

ARTICLE 1. SOLAR ENERGY SYSTEMS AND FACILITIES

1. AUTHORITY

This Solar Energy Local Law is adopted pursuant to Sections 261-263 of the Town Law and Section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town 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, battery energy storage systems and access to sunlight necessary therefore."

2. STATEMENT OF PURPOSE

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

- a. To take advantage of a safe, abundant, renewable and non-polluting energy resource;
- b. To 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;
- d. To mitigate the impacts of Solar Energy Systems, and battery storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources;
- e. To create synergy between solar and the Town's Comprehensive Plan; and
- f. To facilitate the location of the larger solar systems in a way that best fits into the surrounding neighborhood and adjoining use.
- g. To provide a regulatory scheme for the' designation of properties suitable for the location, construction and operation of large scale solar and battery energy storage systems.
- h. To ensure compatible land uses in the vicinity of the areas affected by large scale solar and battery energy storage systems.

3. DEFINITIONS

The following definitions shall apply to this Chapter and supersede any conflicting definitions found elsewhere in the Code:

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

ANSI: American National Standards Institute.

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

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

BATTERY ENERGY STORAGE SYSTEM: devices assembled together and capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 battery energy storage system as follows:

Tier 1 battery energy storage systems have an aggregate energy capacity less than or equal to 600kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.

Tier 2 battery energy storage systems have an aggregate energy capacity greater than 600kWh or are comprised of one or more storage battery technology in a room or enclosed area.

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

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

COMMISSIONING: A systematic process that provides documented confirmation that a Solar Energy System or a battery energy storage system, functions according to the intended design criteria and complies with applicable code requirements.

DECOMMISSIONING: A systematic process for the removal of the entire Solar Energy System from the property and the restoration of the property at abandonment or closure of the system including financial responsibility of its removal.

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

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

ENERGY CODE: The New York State Energy Conservation Construction Code adopted pursuant to Article 1 of the Energy Law, as currently in effect and as hereafter amended from time to time.

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

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

FRONT YARD: The unoccupied, open space within and extending the full width of the lot from the front lot line to the front line of the principal building which is nearest to such front lot line.

FACILITY AREA: The cumulative land area occupied during the commercial operation of the solar energy generating facility. This shall include all areas and equipment within the **facility's**

perimeter boundary – including the solar energy system, onsite interconnection equipment, onsite electrical energy storage equipment, and any other associated equipment – as well as any site improvements beyond the facility’s perimeter boundary such as access roads, permanent parking areas, or other permanent improvements. The facility area shall not include site improvements established for impact mitigation purposes, including but not limited to vegetative buffers and landscaping features.

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

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 onsite or offsite consumption.

INTEGRATED SOLAR ENERGY SYSTEM: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

KILOWATT (kW): A unit of power equal to 1,000 watts. The nameplate capacity of residential and commercial solar energy systems may be described in terms of kW. **MEGAWATT (MW):** A unit of power equal to 1,000 kW. The nameplate capacity of larger solar energy systems may be described in terms of MW.

LOT: Land occupied, or which may have been occupied by a building and its accessory uses, together with required open spaces, having not less than the minimum area, width and depth requires for a lot in the district in which such land is situated, and having frontage on a street or other means of access as may be determined by the Planning Board to be adequate for the issuance of a building permit. Any land included in a public road, street or highway right-of-way shall not be considered part of the lot in calculating lot area.

LOT AREA: The total area within property lines. Any land included in a public road, street or highway right-of-way shall not be considered part of the lot for zoning purposes.

LOT, CORNER: A lot located at the junction and fronting on two or more intersecting streets. (Also see the definition of “lot line, front”).

LOT DEPTH: The mean horizontal distance from the street right-of-way of the lot to its opposite rear line measured at right angles to the right-of-way line.

LOT FRONTAGE: The horizontal distance between the side lot lines, measured at the street right-of-way line.

LOT LINE: The property lines bounding a lot as defined herein.

LOT LINE FRONT: In the case of a lot abutting only one street. The line separating the lot from the street right-of-way. In the case of a lot abutting more than one street each street line shall be considered a front lot line.

LOT LINE REAR: The lot line which is generally opposite of the front lot line. If the rear lot line is less than ten feet in length, or if the lot comes to a point in the rear, the rear lot line shall be deemed to be a line parallel to the front lot line not less than ten feet long and lying wholly within the lot and farthest from the front lot line.

LOT LINE SIDE: The property line or lines extending from the front lot line to the rear lot line. Except in the case of a corner lot which has no rear lot line.

