

A LOCAL LAW #\_\_ FOR THE YEAR 2024

REPEALING AND REPLACING THE SOLAR LAW OF THE TOWN OF LYME

**ARTICLE I. TITLE.**

This Local Law shall be known as the "Solar Law of the Town of Lyme." This Local Law shall repeal and replace any Town Ordinance, Local Law, Rule, or Regulation inconsistent herewith.

**ARTICLE II. STATEMENT OF PURPOSE.**

This Solar Law is adopted in order to preserve and promote reasonable quality of environment and aesthetics and to protect the public health, safety, welfare, and quality of life within the Town of Lyme. This Solar Law is intended to provide a regulatory scheme for the designation of properties suitable for the location, construction, and operation of Solar Facilities and Battery Energy Storage Systems; while mitigating the impacts of the same on environmental resources such as agricultural lands, forests, wildlife, and other protected resources.

**ARTICLE III. DEFINITIONS.**

**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:** One or more devices, assembled together, 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:

A. 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.

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

**BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM:** A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

**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 battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

**DEDICATED-USE BUILDING:** A building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy as defined in the International Building Code, and complies 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 system and other energy systems.
- 4) Administrative and support personnel are permitted in areas within the buildings that do not contain 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 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

**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.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM (ON-SITE):** A solar panel system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity for onsite consumption. Total electrical energy generated does not exceed more than 110 percent of the annual total electrical energy consumed on-site.

**LARGE-SCALE SOLAR ENERGY SYSTEM:** A Solar Energy System that is ground-mounted and produces energy primarily for the purpose of off-site sale or consumption.

**LOT COVERAGE, SOLAR ENERGY SYSTEM:** The area measured from the outer edge(s) of ground-mounted arrays, inverters, batteries, storage cells and all other mechanical equipment used to create solar energy, exclusive of fencing and roadways.

**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.

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

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

**NON-PARTICIPATING RESIDENCE:** Any residence located on non-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 schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

**PARTICIPATING PROPERTY:** A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

**ROOF-MOUNTED SOLAR ENERGY SYSTEM:** A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity.

**SOLAR ENERGY EQUIPMENT:** Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

**SOLAR ENERGY SYSTEM:** An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

**SOLAR PANEL:** A Photovoltaic device capable of collecting and converting solar energy into electrical energy.

**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.

#### **ARTICLE 4. APPLICABILITY.**

The requirements of this law shall apply to all Solar Energy Systems installed or modified after its effective date, excluding general maintenance and Building-Integrated Photovoltaic Systems. Modifications to an existing Solar Energy System that increase the Solar Energy System area by five percent (5%) of the original area or more shall be subject to this article.

**ARTICLE 5. PERMITTED LOCATIONS.**

No Solar Energy System or device shall be installed or operated in the Town of Lyme except in compliance with this Local Law.

**Summary of Permitted Solar Energy Systems by Zoning District**

Zoning District

<b>Solar Energy System</b>	<b>AR</b>	<b>WF</b>	<b>PDD</b>
Roof-Mounted Solar Energy System	ZP	ZP	SUP
Ground-Mounted Solar Energy System	ZP	ZP	SUP
Large Scale Solar Energy System	SUP	NP	NP

ZP – Permitted with Zoning Permit

SUP – Special Use Permit with Site Plan Review

NP – Not Permitted

**ARTICLE 6. ROOF-MOUNTED SOLAR ENERGY SYSTEMS.**

A. Zoning Permit. Roof-Mounted Solar Energy Systems that use the electricity onsite or offsite are permitted as an accessory use when attached to any lawfully permitted building or structure. A valid Zoning Permit shall be obtained through the Town of Lyme Zoning Enforcement Officer, prior to installation.

