LAND USE REGULATIONS
ARTICLE III
UTILITY-SCALE SOLAR PHOTOVOLTAIC SYSTEM

Section 1. Title.

This article shall hereafter be known, cited, and referred to as the "Solar Photovoltaic Energy Systems Law of the Town of Stephentown".

Section 2. Purpose and Intent.

Prior to the adoption of this article, the Town had no specific procedures to address the use and siting of Solar Photovoltaic Systems. This article seeks to:

A. Balance solar development with the protection of the Town's rural character and the quality of its many agricultural, scenic, cultural, environmental and community resources, including but not limited to neighborhoods, commercial corridors, historic sites to include family cemeteries, prime farmlands, wetlands, woodlands, parklands and trails, wildlife habitats, ecosystems, significant scenic viewsheds, vistas, and corridors, and areas for recreational outdoor activities.
B. Permit the construction of utility-scale solar systems adhering to performance criteria and development requirements that take into consideration the characteristics of each site and require that all such systems developed under this Local Law comply with the regulations in this Local Law and the regulations of the Amended Land Use Regulations of the Town. In any instances where specific permitted uses, area, or height standards, development guidelines and/or review procedures specifically set forth in this Local Law conflict with any other Town regulation, the provisions set forth herein shall take precedence and control.

Section 3. Definitions.

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

1. ALTERNATIVE ENERGY SYSTEMS. Structures, equipment, devices, or construction techniques used to produce heat, light cooling, electricity or other forms of energy on a site.
2. ARRAY. Any number of electrically connected photovoltaic (PV) nodules providing a single electrical output.
3. CELL. The smallest basic solar electrical (PV) device that can generate electricity when exposed to radiant energy (visible sunlight).
4. GLARE. To shine with a harsh, bright light.
5. GLINT. To shine in small, bright flashes.
6. MEGAWATT. A unit of power equal to 1,000,000 watts.
7. MODULE. The smallest protected assemble of interconnected photovoltaic cells.
8. PHOTOVOLTAIC. Any material or device with the capability to generate electric current or voltage when exposed to electromagnetic radiation (radiant energy), visible light from the sun.
9. PRIME FARMLAND. Land designated as "prime farmland" (including prime farmland if drained) in the U.S. Department of Agriculture Natural Resources Conservation Services' (NRCS) Soil Survey Geographic Database on Web Soil Survey that has the best combination of

physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

10. SOLAR ACCESS. Land areas or space that is open to the sun and clear of overhangs or shade, including structures built on private property that do not infringe on the rights of adjacent properties.
11. SOLAR ENERGY SYSTEM. A solar photovoltaic collection system consisting of one or more ground-mounted solar photovoltaic cells, modules, panels or arrays and solar related equipment that rely upon solar radiation as an energy source for collection of solar energy, conversion of solar energy to electricity, inversion of DC electricity to AC electricity and storage/distribution of electricity generated through the system. A large-scale utility system designed solely for the purpose of capturing solar energy, transferring it to the grid, and selling electricity to the public utility entity by way of a value of distributed energy resources (VDERO), or other compensation mechanism(s) set forth by the state and/or utility companies.
12. TRACKING SYSTEM. Several photovoltaic modules mounted such that they track the movement of the sun across the sky to maximize energy production, by either a single-axis or dual-axis mechanism.
13. UTILITY-SCALE SOLAR ENERGY SYSTEM. A solar photovoltaic system that is designed and intended to supply electrical energy solely to the utility grid for sale to the public.

Section 4. Special Use Permit and Site Plan Approval Required.