LOT WIDTH: The horizontal distance between the side lot lines measured at right angles to the lot depth.

MINERAL SOIL GROUPS 1-4 (MSG 1-4): Soils recognized by the New York State (NYS) Department of Agriculture and Markets as having the highest value based on soil productivity and capability, in accordance with the uniform statewide land classification system developed for the NYS Agricultural Assessment Program.

NAMEPLATE CAPACITY: A solar energy system's maximum electric power output under optimal operating conditions. Nameplate Capacity may be expressed in terms of Alternating Current (AC) or Direct Current (DC).

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

NEC: National Electric Code.

NFPA: National Fire Protection Association.

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.

NON-DEDICATED-USE BUILDING: All buildings that contain an energy storage system and do not comply with the dedicated-use building requirements.

NON-PARTICIPATING PROPERTY: Any property that is not a participating property.

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

ON-FARM SOLAR ENERGY SYSTEM: A Solar Energy System located on a farm which is a “farm operation” (as defined by Article 25-AA of the Agriculture and Markets Law, which may include one or multiple contiguous or non-contiguous parcels) in an agricultural district, which is designed, installed, and operated so that the anticipated annual total amounts of electrical energy generated do not exceed more than 110 percent of the anticipated annual total electrical energy consumed by the farm operation.

PARTICIPATING PROPERTY: A host property of any real property that is subject of an agreement between the property owner and a Solar Energy System owner (or affiliate) regardless of whether any part of a Solar energy System is constructed on said property (this agreement status will impact certain requirements of this Code; specifically, setbacks).

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

PRIME FARMLAND: Land, designated as "Prime Farmland" 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 oil seed crops and is also available for these land uses.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

SETBACK -The distance from a front, side or rear lot line or structure to the fence that surrounds the solar installation or any equipment not located within the fence line.

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: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy System as follows.

a. **Tier 1** Solar Energy Systems include the following: 1. Roof-Mounted Solar Energy Systems. 2. Building-Integrated Solar Energy Systems. 3. Ground-Mounted Solar Energy Systems with a Nameplate Capacity of up to 45 kW AC.

b. **Tier 2** Solar Energy Systems include the following: 1. Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Nameplate Capacity of up to

1 MW AC and which generate no more than 110% of the electricity consumed on the site over the previous 12 months. On-Farm Solar Energy Systems

c. Tier 3 Solar Energy Systems include the following: 1. Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Nameplate Capacity of up to 5 MW AC. OR Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Facility Area of up to 40 acres in size.

d. Tier 4 Solar Energy Systems are Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems.

SOLAR FARM: An area of land used primarily for the purpose of producing electricity by means of a solar energy system.

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

SOLAR SKYSPACE: See Solar Access

STORAGE BATTERY: A device that stores energy and makes it available in an electrical form.

STRUCTURE: For this law, a structure is defined as a residential dwelling, commercial or industrial building (habitable buildings). It does not include such things as garages, sheds, barns etc.

UL: Underwriters Laboratory, an accredited standards developer in the United States,

UNIFORM CODE: The New York State Uniform Fire Prevention and Building Code adopted pursuant to Executive Law Article 18 as currently in effect and as may be amended from time to time.

The following definitions are acronyms used in this solar code;

Per-and polyfluoroalkyl substances (PFASs) are synthetic organofluorine chemical compounds that have multiple fluorine atoms attached to an alkyl chain. As such, they contain at least one perfluoroalkyl moiety, $-C_nF_{2n}$ ⁽¹⁾⁽²⁾ According to the Organization for Economic Co-operation Development (OECD).⁽³⁾⁽⁴⁾

PFASs are defined as fluorinated substances that contain at least one fully fluorinated methylene or methylene carbon atom (without any H/Cl/Br/I atom attached to it), i.e. with a few noted exceptions, any chemical with at least a perfluorinated methyl group ($-CF_3$) or a perfluorinated methylene group ($-CF_2-$) is a PFAS.

Perfluorooctanesulfonic acid (PFOS) (conjugate base perfluorooctanesulfonate) is an anthropogenic (human – made) **fluorosurfactant**, now regarded as a **global pollutant**, PFOS was the key ingredient in Scotchguard, a fabric protector made by 3M, and related stain repellants. In

man contexts, PFOS refers to the parent sulfonic acid and its various salts of perfluorooctanesulfonate. There are all colorless or white, water- soluble solids. Although of low acute toxicity, PFOS has attracted much attention for its pervasiveness and environmental impact.