B. Submittal Requirements and Fees

1. At the time of application, unless waived by the Zoning Enforcement Officer, the following documents shall be submitted:

- a. Site Plan progressed to include sufficient details to demonstrate that the solar energy system will be installed in accordance with the requirement of this code including, but not limited to, access, height, dimensions, connections, etc.
- b. Equipment specification sheets

2. Fees. The Applicant shall deliver the fee amount as determined in the Town of Lyme Fee Schedule.

C. Height. Roof-Mounted Solar Energy Systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.

D. Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements:

- 1. Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of eighteen inches (18") between the roof and highest edge of the system.
- 2. Roof mounted structures shall be color-coordinated to harmonize with roof material and other dominant colors of the structure.

3. All solar collectors shall be installed so as to prevent any glare and heat that is perceptible beyond applicant property's lot lines.
- E. Roof-Mounted Solar Energy Systems that increase the overall height of the structure by more than eighteen (18) inches on sloped roofs or six (6) feet on a flat roof, shall require a Special Use Permit by the Planning Board.
- F. Non-conformance. If a Roof-Mounted Solar Energy System is to be installed on any Building or Structure that is nonconforming because its height violates the height restrictions of the zoning district in which it is located, the Solar Energy System shall be permitted, so long as it does not extend above the highest point of the roof to which it is mounted and so long as it complies with the other provisions of this section.

**ARTICLE 7. GROUND-MOUNTED SOLAR ENERGY SYSTEMS (ON-SITE).**

- A. Zoning Permit. Ground-Mounted Solar Energy Systems that use the electricity onsite are permitted as accessory structures. A valid Zoning Permit shall be obtained through the Town of Lyme Zoning Enforcement Officer, prior to installation.
- B. Submittal Requirements and Fees
  1. At the time of application, unless waived by the Zoning Enforcement Officer, the following documents shall be submitted:
    - a. Site Plan progressed to include sufficient details to demonstrate that the solar energy system will be installed in accordance with the requirement of this code including, but not limited to, access, height, footprint, dimensions, adequate screening/buffering from neighboring properties, connections, etc.
    - b. Equipment specification sheets
  2. Fees. The Applicant shall deliver the fee amount as determined in the Town of Lyme Fee Schedule.
- C. Height and Setback. Ground-Mounted Solar Energy Systems shall not exceed sixteen (16) feet in height when oriented at maximum tilt. Ground-mounted solar arrays are not permitted within the front yard in any district and shall not be permitted in the waterfront yard for any property within the Waterfront District. Ground-mounted Solar Energy Systems shall meet the greatest required setbacks for accessory structures within the underlying zoning district. All solar collectors must be located in compliance with NYS Department of Environmental Conservation (DEC) and Federal Flood Plain regulations and specifications as they pertain to waterways, waterbodies, and designated wetlands.
- D. Aesthetics. Ground-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements:
  1. Glare. All solar collectors shall be installed so as to prevent any glare and heat that is perceptible beyond subject property's lot lines. Particular attention shall be paid to panel orientation with regard to airport runway locations, and airplane flyover/approach patterns to minimize potential glare impacts on pilots.

- a. Visual Impact. All solar collectors shall be located, including screening and buffering as appropriate so as to prevent visual impact to adjacent roadways and neighboring properties to the maximum extent feasible.
- E. Ground-Mounted Solar Energy Systems that propose a footprint of greater than 2,000 square feet shall require a Special Use Permit by the Planning Board.