A. Any proposal to place, construct or modify a utility-scale solar system shall require a Special Use Permit and site plan approval.
B. All applications, plans, and documentation shall be submitted to the Town of Stephentown Planning Board and Code Enforcement Officer.
C. The Planning Board shall undertake a review of the application, plans and documentation. The Town Planning Board shall decide as to whether the special use permit should be issued.
D. All special use permit applications shall include the following submissions.
    a. Completed special use permit application and checklist.
    b. Completed site development plan application and checklist.
    c. An accurate real property survey.
    d. Engineered drawings certified by a licensed professional engineer or architect.
    e. Design elevations that illustrate the potential views and height of proposed structures.
    f. Aerial site plan showing the location of relevant utility poles and lines, vegetation (including woodlots, hedgerows, and trees greater than 10 inches DBH), structures, water features (includingstreams/creeks/ditches, floodplains, and wetlands) and names of all adjacent property owners.
    g. Clearing, grading, stormwater drainage and/or erosion control plans, as required.
    h. Soils map that illustrates the location of all prime farm soils on the subject property
    i. Information concerning the solar energy system's manufacturer information.
    j. SEQRA Full/Long Environmental Assessment Form.

Section 5. Screening/Landscaping, Visibility and Access.

All applications shall include a screening and landscaping plan shall show satisfactory measures to screen the site through landscaping, grading or other means so that the visibility of solar panels/arrays and other equipment is minimized from roadways and neighboring properties.

The screening and landscaping plan shall include the locations, elevations, height, plant species, and/or materials that will be used to screen and/or mitigate any adverse aesthetic effects of the system. In establishing and providing vegetation for screening and field mixes, utility-scale solar energy system owners and operators shall provide approved Northeastern New York 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. The screening and landscaping plan for any utility-scale solar energy system shall also include deep-rooted native grasses as a long-term erosion control method to promote soil stabilization.

Section 6. Public Safety.

A copy of the site plan shall be submitted to the Fire Chief. Site plans shall include designated entry and access roads for Emergency Personnel. All means of shutting down the photovoltaic solar energy system shall be clearly marked on the site plan and special use permit application. The site plan shall include disconnect and other emergency shutoff information for Fire and Emergency personnel, as well as twenty-four-hour emergency contact information, which shall also be displayed on site. The site plan shall also include a description of the proposed annual training that will be provided to the Town Fire Department and Emergency Services Personnel.

Section 7. Maintenance Plan.

A maintenance plan for the property shall be provided by the owner/operator describing the periodic maintenance to be performed with respect to the system and property, including frequency of mowing and trimming and the replacement of any dead or dying vegetation planted in accordance with the screening and landscaping plan. The maintenance plan shall remain in place for the life of the utility-scale energy system.

Section 8. Decommissioning and Restoration Plan.

A decommissioning and restoration plan for the system shall be provided by the owner/operator and shall include a written agreement by the applicant and/or owner/operator to remove all components of the utility-scale solar energy system if said facility becomes nonfunctional or ceases to be used for its originally intended purpose, as determined by the Town of Stephentown. The removal plan shall remain in force for the life of the utility-scale solar energy system.

The applicant shall include the decommissioning and restoration plan with the special use permit application regarding decommissioning of the utility-scale solar energy system and restoration of the site. The plan shall include:

1. The anticipated life of the utility-scale solar energy system.

2. The estimated decommissioning costs in current dollars.
3. The method and schedule for updating the costs of decommissioning and restoration.
4. A method of ensuring that funds will be available for decommissioning and restoration.
5. The anticipated manner in which the utility-scale solar energy system will be decommissioned, and the site restored. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan must ensure that the site will be restored to a useful nonhazardous condition without delay, including restoration of the surface grade and soil after removal of equipment and revegetation of restored soil and areas of native seed mixes.
6. The plan shall also include photographs and archival color images of the proposed total site plan area for the purposes of future reference during site remediation.
7. Such other and reasonable requirements as determined by the Town of Stephentown.
8. Updates to the decommissioning and restoration plan shall be resubmitted to the Town after the first year and every two years thereafter coinciding with the term of the special use permit.

Section 9. Prohibited Locations.

No utility-scale solar energy systems shall be built on any properties identified to be within a significant scenic viewshed or on land identified as having significant natural resources, prime farmland, and conservation value. The Town Board reserves the right to establish a list of properties or areas in the Town that would limit the development of a utility-scale solar system. A list of such identified properties shall be maintained by the Building Department and made available upon request. The Town Board reserves the right to add or remove properties as it deems appropriate.

Section 10. General Provisions.