Perfluorooctanoic acid (PFOA) (conjugate base perfluorooctanoate) – also known colloquially as C8 - is a perfluorinated carboxylic acid produced and used worldwide as an industrial surfactant in chemical processes and as a material feedstock. PFOA is considered a surfactant, or **fluorosurfactant**, due to its chemical structure, which consist of a perfluorinated, N-octyl “tall group” and a carboxylate “headgroup”. The head group can be described as hydrophilic while the fluorocarbon tail is both hydrophobic and lipophobic. The tall group is inert and does not interact strongly with polar or non-polar chemical moieties; the head group is reactive and interacts strongly with polar groups, specifically water.

Gen X – is a Chemours trademark name for a synthetic, short-chain organofluorine chemical compound, the ammonium salt of hexafluoropropylene oxide dimer acid (HFPO-DA) fluoride. It can also be used more informally to refer to the group of related fluorochemicals that are used to produce GenX.

4. **APPLICABILITY**

- a. The requirements of this Local Law shall apply to all Solar Energy Systems permitted installed, or modified in the Town of Murray 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"), the NYS Property Maintenance Code and the Code of the Town of Murray.

5. **GENERAL REQUIREMENTS**

- A. A Building permit shall be required for installation of all Solar Energy Systems.
- B. Prior to the issuance of the building permit or final approval by the Town of Murray Planning Board, construction and/or site plan documents must be signed and stamped by a NYS Licensed Professional Engineer or NYS Registered Architect.

C. It is the developer's responsibility to ensure solar skyspace/access.

D. Issuance of permits and approvals by the Town of Murray Planning Board shall include review pursuant to the State Environmental Quality Review Act (SEQRA).

E. This Article shall take precedence over any inconsistent provisions of the Zoning Law of the Town of Murray. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Uniform Code”), the NYS Energy Conservation, and The Town of Murray Code.

F. For Solar Energy Systems subject to site plan review, the Town of Murray shall impose, and may update as appropriate, a schedule of fees to recover expenses associated with engineering, environmental, or legal services determined to be reasonably necessary in the processing of an application under this law.

G. Must comply with all New York State and Orleans County Solar Panel Recycling Regulations.

6. PERMITTING REQUIREMENTS FOR TIER 1 SOLAR ENERGY SYSTEMS

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning code or other land use regulation, subject to the following conditions for each type of Solar Energy Systems:

A. Roof-Mounted Solar Energy Systems.

1. Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements (exceptions may be approved by the Town of Murray Code Enforcement Officer:

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

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

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

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

2. Glare. All Solar Panels shall have anti-reflective coating(s).

3. Height. All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

B. Building-Integrated Solar Energy Systems

1. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

C. Ground-Mounted Solar Energy Systems

1. **Glare:** All Solar Panels shall have anti-reflective coating(s). These coatings shall not contain per-polyflouroalkyl (PFAS) substances (including PFOA, PFOS and GenX chemicals) or other hazardous substances (documentation of such to be provided with the application).

2. **Setbacks.** Tier 1 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts.

3. **Height.** Tier 1 Solar Energy Systems shall be subject to the height limitations specified for accessory structures within the underlying zoning district.

4. **Lot Size.** Tier 1 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

5. **Lot coverage.** Tier 1 Solar Energy Systems are exempt from the lot coverage requirements in the underlying zoning district.

6. Screening and Visibility.

a. All Tier 1 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.

b. 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.

7. PERMITTING REQUIREMENTS FOR TIER 2 SOLAR ENERGY SYSTEMS

All Tier 2 Ground-Mounted Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be subject to site plan approval. Tier 2 Solar Energy Systems shall adhere to the standards and requirements established for Tier 1 Ground-Mounted Systems in Section [6(C)], in addition to (or in some cases amended by) the following requirements:

A. Application & Site Plan Review Requirements. Applications for Tier 2 Solar Energy Systems, including materials for site plan review, shall include the following:

1. 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.
2. Name, address, contact information, 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.
3. Nameplate Capacity of the Solar Energy System (as expressed in kW or MW).
4. Zoning district designation for the parcel(s) of land comprising the Facility Area.
5. Property lines and physical features, including roads, for the project site.
6. Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
7. Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
8. A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all Battery Energy Storage System components if applicable and should include applicable setback and other bulk and area standards.
9. A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

B. Standards. Tier 2 Systems shall adhere to the following standards.

1. Lot coverage. Tier 2 Solar Energy Systems are exempt from the lot coverage requirements in the underlying zoning district.
2. Screening/Visibility. Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
3. Environmental Resources
 - a. Tree-cutting. Removal of existing trees larger than [6] inches in diameter should be minimized to the extent possible.

