

## Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village  
(Select one:)

of Jackson

Local Law No. 3 of the year 20<sup>23</sup>

A local law to Permit Utility Scale Solar Energy Facilities.  
(Insert Title)

Be it enacted by the Town Board of the  
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village  
(Select one:)

of Jackson as follows:

See Attached.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2023 of the (County)(City)(Town)(Village) of Jackson was duly passed by the Town Board on April 5th 2023, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted (Elective Chief Executive Officer\*) on \_\_\_\_\_ 20    , in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. (Elective Chief Executive Officer\*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

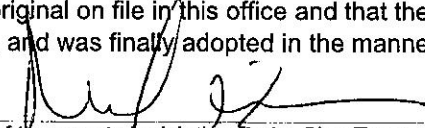
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 \_\_\_\_\_ above.

  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date:

4/13/23

(Seal)

**UTILITY SCALE SOLAR ENERGY FACILITIES LAW  
TOWN OF JACKSON  
LOCAL LAW No. 3 OF 2023**

**BE IT ENACTED** by the Town Board of the Town of Jackson, in the County of Washington, as follows:

**SECTION ONE. TITLE.**

This local law shall be known as the “Utility Scale Solar Energy Facilities Law.”

**SECTION TWO. PURPOSE AND INTENT.**

**A. Purpose and Intent**

1. The Town of Jackson recognizes that solar energy is a clean, readily available, and renewable energy source. It further recognizes that energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.
2. This section aims to permit certain solar energy systems in the Town of Jackson, while balancing the potential impacts on neighbors, preserving community character, and encouraging the rights of property owners to install and sensibly site solar energy systems.
3. The Town of Jackson has determined that comprehensive regulations regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents, and its businesses. This section is intended to promote the effective and efficient use of solar energy resources; to encourage sensible siting for solar energy systems such that community character, environmentally sensitive areas and prime farmlands are preserved and protected; set provisions for the sensible placement, design, construction, and operation of such systems to be consistent with the Town of Jackson Comprehensive Plan; to uphold the public health, safety, and welfare; and to ensure that such systems will not have a significant adverse impact on the environment, and on aesthetic qualities and character of the Town.
4. Intent; greater restrictions to prevail. It is not intended by this section to repeal, except as herein stated, abrogate or impair existing conditions previously made or permits previously issued relating to the use of buildings or premises or to impair or interfere with any easements, covenants or agreements existing between parties. Except as otherwise provided herein, whenever this section imposes a greater restriction upon the use of buildings or premises than is required by existing provisions of law, ordinance, regulations or permits or by such easements, covenants or agreements, the provisions of this section shall control.

## B. Applicability

1. The requirements of this section shall apply to all solar energy systems applications received after the effective date of this section.
2. In addition to meeting the requirements of this chapter, all solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code and the New York State Energy Conservation Code.
3. Major solar energy systems with a nameplate capacity equal to or greater than 25,000 kW (25 MW) pursuant to Section 94-C of the Executive Law (the NYS Accelerated Renewable Energy Growth and Community Benefit Act) and its implementing regulations which supersede the procedural permitting authority of this local law, shall incorporate the substantive requirements of this chapter during the Office of Renewable Energy Sources (ORES) application review unless ORES finds them unreasonably burdensome in view of the New York State renewable energy targets of the Climate Leadership and Community Protection Act and environmental benefits of the solar energy system.
4. Solar projects with a nameplate capacity of 20,000 kW (20 MW) but less than 25,000 kW (25 MW) may opt-in to the 94-C process.

## SECTION THREE. AUTHORITY.

This local law is adopted pursuant to the New York State Municipal Home Rule Law.

## SECTION FOUR. DEFINITIONS.

The following definitions apply within this Chapter:

### A. Definitions.

**BATTERY ENERGY STORAGE SYSTEM** — A battery energy storage system co-located with a USSEF involving a single cell or a group of cells connected electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically, in this case used to store power produced by the USSEF.