**ARTICLE 8. LARGE SCALE SOLAR ENERGY SYSTEMS.**

- A. Large-Scale Solar Energy Systems are permitted in accordance with Table 1 through the issuance of a Special Use Permit and Site Plan review subject to the requirements set forth in this Section. Applications for the installation of a Large-Scale Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred to the Planning Board for its review and action, which can include approval, approval with conditions, and disapproval.
- B. All Large-Scale Solar Energy Systems shall be designed by a NYS licensed architect or licensed engineer and installed in conformance with the applicable International Building Code, International Fire Prevention Code and National Fire Protection Association (NFPA) 70 Standards.
- C. All solar collectors must be located in compliance with state and federal wetlands, waterways and flood plain regulations and specifications.
- D. All Applicants and owners of Large-Scale Solar Energy Systems must file a Building Permit application with the Building Department, and obtain a valid Building Permit, prior to starting construction.
  - 1. Submittal Requirements. Application requirements for Large-Scale Solar Energy Systems. The following items are required as well as those required in Section 515.
  - 2. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
  - 3. Site Civil Plans showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required.
  - 4. Site slopes analysis. Such drawing shall demarcate slopes greater than 5%, 10%, 15%, 20% and 25% within the limits of disturbance.
  - 5. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, solar energy equipment, battery energy storage system, mounting systems, and inverters that are to be installed.
  - 6. Operation and Maintenance Plan. Such plan shall describe information including, but not limited to, project location and description, owner/operator contact details, limits of the area and to be maintained, frequency and responsible party for continuing photovoltaic maintenance and property upkeep, such as mowing, trimming and replacement of dead/diseased trees and shrubs. Where pervious access roadways are proposed, include ongoing monitoring and description of correction actions to ensure the access roadway remains pervious. The owner/operator will be required to enter

into a legally binding Maintenance Agreement for ongoing implementation of the plan while the Solar Energy System is operational.

7. Glare Hazard Analysis is required to determine potential glint and glare impacts to adjacent roadways and pilots operating in or around Watertown International Airport and Wheeler-Sack Army Airfield.
8. Fort Drum. The applicant shall notify Fort Drum Plans, Analysis, and Integration Office as soon as possible to determine potential impacts on Fort Drum airfield and training activities. The applicant must provide the Town with copies of all correspondence from Fort Drum.
9. Watertown International Airport. The applicant shall notify the Airport Manager as soon as possible to determine potential impacts on the airport. The applicant must provide the Town with copies of all correspondence from the airport.
10. Decommissioning Plan. To ensure the proper removal of Large-Scale Solar Energy Systems, a Decommissioning Plan shall be submitted as part of the application with information including, but not limited to, remediation in accordance with NYS Department of Agriculture and Markets Guidance for Solar Construction Mitigation, pre-development photo log, disposal of hazardous waste, proposed timeframe for decommissioning within 365 days and process for notification within 30-days of a change of ownership. Compliance with this plan shall be made a condition of the issuance of a Special Use Permit under this Section. The Decommissioning Plan must specify that after the Large-Scale Solar Energy System can no longer be used, the applicant or any subsequent owner shall remove it. 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 shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. Cost estimations shall take into account inflation. Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan. If the Large-Scale Solar Energy System is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and make a claim against the bond to cover these costs to the municipality.
11. Decommissioning Bond. The applicant shall be required to provide the finances necessary to remove the Large-Scale Solar Energy System. Pursuant to the execution of the decommissioning plan, the applicant shall provide the town with United States Currency in an amount determined by the Town Board and Town attorney to cover the expense of removal of the system and remediation of the landscape in the event the Town must remove the facility. The Town shall hold the funds in an escrow account until the time of decommissioning. In the event the decommissioning funds held by the Town exceed that needed for complete decommissioning of the solar facility, the amount remaining from the original funds provided to the Town shall be returned to

the facility. The amount of money provided to the Town shall be 115% of the cost of removal of the Large-Scale Solar Energy System and restoration of the property.