- b. To the extent practicable, Tier 2 Solar Energy System Owners shall utilize and maintain native perennial vegetation to provide foraging habitat for pollinators in all appropriate areas within the Facility Area.
- c. Use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.

8. PERMITTING REQUIREMENT FOR TIER 3 SOLAR ENERGY SYSTEMS

All Tier 3 Solar Energy Systems are permitted through the issuance of a Special Use Permit in accordance with Section 902 of the Zoning Code, within the Residential Agricultural (RA) and Industrial Zoning districts and subject to site plan application requirements set forth in this Section.

A. Applications for the installation of Tier 3 Solar Energy System shall be:

- 1) **Application:** Applications for special use permits shall be made in writing on the appropriate form obtained from the Town of Murray Code Enforcement Office. A completed State Environmental Quality Review Act (SEQRA) environmental assessment form (EAF) with the Town of Murray Planning Board designated as lead agency for the SEQRA process. Seven hard copies of each application and an electronic copy, including site plan, shall be submitted to the Town of Murray Code Enforcement Officer, who shall first present it to the Town's Engineering Firm for an initial review and then present it to the Planning Board for its review and recommendations. No such application shall be deemed filed until any required application fee has been paid. One copy shall be retained by the Town of Murray Code Enforcement Officer. Applicants will be advised of the completeness of their application or any deficiencies that must be addressed prior to substantive review. The permit process includes Special Use Permit application/fee, Site Plan Review application/fee, Building Permit fee and Annual Inspection fee. Prior to issuance of the building permit the Town must be in possession of decommissioning plan and bond.
- 2) **Notice and public hearing:** The Town of Murray Planning Board shall hold a public hearing as part of the special use permit process. The public hearing shall be held at a time fixed within 62 days from the date a completed application for a special use permit is received by the Board, and public notice thereof shall be published in a newspaper of general circulation in the town at least five days prior to the date of the hearing. At least 10 days before such hearing, the Town of Murray Planning Board shall mail a notice of the hearing to the applicant and also send, by regular mail, a copy of the notice of hearing to all Town of Murray property owners whose property(ies) is/are located within 500 feet of the property which is the subject of the application at cost to applicant.
- 3) Upon closing of the public hearing, the Town of Murray Planning Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period does not start to run until the SEQR

process is completed and may be extended upon consent by both the Town of Murray Planning Board and applicant.

B. 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. The applicant shall provide copies of the written notification to the utility for proposed interconnection.

C. Vehicular Paths.

Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction. These access roads shall be designed as "limited use pervious access" roads accordance with NYSDEC standards and designed to handle appropriate loads (emergency equipment) and will meet requirements of the Town's Emergency Service Providers.

D. Signage.

1. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet, and must be accurate and up to date at all times.

2. As required by National Electric 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.

E. Glare: Glare: All Solar Panels shall have anti-reflective coating(s). These coatings shall not contain per-polyflouroalkyl (PFAS) substances (including PFOA, PFOS and GenX chemicals) or other hazardous substances (documentation of such to be provided with the application).

F. Lighting: Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

G. Tree-cutting: Removal of existing trees larger than six (6) inches in diameter should be minimized to the extent possible, as determined by the Planning Board. Clearing limits shall be clearly shown on the site plan, indicating where the trees shall be removed.

H. Screening and Landscaping - All Tier 3 Solar Energy System shall be screened from adjoining uses and any roadway - see section N. for specific requirements.

I. Decommissioning:

1. Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 180 days consecutively shall be removed at the Owner and/or Operator's expense, which at the Owner's option may come from any security made with the Town as set forth in this Code. If the Owner and/or Operator does not dismantle and remove the solar energy system as required, the Town of Murray may do so and shall apply the required bond to the cost, followed by a tax lien on said parcel for expenses not covered by the bond.