**DESIGNATED FARMLAND** — Land designated as Farmland of Statewide Importance, or land designated as Prime Farmland or Prime Farmland If Drained in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

**ENERGY CODE** — The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

**ESCROW** — Account in which funds are accumulated for specific disbursements. Such accounts may be used for an Applicant to provide funds to the Town to be expended in the review of the project by consultants retained by the Town or to provide funds to the Town to secure performance of certain conditions to any approval granted including but not limited to maintenance of the access roads, landscaping or other features of the USSEF.

**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 Survey, which is of statewide importance for the production of food, feed, fiber, forage, and oilseed 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.

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

**KILOWATT (KW)** — A unit of electrical power equal to 1,000 watts, which constitutes the basic unit of electrical demand. A watt is a metric measurement of power (not energy) and is the rate at which electricity is used. 1,000 KW is equal to 1 megawatt (MW).

**NAMEPLATE CAPACITY**-- For solar energy systems, starting from the initial installation of the solar energy system, the maximum electrical generating output that the solar energy system can produce on a steady basis and during continuous operation (when not restricted by seasonal or other de-ratings) as specified by the manufacturer of the USSEF.

**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 (NYSDEC).

**NEC** — National Electric Code.

**NFPA** — National Fire Protection Association.

**NONPARTICIPATING PROPERTY OR RESIDENCE**— Any property that is not a participating property, i.e. the owner does not have a lease or other agreement with the Applicant for the site plan review and approval of the USSEF.

**NYS AG AND MARKETS SOLAR ENERGY PROJECT GUIDANCE** — The latest revision of the Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands published by the New York State Department of Agriculture and Markets.

**OWNER of the USSEF** — The applicant for the approval of a solar energy system, the owner, operator, lessee, licensee, or other person authorized to install and operate a USSEF on the real property of a landowner, and each Owner's successors, transferees, assignees, and all parties to which the USSEF may transfer any or all of its ownership interests or contracts or subcontracts concerning the construction, management, operations and/or maintenance in, and responsibilities of the solar energy system or battery energy storage system.

**LANDOWNER OF PARTICIPATING PROPERTY** — The owner of the real property on which a USSEF is located or installed or proposed to be located or installed.

**PARTICIPATING PROPERTY OR RESIDENCE** — A USSEF host property or any real property that is the subject of an agreement that provides for compensation to the landowner from the operator (or affiliate) regardless of whether any part of the solar energy system is constructed on the property. All other properties are non-participating.

**POLLINATOR** — Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

**SOLAR ENERGY EQUIPMENT** — Electrical material, hardware, conduit, or other equipment associated with the production of electricity including solar panels, solar thermal electric equipment, associated wiring, mounting brackets, framing and foundations, accessory structures and buildings, battery energy storage systems, light reflectors, concentrators, and heat exchangers, inverters and other power conditioning equipment, substations, electrical infrastructure, distribution lines and other appurtenant structures and facilities used for or intended to be used for a solar energy system.

**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. The area of a solar energy system includes all the land inside the perimeter of the solar energy system, which extends to any interconnection equipment.

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

**TREE-CLEAR-CUTTING** —any cutting of trees over six inches in diameter at breast height where the average residual basal area of trees over six inches in diameter at breast height remaining after such cutting is less than 30 square feet per acre.

**UL** — Underwriters Laboratory, an accredited standards developer in the US.

**UNIFORM CODE** — 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.

**UTILITY SCALE SOLAR ENERGY FACILITY** - A solar photovoltaic collection device and equipment that uses solar radiation to generate energy where the facility produces energy that is predominately sold for off-site use into the grid pursuant to an interconnection agreement with a public electrical distribution facility, e.g. National Grid, where the nameplate capacity of the solar system is 1 megawatt or greater. A USSEF is also a Commercial Solar Facility under the Site Plan Review Law.

