approval, the applicant may request and the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 24 months, the approvals shall expire.
- B. Upon cessation of electricity generation of a solar energy system on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the solar energy system to implement the decommissioning plan. The decommissioning plan must be completed within 360 days of notification.
- C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the solar energy system and restoration of the site in accordance with the decommissioning plan.

§ 520-36A.14. Suspension or Shutdown for Public Health, Safety and Welfare.

Notwithstanding any other provision of this Code, the Town shall have the authority to order the temporary suspension, curtailment, or complete shutdown of any Solar Energy System upon a determination by the Town Board, Code Enforcement Officer, Fire Marshal, or other authorized municipal official that the facility is creating, contributing to, or poses an actual or imminent threat to the public health, safety, or welfare, including but not limited to fire hazards, electrical hazards, environmental contamination, structural failures, hazardous conditions, interference with emergency services, or other conditions adversely affecting neighboring properties or the community. Such suspension or shutdown shall remain in effect until the hazardous condition has been corrected to the satisfaction of the Town. The Town may take such enforcement action as authorized by law, including revocation of permits, assessment of penalties, and the performance of corrective measures at the owner's expense, where permitted by law.

Except in cases where an immediate threat to public health, safety, or welfare exists, the owner and operator shall be provided written notice of the violation or condition and a reasonable opportunity to cure prior to the issuance of a shutdown order.

Where an immediate threat exists, the Town may order an immediate suspension of operations without prior notice, provided that written notice shall be given as soon as practicable thereafter.

§ 520-36A.14. Enforcement.

Any violation of this solar energy law shall be subject to the enforcement provisions, including civil and criminal penalties, provided for in the zoning law of the Town of Hamlin.