2. A Decommissioning Plan is required to ensure the proper removal of a large scale or utility- scale solar energy systems. The Decommissioning Plan is to be submitted as part of the special use permit application to the Town of Murray Code Enforcement Officer for approval and must specify that after the large scale or utility-scale solar energy system is no longer in use (as determined by the owner/operator or the Code Enforcement Officer per this law), 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 (for projects located on Agricultural properties, the site shall be restored in accordance with NYS Department of Agriculture and Markets - NYSDAM). The plan shall also include an expected timeline for execution and a cost estimate for decommissioning prepared by a Professional Engineer or qualified Contractor (and approved by the Town Engineer. Cost estimates shall take inflation into consideration and be revised every three (3) to five (5) years (as determined by the Town and its designees) during operation of the system (recycle and salvage value shall be excluded in these estimates as they are unpredictable in nature). Removal of the large-scale or utility-scale solar energy system must be completed in accordance with the approved Decommissioning Plan and the standards provided as follows:

- a. All structures and foundations associated with the large-scale or utility scale solar systems shall be removed, above and below ground.
- b. All disturbed ground surfaces shall be restored to original conditions including topsoil and seeding as necessary.
- c. All electrical systems shall be properly disconnected, and all above and below ground cables and wiring shall be removed.

Upon inspection and issuance of a Certificate of Compliance by the Town of Murray Code Enforcement Officer the decommissioning will be deemed complete.

J. Security:

- a. The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security acceptable to the Town Attorney 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. Such bond shall be filed with the Town Clerk's office prior to any building permit being issued. The amount of the bond or security shall be 1 1/2 times the cost of removal of the Tier 3 Solar Energy System and site restoration of the property with an escalator of 2% annually for the life of the Solar Energy System (except when the estimate is updated in each third

to fifth year). The decommissioning amount shall not be reduced by the amount of the estimated salvage value of the Solar Energy System.

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 in the decommissioning plan is completed. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in this law.

c. All decommissioned agreements and bonds shall remain consistent with one another in accordance with the Town of Murray Decommissioning Standards.

K. Noise: All Solar projects shall not result in any adverse noise impacts on any surrounding homes or other sensitive receptors (use NYSDEC regulations concerning noise. Specifically, the project must be shown not to generate noise at 45dba or above at any non-participating property line. A frequency study may be required to analyze any “interference” effects.

L. Hazardous Materials: The Tier 3 or 4 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, such as PFAS). Specific material data information/specifications (SDS/MSDS sheets) 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. This required information shall be reviewed by the Town of Murray Planning Board, their consultants and the Fire Department.

M. Airport Impacts: (Encroachment issues): All Tier 3 or 4 Solar energy projects must complete a study to be submitted to the local Airport discusses the following:

1. Distance from installation
2. Location relative to approach/departure and flight patterns associated with the airport.
3. Glare Impact on airport sensitive receptors. Analysis should include a knowledge of sun position, observer location, and the solar module/array characteristics (e.g. tilt, azimuth or orientation, location, extent and if tracking those parameters for the entire path of the moving panels) Note: Though not required by the FAA it is strongly encouraged to utilize the Solar Glare Hazard Analysis Tool (SGHAT) to predict potential glare with assessed results relative to the FAA's Policy and Ocular hazard standard (also adopted by the U.S. Department of Defense DoD) under Instruction (DODI) 4165.57 and implemented by US Air Force AFI 32-7063.
4. Any additional lighting of the field to include anti-collision.
5. Storm water runoff which may affect the Airport or the tributaries transitioning through the Airport or the creation of storm ponds which would attract wildlife and waterfowl.
6. Possible changes to wildlife habitat or migratory patterns that will affect the aircraft flight path.

N. Site plan application. For any Solar Energy system requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:

1. Property lines and physical features, including roads (Ingress and Egress), for the project size.
2. Size and location of panels setbacks to property lines and adjoining residential structures).
3. Nature of land use on the existing property, adjacent properties, nearby properties (as directed by the Town) and any solar energy systems in or proposed in the surrounding area.
4. Existing conditions including topography, vegetation, structures, etc.
5. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
6. Proposed fencing (required) and type (fitting nature of the area and NEC requirements.
7. 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.
8. 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.
9. Glare and reflectivity information.
10. 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.
11. 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.
12. Zoning district designation for the parcel(s) of land comprising the project site.
13. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing (describe frequency of mowing and any impacts to any pollinator species or bee colonies) and trimming (or other methodologies), maintenance of access drives, maintenance of ditches or other waterways through the site (potential emergency access easement provided by the Town of Murray), and maintenance of the plantings for the required screening. This Operation and maintenance plan shall reflect all lands that are being leased or owned by the applicant.

14. Fire Safety Plan shall be reviewed by the Town of Murray Code Enforcement Officer and shall meet all applicable Codes. Applicant shall provide Solar and Battery Storage safety training to Fire Department.

15. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Town of Murray Planning Board and Town Engineer.