## SECTION FIVE: APPLICATION REQUIREMENTS

### A. Application

USSEF applicants shall submit ten (10) paper copies and an electronic (digital) copy of a completed application package, and a non-refundable application fee of ten thousand dollars (\$10,000.00) made payable to the Town of Jackson, to the Town Clerk. The application package must contain the following information:

- (1) Application. A completed application form, blank forms to be provided by the Town of Jackson Town Clerk, that includes:
  - a) Contact information for the applicant, participating landowner(s), the project design professional(s) and the USSEF Owner;
  - b) Addresses and tax identification (section, block, lot) numbers of the affected parcel(s);
  - c) Current use(s) of the parcel;
  - d) A statement setting forth the credits and other public funding that is being applied for the construction of the USSEF and the status of obtaining same;
- (2) Project Summary. A narrative overview of the USSEF, including its nameplate capacity.
- (3) Liens. Proof that the real property taxes on the property that will be used for the USSEF have been paid in full.
- (4) FEAF Part 1. A full environmental assessment form and accompanying environmental reports.
- (5) SWPPP. The project SWPPP must meet all NYSDEC design guidelines and shall be prepared and submitted for Planning Board review. All SWPPPs submitted must address erosion and sediment control during construction and post-construction design, capacity, operation and maintenance of stormwater facilities. Construction permits cannot be issued until the Town Stormwater Management Officer (SMO) signs the SWPPP Acceptance Form. Disturbances greater than five acres of soils cannot be disturbed at one time unless the NYSDEC grants a variance. No work shall commence on site until a Notice of Intent (NOI) has been submitted by the applicant to NYSDEC and a Notice of Acknowledgment has been received from NYSDEC.
- (6) Site Control. A copy of the lease or purchase agreement between the USSEF Owner and all Participating Landowners, and a copy of the interconnection agreement.  
Project Schedule. A written proposed schedule for construction of the facility.
- (7) Visual Impact Evaluation. The Application shall include the submission of a GIS viewshed analysis of the Zone of Visual Impact (ZVI); defined as the area from which the proposed undertaking may be visible within a one-mile (1.0) buffer around the USSEF. Positive



visibility of the solar field must be based upon bare-earth topography only (do not factor in vegetation). The analysis should be presented as an orthorectified aerial base map with the buffer boundary and project area indicated and ZVA highlighted. The Visual Impact Assessment shall also follow the guidelines established in the NYSDEC Visual Impact Assessment Policy Document developed in connection with the NYS Environmental Quality Review Act (SEQRA).

- (8) Glare Analysis. A glare study shall be submitted with the application. Any areas that may experience glare for more than one hour in a 24-hour period shall be shown on a drawing in a manner that can be easily understood by the neighboring property owners.
- (9) Noise Study. Substations, inverters and other noise producing equipment shall be set back a minimum distance and screened to achieve no significant increase in noise levels when compared to background noise levels at the property line. A sound study, using actual on-site data for the background noise levels shall be prepared following the noise assessment guidelines established by the NYSDEC in connection with SEQRA implementation. The goal is to site the facility so that neighboring properties are not adversely affected by noise during the operation of the Facility.
- (10) Decommissioning Plan.
- (11) Vicinity map. Identification of the property on which the proposed solar energy system will be located.
- (12) Site plan. All plans and drawings of the USSEF shall be signed and stamped by a duly licensed professional engineer registered in New York State showing the proposed layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all properties involved in the project. The Site Plan shall provide the following information:
  - a) Site Plan Review Checklist. Sections 406 through 408 of LL2- August of 2017.
  - b) Existing Conditions. Topographical survey and natural, historic, or recreational areas, including regulated wetlands; water bodies; riparian buffers; populations of endangered or threatened species (federal or state), or habitat for such species; flyways; archaeological sites, cemeteries, and burial grounds; important local historic sites; existing healthy, native forests consisting of at least one acre of contiguous area; individual existing healthy trees that are at least 100 years old; other significant natural features and scenic view sheds; and existing trails or corridors, including snowmobile trails, that connect the tract to neighboring areas.
  - c) Adjacent Properties. Ownership and use of adjacent parcels, and all property lines within 1,000 feet of the property lines of the proposed site, inclusive of the entire leased area or area to be purchased.
  - d) Grading Plan. The clearing and grading plan shall include methods to stockpile, reduce erosion of, and reuse all topsoil from the project site.
  - e) Landscaping Plan. Existing on-site vegetation shall be preserved to the maximum extent practicable. A screening and landscaping plan, prepared by a landscape architect, must show the proposed screening and buffering of all arrays, buildings and other non-array structures on the site or sites. The plan shall include the proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures, and the plan for ongoing vegetation management. The screening and landscaping plan shall include locations, elevations,

site lines, 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.