A. All utility-scale solar energy systems existing on the effective date of this article shall be allowed to continue usage as they presently exist. Routine maintenance, including replacement with a new system of like construction and size, shall be permitted on such existing systems. New construction other than routine maintenance shall comply fully with the requirement of this Article.
B. Battery Storage systems are prohibited.
C. No utility-scale solar energy system shall hereafter be used, erected, moved, reconstructed, changed or otherwise altered except in conformity with this Local Law.
D. Any applications, including applications for variances, pending for a utility-scale solar energy system the effective date of this article shall be subject to the provisions contained herein.
E. All utility-scale solar energy systems must be fully accessible to all emergency service vehicles and personnel.
F. All utility-scale solar energy systems shall adhere to all applicable federal, state, county and Town of Stephentown laws and regulations, including building, plumbing, electrical, and fire codes.

Section 11. Minimum Lot Requirements.

A. The minimum lot size for utility-scale solar energy system is 15 acres.

B. The total lot coverage on a lot for a utility-scale solar energy system, including freestanding solar array, shall not exceed 25%. Lot coverage shall be measured by using the perimeter of the solar array and all buildings and structures included in or supporting the operation of the system.
C. All utility-scale solar collector systems and associated buildings, accessory structures and equipment shall have a minimum setback from any property line of 250 feet.
D. A utility-scale solar system shall be set back not less than 250 feet from any public roadway.
E. No utility-scale solar system shall be built within 100 feet of any cemetery or grave site, to include but not limited to those documented and cataloged by the Stephentown Historical Society.
F. No part of any utility-scale solar energy system shall extend into the required setbacks, including any movement because of a tracking system or other adjustment of related equipment or parts.

Section 12. Design Criteria

All utility-scale solar energy systems shall meet the following design and installation standards unless otherwise noted herein:

a) All structures and devices used to support utility-scale solar energy systems shall be nonreflective and/or painted a subtle or earth tone color.
b) The orientation of any utility-scale solar energy system shall not be directed at any adjacent or adjoining residential dwelling.
c) The design, construction, operation, and maintenance of any utility-scale solar energy system shall prevent the misdirection and/or reflection, glare, or glint of solar rays onto neighboring properties, businesses, public roads, public parks, and other public facilities more than that which already exists. Should this occur, proper action shall be taken to correct the problem within 30 days of notification of the Town of Stephentown Code Enforcement Officer.
d) Artificial lighting of any utility-scale solar energy system shall be limited to lighting required for safety and operational purposes and shall be dark-sky compliant and shielded from all neighboring properties and public roads.
e) All wiring must be designed and installed to comply with the National Electrical Code (NEC).
f) All interconnecting cables between the utility-scale solar system and accessory or servicing structures shall be installed underground or within the structure they are mounted upon.
g) A minimum of a six-foot-high fence shall be used to fully enclose any utility-scale solar energy system to prevent unauthorized access to the site.
h) The maximum overall height for a ground mounted system is 20 feet from the grade finish.
i) The areas surrounding a utility-scale solar energy system shall be landscaped as to provide screening from any public roadway or adjacent residential building or

residential zoned district. In addition, the system, its siting, and landscaping shall be designed to the extent reasonably possible, to preserve the existing viewshed.

j) The utility-scale solar system must be designed and constructed to comply with the most recent fire code as amended and adopted by the State of New York.
k) Clearing of natural vegetation shall be limited to what is necessary for the access, construction, operation, and maintenance of the solar system otherwise prescribed by applicable laws, regulations, and bylaws.
l) Prior to the siting of a utility-scale solar energy system, the system owner, system operator, and property owner must allow a system siting location review to determine that no New York State endangered, threatened, or special concern animal species identified in 6 NYCRR Part 182 or any New York State protected plant as defined in 6 NYCRR 193.3 exists within the proposed construction and access location. If such animals and/or plants do exist in the proposed construction and access area, the system owner, operator, and property owner are responsible for the protection of and, if allowed, the remediation and/or removal of such endangered, threatened, or special concern species and/or protected plant in a manner approved by the NYS Department of Environmental Conservation. No such installation shall be segmented or broken into separate ownerships to avoid the prohibitions contained above.