16. Other information requested by the Town of Murray Planning Board.

17. All engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

O. Special Use Permit Standards

1. Lot size

The property on which the Tier 3 Solar Energy System is placed shall be on a lot of a size that allows for the project to meet all setback and other requirements of this law.

2. Setbacks: The Tier 3 Solar Energy Systems shall meet the following setback requirements.

- a. Be setback on all sides from any non-participating property line by **250** feet.
- b. Be setback from any participating property line by **100** feet.
- c. Be setback from any adjoining participating property existing structure by **100** feet.
- d. Be setback from any adjoining non-participating property existing structure by **500** feet.
- e. Be setback from front line by **250 feet**.

3. Height

a. The Tier 3 Solar Energy Systems shall be limited to 15 feet when oriented at maximum tilt.

4. Lot coverage

The following components of a Tier 3 Solar Energy System shall be considered in the calculations for lot coverage requirements within the fenced areas.

- a. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.

- b. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
- c. Paved access roads servicing the Solar Energy System.
- d. Lot coverage of the Solar Energy System, as defined above shall not exceed 50% the total lot size.

5. Fencing Requirements: All mechanical equipment, panels, and structures shall be enclosed by a seven- foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access. Design of the fencing shall fit into the area in which the project is proposed. In some cases, accommodations for animal movement will be necessary

6. Screening and Visibility.

1. Solar Energy Systems shall have views minimized from adjacent properties 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 complete the following when directed by the Town of Murray Planning Board.
 - a. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties, this analysis must consider conditions at day one of operation and when the landscaping has matured. At a minimum, a line-of-sight profile analysis shall be provided, but photo-simulations are required for all areas that will have a view of the project site. 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. The Town may hire an independent consultant, at the cost of the applicant, to review and/or conduct their own visual assessment.
 - 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 Town of Murray 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, at a minimum, 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) and may need to be installed in a "zig-zag pattern to maximize screening), plus supplemental

shrubs (deer resistant) placed in between the evergreen trees at the reasonable discretion of the Town of Murray Planning Board. These plantings are to be planted, typically, within 10 linear feet of the Solar Energy System fencing or as directed by the Town of Murray 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. Suitable evergreen tree and shrub species are to be determined by a professional arborist and approved by the Town of Murray Planning Board. This minimum screening requirement will be reduced if adjoining properties are participating properties. All plantings shall come with a 10-year guarantee and must be replaced if dead or diseased (include this in Operation and Maintenance Plan required in this code). This will be enforced by the Town of Murray Code Enforcement Officer through the required yearly inspections. Berms can also be utilized to reduce heights of proposed plantings, but the berms must not interfere with site drainage and must be properly designed to maintain vegetation.

7. Landscape Plans must be completed by a NYS registered Landscape Architect.

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.

8. Agricultural Resources for projects located on agricultural lands:

- a. Any Tier 3 Solar Energy System located in the Town's Ag Protection Zone (when adopted), in an Ag District, on lands that consist of Prime Farmland or Farmland of Statewide Importance shall not exceed (construct facilities on) 25% of the area of Prime Farmlands or Farmland soils of Statewide Importance on that parcel.
- b. Any Tier 3 Solar Energy System located on farmland outside of the Ag Protection zone or Ag District that consists of Prime Farmland or Farmland of Statewide Importance shall minimize the impact to these important soils by avoiding those areas to the maximum extent practicable.
- c. Tier 3 Solar Energy Systems on lots containing Prime farmland or Farmland of Statewide Importance shall be required to see a minimum of 20% of the total surface area of all solar panels on the lot with native perennial vegetation designed to attract pollinators in accordance with the plantings recommended by the Orleans County Soil and Conservation Department.
- d. To the maximum extent practicable, Tier 3 Solar Energy Systems located on lots containing Prime Farmland or Farmland of Statewide Importance shall be constructed in accordance with the construction requirements of the New York State Department of Ag and Markets.

- e. Tier 3 Solar Energy system owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.
- f. To address the above requirements, the applicant and the Town of Murray Planning Board shall consult with the Orleans County Soil Conservation Service. If the project is located in or adjacent to a NYS Certified Agricultural District, the NYS Department of Agricultural and Markets shall also be contacted, and comments received and followed.

9. PERMITTING REQUIREMENTS FOR TIER 4 SOLAR ENERGY SYSTEMS

All Tier 4 Solar Energy Systems are permitted through the issuance of a Special Use Permit in accordance with Section 902 of the Zoning Code, within the Residential Agricultural, and Industrial zoning districts, and subject to site plan application requirements set for in this Section.