- f) Electrical drawings. The locations of all proposed overhead and underground electric utility lines, including switchyards, substations and junction boxes, and other electrical components for the project must be shown on the site plan.
- g) Setbacks. Drawings must show how the setbacks and other requirements are met for all planned locations of each solar array, access road(s), turnout location(s), substation(s), ancillary equipment, buildings, fencing, and structures.

## SECTION SIX: STANDARDS FOR USSEFS

A. In deciding whether to approve or deny an application for site plan approval for a USSEF, the Planning Board shall follow the substantive and procedural requirements for site plan review as set forth in Local Law no. 2 of 2017, including holding a duly noticed public hearing. A USSEF is a Commercial Facility as that term is defined in Local Law no. 2 of 2017. The Planning Board is required to hold a public hearing and to comply with all procedural and notice requirements in the Town of Jackson "Site Plan Review Law".

1. Height. Ground-mounted arrays shall not exceed fifteen (15) feet in height when oriented at maximum tilt as measured from the average grade to the top of the solar panel.
2. Lot coverage. According to NYSEDA a major solar energy system shall not exceed 60 percent lot coverage. The lot shall be the entire leased area for the purpose of this calculation and the area considered covered shall be defined as the area measured from the outer edge(s) of the arrays, inverters and all other mechanical equipment used to create solar energy, exclusive of perimeter buffers, landscaping, fencing and roadways.
3. Setbacks. Structures and equipment shall not be placed in the one hundred feet perimeter buffer except for the landscaping, the access road, the electrical transmission lines and poles connecting the facility to the grid, and the stormwater structures and fencing associated with the access road and the electrical transmission lines. Larger setbacks may be required by the Planning Board in its discretion to adequately buffer adjoining properties and scenic roadways and to address visual and noise impacts.
4. Buffer/screening. A minimum one hundred feet perimeter buffer, consisting of natural and undisturbed vegetation, shall be provided around all mechanical equipment and solar panel arrays to provide screening to adjacent properties and to minimize glare on adjacent properties and roadways.
5. Landscaping. Where the natural and undisturbed vegetation does not screen the views from the mechanical equipment and solar panel arrays, the Planning Board may require the Applicant to enhance the perimeter buffer to improve its ability to screen the views. A berm, landscape screen, or other opaque enclosure, or any combination thereof acceptable to the town and capable of fully screening the site from view, shall be provided. Suggested native plant species for screening are presented in Appendix A and include deer and disease resistant native species.
6. Glare. All structures and devices used to support solar collectors shall be nonreflective and/or painted a subtle or earth tone color to aid in blending the facility into the existing environment. Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways.

7. Electrical wires. All transmission lines and wiring associated with a solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and Town requirements. (NOTE: The Planning board may waive this requirement if sufficient engineering data is submitted to demonstrate that underground transmission lines are not feasible or practical.)
8. Agricultural Districts. All solar projects in agricultural districts will be reviewed by the Washington County Agriculture and Farmland Protection Plan Committee whose comments will be forwarded to the New York State Agriculture Commissioner for consideration. The Commissioner will then decide if the agricultural land in the proposed project is of high importance to the community and New York State. If the Commissioner so decides, he has the ability to stop the project. The USSEF and the solar panels shall be located on a parcel in such a manner as to avoid, to the maximum extent feasible, soils classified as prime farmland by the USDA, NYS or NRCS. Demonstration that the proposed solar energy system complies with the current construction and de-commissioning and restoration guidelines established by the New York State Department of Agriculture and Markets Solar Energy Project Guidance on designated farmland.
9. Herbicides, pesticides, and fungicides. Chemicals shall not be used at the site during construction or operation unless expressly permitted by the Planning Board to control invasive or harmful plant species.