Section 13. Signage and/or Graphic Content.

A. No signage or graphic content may be displayed on any utility-scale solar system except the manufacturer's badge, safety information and equipment specific information. Said information shall be depicted within an area no more than 36 square inches in size.
B. The locations, size and text of any safety signage that will be used for the utility-scale solar system to prohibit public access to unsafe areas shall be included with the site plan.
C. Utility-scale solar systems and sites shall not be used for displaying advertising except for reasonable identification of the owner/operator and shall comply with all signage restrictions.

Section 14. Compliance with Building Code.

A. Building Permit applications shall be accompanied by standard drawings of structural components of the utility-scale solar system, including support structures, base, and footings. Drawings shall be stamped, and necessary calculations shall be certified, in writing, by a licensed New York State professional engineer or architect to indicate that the system complies with the current NYS Building Code.
B. Where the installation or structural components vary from the standard design or specifications, proposed modifications shall be certified by a licensed NYS professional engineer or architect for compliance with the seismic and structural design provisions of the NYS Building Code.

Section 15. Compliance with Electrical Code.

A. Building permit applications shall be accompanied by a line drawing identifying the electrical components of the utility-scale solar system to be installed in sufficient detail to allow for a determination that the manner of installation conforms to the electrical code. The application

shall include a statement from a NYS licensed professional engineer/architect indicating that the electrical system conforms to sound engineering practices and complies with the National

Electrical Code (NEC). This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.

B. Where electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a NYS licensed professional engineer/architect for compliance with the requirements of the NEC and sound engineering practices.

Section 16. Maintenance and Repair Records.

A. A utility-scale solar system shall always be maintained in operational condition, subject to reasonable maintenance and repair outages. "Operational condition" includes meeting all approval requirements and conditions.
B. The system shall be kept free from hazards, including, but not limited to, faulty wiring, loose fastenings, and creation of an unsafe condition or detriment to public health, safety, or general welfare.
C. The owner/operator of a utility-scale solar system shall be required to fully inspect the system on an annual basis. A copy of the inspection report shall be provided to the Stephentown Code Enforcement Officer as part of the renewal of the special use permit.
D. The inspection of the solar system shall comply with all requirements of the NYS Building Code.

Section 17. Abatement and Removal.

A. If a Utility-scale solar system poses a safety hazard, as determined by the Town of Stephentown Code Enforcement Officer, the owner or operator shall take immediate action to remedy the hazard. The Code Enforcement Officer shall have the authority to cause the abatement of any hazardous situation. If the Town of Stephentown determines that the solar system poses a safety hazard, a notice of violation shall be issued for the solar system shall be made nonoperational until such hazard has been remedied to the satisfaction of the Town of Stephentown Code Enforcement Office.
B. If the use of an approved Utility-scale solar system is discontinued, the owner or operator shall notify the Town of Stephentown Code Enforcement Office within 30 days of such discontinuance. If the solar system is to be retained and reused, the owner or operator shall further inform the Town, in writing, at such time and obtain any necessary approvals within one year. Otherwise, the solar system shall be deemed automatically abandoned.
C. If the Utility-scale solar system has been nonoperational or abandoned for a period of one year or more, the solar system shall be removed within 45 days of written notice from the Town of Stephentown to the property owner or operator of the system.

Section 18. Bonding Requirements.

A. A bond and/or surety or other form of security, in a sufficient amount as determined by the Planning Board and in such form as acceptable to the Town Attorney, shall be required for all utility-scale solar projects. If the owner or operator fails to comply with any conditions of the

approval during construction or as part of the long term maintenance of the site, or if the owner or operator fails to remove the system and/or restore the site as part of any required decommissioning, all costs of the Town incurred in remediating such failure(s) shall be paid using the bond or other form of security provided by the applicant.

B. Said proof of bond or security shall be filed with the Town prior to issuance of a special use permit and shall remain in force until decommissioning and restoration is complete and satisfactory proof has been provided to and approved by the Code Enforcement Office and Town Attorney.