A Solar Energy Systems PILOT is required per Local Law 3 of 2017 plus a required Host Community Agreement fee as determined by the Murray Town Board.

Tier 4 Solar Energy Systems have all the same restrictions and requirements as Tier 3 systems, but with the following additional or modified restrictions and requirements. These additional restrictions and requirements are due to the potential significant impacts that occur for these large-scale projects.

- a. Additional Application and Permitting Requirements for Tier 4 Solar Energy Systems:
 - 1. All the information/requirements listed for a Tier 3 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 Town of Murray 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 of the project on the economy of the Town of Murray. This includes the agricultural impacts in the Ag Impact statement and information as noted by the Town of Murray Planning Board (Town to work with the applicant on the scoping of this study, but will include, at a

minimum, the estimated PILOT and Host Community Agreement payments to the Town).

4. Proposal for a Host Community Agreement (to be reviewed and approved by the Murray Town Board prior to any approvals granted by other boards or agencies) that reflects the large- scale impacts of the project.

10. CONSTRUCTION, MAINTENANCE, PROCEDURES AND FEES

- a. **Time limit on completion.** After the granting of a special permit of a Tier 3 or Tier 4 solar energy system with concurrent site plan approval or site plan approval of a freestanding or ground-mounted solar energy system by the Town of Murray 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 Town of Murray Planning Board 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 Murray Planning Board (unless an extension is granted).
- b. **Insurance:** For Tier 3 and 4 Solar Energy Systems, the Town of Murray will require appropriate insurances to be in place prior to construction beginning. The Town shall provide these standards and requirements.
- c. **Inspections.** Upon reasonable notice, the Town of Murray Code Enforcement Officer 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 or email to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a Tier 3 (and Tier 4) energy system shall be inspected annually by a New York State licensed professional engineer that has been approved by the Town of Murray or at any other time, upon a determination by the Town of Murray Code Enforcement Officer that damage may have occurred, and a copy of the inspection report shall be submitted to the Town of Murray Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder.
- d. **General complaint process.** During construction, the Town of Murray Code Enforcement Officer can issue a stop work order at any time for any violations of a special permit or building permit. The permit holder of a Tier 3 or Tier 4 Solar Energy System shall establish a contact person, including name and phone number, for receipt of any complaint concerning any permit requirements.
- e. **Continued Operation.** A solar energy system shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all approval requirements and conditions. Further, the Town of Murray Code Enforcement Officer shall also have the right to request documentation from the owner for a solar energy system regarding the system's usage at any time.

- f. Removal.** All solar energy systems shall be dismantled and removed in accordance with the time approved by the Town of Murray Code Enforcement Officer from a lot when the special permit or approval has been revoked by the Town of Murray Planning Board or the solar energy system has been deemed inoperative or abandoned by the Town of Murray Code Enforcement Officer in accordance with the Decommissioning and Security sections of this law. If the owner does not dismantle and remove said solar energy system as required, the Murray Town Board may, after a hearing at which the owner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility in accordance with the Decommissioning Plan. If the Owner fails to act, the Town will act in accordance with the Security requirements of this law.

- g. Determination of Abandonment or Inoperability.** A determination of the abandonment or inoperability of a solar energy system shall be made by the Town of Murray Code Enforcement Officer, who shall provide the Owner with written notice by personal service or certified mail. Any appeal by the owner of the Town of Murray Code Enforcement Officer's determination of abandonment or inoperability shall be filed with the Town of Murray Zoning Board of Appeals within thirty days of the Town of Murray Code Enforcement Officer causing personal service or mailing certified mail his written determination and the Town of Murray Zoning Board shall hold a hearing on same. The filing of an appeal does not stay the following time frame unless the Town of Murray Zoning Board of Appeals or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of the one hundred and eighty (180) days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals for the solar energy system shall automatically expires

- h. Application and annual fees.**

 - 1. Tier 3 and Tier 4 solar energy system. An applicant shall pay an initial application fee in the amount as set by the Murray Town Board, upon filing its special permit and site plan application to cover the cost of processing and reviewing the application. Per sections of this law, if the Town of Murray Planning Board needs to hire specialists/consultants to review reports/materials submitted by the applicant, the Town will charge the costs of these reviews to the applicant and may require escrow monies to be deposited to cover such costs. If the project is approved, the Owner shall pay an annual fee in the amount as set by the Town of Murray Town Board, to cover the cost of processing and reviewing the annual inspection reports and for administration, inspections, and enforcement.