#### B. Facility Operations

1. After completion of the Project planning approvals and construction, and prior to the commencement of operation, the Applicant shall retain the services of a NYS licensed professional engineer to provide post-construction certification that the project complies with applicable codes and industry practices and has been constructed and will be operated according to the approved site plan. As-built plans signed by the NYS licensed professional engineer will be provided to the Town. The Applicant shall also provide certification from the local power service provider that the interconnection from the solar facility to the electric transmission line has been inspected and approved, including an electrical diagram detailing the solar energy system installation and an electric service order number.
2. Copies of all State, Federal and Utility approvals that are necessary to construct and operate the Facility will be provided to the Town Planning Board, Building Inspector and Engineer hired by the Town Board to oversee prior to the commencement of construction.
3. Hours of Operation. During operation of the Facility, any routine maintenance, including but not limited to mechanical mowing of the vegetation under the panels, shall occur Monday through Friday from 9 a.m. to 5 p.m.
4. Landscaping. The Operator shall have the landscaping inspected twice per year at its expense for the first five years of operation by a Registered Landscape Architect or Arborist, and the Operator must submit a written report to the Jackson Planning Board identifying any areas of landscaping that have died or not thrived and will be replaced. The report shall be completed and submitted no later than 3 weeks post-inspection.

5. Stormwater Management Facilities. All stormwater management facilities shall be maintained in accordance with the operations and maintenance manual published in the SWPPP. Annual inspection reports shall be submitted to the Town.

## SECTION SEVEN. DECOMMISSIONING

Abandonment and Decommissioning. When the USSEF has not generated electricity for a period of six (6) consecutive months, the system owner must notify the Town Supervisor in writing that the system is no longer operating. If the system ceases to operate continuously for an additional six (6) consecutive months, the system shall be deemed to be abandoned and shall be decommissioned within six (6) months by the owner of the USSEF. If not completely decommissioned the Town Board will have the ability to use the decommissioning security, i.e. performance bond or letter of credit to implement the decommissioning plan submitted as part of the application to the Planning Board and as approved by the Planning Board.

A. The decommissioning plan shall be prepared by a licensed Professional Engineer and shall include, but not be limited to, the following requirements: the plan must be signed by the design engineer, a P.E. licensed in the NYS and the owner of the USSEF and shall be submitted as part of the application for approval of the USSEF and shall address the following:

1. The cost of removing the USSEF shall be estimated based upon prevailing wages and any other requirements applicable to municipalities under State or federal law and no salvage value shall be attributed to any of the components of the USSEF. All transportation and disposal costs must be included in the estimate. There shall be no credit for reuse, recycle or salvage of any equipment.
2. Operation and maintenance plan.
3. An operation and maintenance plan describing continuing solar energy system maintenance and property upkeep, such as mowing and trimming. Such plan will provide for the inspection, and replacement by the following growing season if necessary, of landscaping and trees that are part of the approved landscaping plan to ensure compliance with the landscaping plan requirements. The plan shall also include:

(a) Storm and other severe weather event follow-up, and other actions that shall be taken to keep the solar energy system operating quietly, efficiently, and not polluting land, water, or air.

(b) Plans to ensure proper operation of the USSEF and all of its equipment.

(c) Preventive maintenance inspections at least every six months, and after any hail, wind, or other severe weather event likely to result in damage to the USSEF. A wind event is defined as severe wind, which would be wind over 40 miles per hour for one hour or wind gust 58 miles per hour or greater. Each inspection shall consider solar panel condition, metal fatigue, fastener condition, leakage, and other potential failures that might impact public health and safety or the environment. Any releases to

the environment from the USSEF shall be managed in the same manner as hazardous material spills.

(d) Inspection reports shall be provided to the Town of Jackson Planning Board within 30 days of the inspection.

(e) Quarterly inspections of the integrity of security systems.