C. The bond must be renewed or replaced as necessary to account for any changes in the total decommissioning cost with renewal/replacement information provided to the Town. The bond must also be renewed, replaced, or transferred as necessary with any changes of ownership of the solar system.

Section 19. Additional Requirements.

A. In addition to the requirements set forth in this Local Law, the issuance of a Special Use Permit shall be subject to any other requirements outlined in the Amended Land Use Regulations of the Town of Stephentown.

B. The applicant is required to obtain all necessary regulatory permits and approvals from all federal, state and county agencies that have jurisdiction as related to the completion of the utility-scale solar system.

C. After completion of the solar system the applicant shall provide post construction certification from a licensed New York State professional engineer or architect that indicated that the project complies with all applicable codes and industry practices and has been constructed and is operating in accordance with the approved design plans.

D. After granting the special use permit concurrent with site plan approval, the building permit shall be obtained within six months and construction of the project completed within 12 months. If the project is not constructed and operational within 12 months of the issue date for the building permit, the permit and site plan approval shall lapse, and the project owner/operator will be required to seek new approval from the Town Board unless otherwise determined by the Code Enforcement Officer that the project may be continued. In such case, the project must be more than 90% constructed and near completion, in which case a three month extension could be granted.

E. Any post-construction changes or alterations to a utility scale solar project shall be undertaken only by amendment to the special use permit, and site plan approval, if required, subject to all requirements of this Article.

F. The siting of any utility-scale solar energy system shall, to the greatest extent practicable, avoid disturbance to wetlands (state and federal, including buffer zones), streams/creeks/significant drainage ditches and a ten-foot buffer zone from the top of bank, steep slopes (over10%), significant woodlands/forested areas, noted wildlife corridors or significant natural communities and designated scenic views. Applicants shall provide justification for any proposed disturbance. If they

cannot be avoided they shall be required to provide appropriate mitigation measures and/or fees at the discretion of the Town Board.

G. Special use permits for a utility-scale energy system are assignable or transferable if they are in full compliance with all requirements of this chapter and all conditions of the permit, and the Stephentown Code Enforcement Officer is notified of the change, in writing no less than 15 days prior thereto.

Section 20. Fees.

A. Upon filing application for a special use permit the applicant for any utility-scale solar project shall pay an initial application fee of $2,500, or such other amount as the Town Board may, from time to time, determined by resolution and as set fees, as appropriate. This fee shall be appropriate to cover the costs of processing and reviewing the application.
B. The applicant shall pay the standard fee for the filing of a site plan application for the utility-scale solar project, as determined from time to time by resolution of the Town Board.
C. The Town shall require a utility-scale solar system owner to pay fees, as set by the Town Board, for review of maintenance performed by the Town or performed by a third party for the Town.
D. In addition to any special use permit or site plan application fees, an applicant shall also pay the required building permit application fee.
E. Any applicant for a utility-scale solar system shall pay a building permit fee of $5 per $1,000 of construction cost, to include over run costs, or such other amount as the Town Board may, from time to time by resolution, fees, to obtain a building permit.
F. A copy of the annual maintenance and inspection report must be submitted along with the application for renewal.
G. All special use permits must be renewed, by the Planning Board, after one year and on a four-year basis thereafter. The renewal fee for a special use permit for a utility-scale system is $1,000, or such other amount as the Town Board may determine, from time to time by resolution.

Section 21. Revocation, Interpretation, and Severability.

A. Violations of any of the conditions of the special use permit, site plan approval or any other local, state or federal laws, rules or regulations, shall be grounds for the revocation of the special use permit or site plan approval. Revocation may occur after the applicant is notified, in writing, of the violations and the Town of Stephentown Town Board holds a hearing on same.
B. In their interpretation and application, the provisions of this article shall be held to be minimum requirements, adopted for the promotion of public health, safety, and general welfare. It is not intended to interfere with, abrogate or annul other rules, regulations, or laws, provided that whenever the requirements of this article are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards shall govern.
C. If any section, subsection, phrase, sentence, or other portion of this article is for any reason held invalid, void, unconstitutional or unenforceable any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.