 - 2. Applications for Tier 2 ground-mounted solar energy systems. An applicant shall pay a review fee as determined from the schedule of fees.

 - 3. The Town of Murray reserves the right, by Local Law, to provide that no exemption pursuant to the provision of the New York State Real Property Tax Law, (RPTL) § 487 shall be applicable within its jurisdiction.

- i. Prior to the issuance of a building permit, the applicant shall document that all applicable federal, state, county, and local permits have been obtained.
- j. Upon completion of the construction of a Tier 3 or Tier 4 Solar Energy System, the applicant shall provide a certification from a NYS Licensed engineer that the project has been constructed in accordance with the approved plans, conditions of the SUP, and all applicable NYS and Federal regulations and laws.
- k. **Ground testing** yearly by a Soil and Water technician from Orleans County Soil Conservation Service, One year after completion, and then every three years thereafter at the applicant's expense.
- l. **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 so long as they are in full compliance with this article and all the conditions and provided that the successor owner or operator assumes in writing to the Town of Murray Attorney all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the Town of Murray Code Enforcement Officer of such change in ownership or operator within 30 days of the ownership change, and update any signage on the property within 30 days.

11. SAFETY

- a. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
- b. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is located in an ambulance district, the local ambulance corps.
- c. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town of Murray and any applicable federal, state, or county laws or regulations. See the Town's Battery Energy Storage Law.

12. PERMIT TIME FRAME AND ABANDONMENT

- a. Upon cessation of electricity generation and consistent with decommissioning regulations 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.
- b. 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.

13. ENFORCEMENT/PENALTIES

Any person, firm, corporation or entity which may violate any provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be subject to the penalties set forth in §**Section 268 of the New York State Town Law**. Penalty of up to three hundred fifty dollars (\$350) for each violation and 6 months in jail. Each day a violation is continued shall be deemed a separate and distinct violation. The Town shall be entitled to recover such penalties in an action at law in any court of competent jurisdiction. Upon an action for injunctive relief or for a civil penalty hereafter, the Town shall be entitled to a further award and judgement for its costs, expenses, disbursements, and reasonable attorney's fees in connection herewith. Any person, firm, corporation or entity which may violate any provisions of this chapter shall become liable to the **Town for any actual expense or loss or damage occasioned by the Town** by reason of such violation; in addition to any actual losses or damages sustained by the Town, such expense shall also include, but not be limited to, **statutory costs, disbursements and reasonable attorney's fees in the event that an action is commenced to enforce this chapter**. The imposition of penalties herein prescribed shall not preclude the Town or any person from instituting appropriate legal action or proceedings to prevent a violation of this chapter or to restrain or enjoin the use of occupancy of premises or any part thereof in violation of this chapter.

14. SEVERABILITY

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgement of any court of competent jurisdiction to be 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.

Article II, BATTERY STORAGE

1. AUTHORITY

This Solar Energy Systems Local Law is adopted pursuant to Sections 261-263 of the Town Law and Section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town 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, battery energy storage systems and access to sunlight necessary therefore."

2. STATEMENT OF PURPOSE

This Battery Energy Storage System Law is adopted to advance and protect the public health, safety, welfare, and quality of life of Town of Murray by creating regulations for the installation and use of battery energy storage systems, with the following objectives:

- A. To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems.
- B. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems.
- C. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources; and
- D. To create synergy between battery energy storage system development and pursuant to the Comprehensive Plan.

3. APPLICABILITY

- A. The requirements of this Local Law shall apply to all battery energy storage systems permitted, installed, or modified in Town of Murray after the effective date of this Local Law, excluding general maintenance and repair.
- B. Battery energy storage 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, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Local Law.

4. GENERAL REQUIREMENTS

- A. A building permit and an electrical permit shall be required for installation of all battery energy storage systems.
- B. Issuance of permits and approvals by the Town of Murray Planning Board shall include review pursuant to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA").

- C. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town of Murray Code Enforcement Officer.

5. PERMITTING REQUIREMENTS FOR TIER 1 BATTERY ENERGY STORAGE SYSTEMS

Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts, subject to the Uniform Code and the “Battery Energy Storage System Permit,” and exempt from site plan review.

6. PERMITTING REQUIREMENTS FOR TIER 2 BATTERY ENERGY STORAGE SYSTEMS

Tier 2 Battery Energy Storage Systems are **not** permitted in the Town of Murray, New York.