(f) Provision for an annual safety inspection of the USSEF by a NYS licensed Professional Engineer.

(g) A schedule and methods for the removal of the entire USSEF including the panels, the posts, the tracking system, the fences, the underground and aboveground electrical and data lines, the access roads, the structures or any containers, the concrete and gravel pads, all inverters and electrical equipment of any kind, including switchyards and substations.

(h) A plan for restoring the property to its pre-existing condition, grade, soil condition and cover type and to repair any damage caused to the property by the installation and removal of the USSEF. Any compacted portions of the on-site or restored soils shall be de-compacted by grading and loosening the soils and any excavations shall be backfilled to restore the site. Re-vegetative of the site, and, where if it was previously used for farming, with vegetation suitable for farming purposes, i.e. a hay field, crops or grazing.

(j) A proposed Decommissioning Agreement which shall be provided by the Applicant, as the Owner of the USSEF and negotiated and approved by the Town of Jackson Town Board. No construction shall commence until the Decommissioning Agreement has been negotiated between the Applicant and the Town Board, has been approved by the Town Board and has been fully executed and the financial security has been provided by the Owner of the USSEF.

(k) In the event that the decommissioning security is insufficient for the Town to undertake the decommissioning of the Facility in the event of the Owner of the Facility fails to do so in a timely or complete manner, the Town may provide funds for the restoration and recover all such expenses from the Owner of the Facility and the cost incurred by the Town shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other real property taxes, after following all procedures required by Town, County or State law. Notwithstanding, nothing shall obligate the Town to decommission or restore the site and the Town bears no legal responsibility for doing so if the Town Board elects not to decommission or restore the site for any or no reason.

## SECTION EIGHT. TRANSFER OF OWNERSHIP

### A. Changes to Ownership of USSEF—Transfer of Approvals:

1. If the owner of the USSEF changes or the owner of the underlying property changes, the site plan approval shall remain in effect, provided that each successor owner whether of the USSEF or the underlying property assumes in writing all of the obligations imposed during the site plan review and approval and if the written assumption, in a form acceptable to the Town Attorney, is provided to the Town Board and Planning Board prior to the ownership change.

## SECTION NINE. SECURITY

### A. Security shall be provided for the Construction, Landscaping, ongoing maintenance and Decommissioning of the USSEF.

1. The deposit, executions, or filing with the Town Clerk of cash, bond, letter of credit or other form of financial security reasonably acceptable to the Town Board and to the Town Attorney as to form, 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 of the USSEF and restoration of the site subsequent to removal of the USSEF.
  - a. The amount of the financial security shall be 125% of the cost of removal of the Solar Energy System and restoration of the property with an escalator of 2 % annually (or COI if more than the annual escalator of 2%) for the life of the USSEF. The cost estimate shall be prepared by a NYS Licensed Professional Engineer acting on behalf of the Applicant/Owner and reviewed and approved by a NYS Licensed Professional Engineer acting on behalf of the Town at the expense of the Applicant/Owner.
  - b. The Decommissioning Agreement shall specify the amount of the bond and the form of the bond or equivalent financial security.
  - c. The Notice of Intent (NOI) shall not be issued until the bond or equivalent financial security is in full force and effect and has been provided to the Town Supervisor and filed with the Town Clerk.
  - d. Any bonds or other financial security shall continue throughout the life of the USSEF. The amount of the bond or other financial security shall be re-evaluated every five years to account for increases or decreases in costs and inflation and shall be adjusted accordingly after the approval of the Town Board based on the advice of a professional engineer retained by the Town but whose fees are covered by the Owner of the USSEF.
2. 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 ninety (90) days after the restoration of the property as set forth in the decommissioning plan is completed.

3. The Operator and any successor or assign must maintain commercially reasonable general liability insurance in an amount no less than 5 million dollars and must name the Town of Jackson as an additional insured on the policy.

#### SECTION TEN: EFFECTIVE DATE

This local law shall become effective upon its filing in the Office of the Secretary of State.

#### SECTION ELEVEN. SEVERABILITY.

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