12. Part 1 of the NYS SEQRA Full Environmental Assessment Form
  13. Soils maps and Geotechnical investigations, if warranted and/or requested by the Engineer.
  14. Prime soils map and site agricultural use description in accordance with Section F.3.b.
  15. Visual Impact Assessment is required in accordance with NYSDEC's latest guidance for Assessing and Mitigating Visual and Aesthetic Impacts. In conjunction with the preparation of a view shed analysis map, the Applicant shall prepare the following:
    - a. Photo simulations from sensitive receptor locations in all directions, including neighboring residential properties, roadways and view sheds. Photo simulations shall display the view of current site conditions, the view with the solar panels in place, and the view with vegetative screening at the time of planting.
    - b. For projects located within the view shed of the Chaumont Bay, Chaumont River or Sawmill Bay (i.e., visible from the waterfront based on topographic analysis), the view from the water shall be selected as one of the vantage points for the visual impact assessment. Additionally, the Town may request that the visual impact assessment include any parcel as a vantage point where the existing view of the water may be negatively impacted by the proposed facility, to demonstrate that there is no adverse impact to the waterfront view shed.
    - c. Depending upon the scope and potential significance of the visual impacts, additional supporting documentation may be requested at the discretion of the Planning Board.
  16. Landscaping Plan prepared by a registered Landscape Architect in accordance with the requirements of Section F.3.g and including native zone hardy plantings appropriate for the local climate.
  17. Storm Water Pollution Prevention Plan (SWPPP) and Erosion and Sediment Control Plan prepared to applicable New York State Department of Environmental Conservation standards and guidance, and including modeling of peak flows and erosive forces based on regional extreme weather data.
  18. Other relevant supporting documentation and studies, including but not limited to, Noise Analysis (to the nearest property boundary).
- E. Review Standards for Large-Scale Solar Systems.
1. Height and Setback. Large-Scale Solar Energy Systems shall not exceed sixteen (16) feet in height when oriented at maximum tilt. Any fence, structure and equipment shall be located at least 150 feet from any non-participating adjoining property line. Contiguous side and rear yard setbacks can be reduced to zero feet where participating parcels adjoin one another. An additional set-back of 325' from any existing residential structure is required unless waived by the impacted property owner. No Large-Scale Solar Energy System shall



- be located within 1,250-feet as measured from the ordinary high water mark in the Waterfront District. Minimum Road Setback shall be 100' from the center-line of the road.
2. Prime soils, prime if drained, and soils of statewide importance that are in agricultural production are a valuable and finite resource. Proposed Large-Scale solar systems shall minimize the displacement of prime soils that are in agricultural production. The site plan shall depict the location and extent of prime soils, prime soils if drained, soils of statewide importance, and indicate whether the parcel(s) is/are receiving an agricultural valuation. The site plan shall also depict the location and extent of current agricultural uses on the land (e.g. rotational crops, hay land, unimproved pasture, support lands, and fallow lands) the location of diversions and ditches, and areas where tile drainage has been installed.
  3. Roadways within the site shall have a minimum width that complies with the National Electric Code and NYS Fire Code and sufficient to assure adequate emergency and service access. Roadways shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soils compacted. Maximum use of existing roads, public or private, shall be made.
  4. Equipment and vehicles not used in direct support, renovations, additions or repair of any Large Scale Solar Energy System shall not be stored or parked on the facility site.
  5. All on-site utility and transmission lines shall, to the extent feasible, be placed underground unless otherwise approved due to site constraints and/or property owner preference. The installation of new or modification of existing above-ground utility poles should be minimized to the extent feasible. Electric interconnect cables and transmission lines are to be buried in agricultural fields wherever feasible. Structures for overhead collection lines, interconnect cables and transmission lines installed aboveground shall be located outside agricultural field boundaries and along field edges where possible. When above-ground transmission lines must cross agricultural fields, provide taller structures with sufficient spanning distances. All buried electric cables not contained within the fenced Solar Energy System, that are located within cropland, hay land, and improved pasture shall have a minimum depth of 48 inches of cover.
  6. Fences. All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. The type and height of fencing shall be approved by the Planning Board. Fences that enclose Large Scale Solar Energy Systems shall not exceed ten (10) feet in height. The Planning Board may require the fence to be a color to match the surroundings (i.e., green) and/or decorative and/or supplemented with additional screening/landscaping to avoid adverse aesthetic impacts. Unless waived by the Planning Board Security, fencing shall be wildlife friendly with minimum 6" clearance that allows the passage of small mammals and reptiles designed to minimize wildlife injury and death due to entanglement.
  7. Perimeter Screening. All Large-Scale Solar Energy Systems shall be screened such that the visual impact of the solar arrays is mitigated to the satisfaction of the Planning Board, Town Board and Zoning Enforcement Officer. Based on site specific conditions, such as topography, adjacent structures, roadways, and natural vegetative screening, all reasonable

efforts shall be made to eliminate visual impacts to all identified vantage points (e.g., residential properties, public roads and sites, waterfront view shed and other vistas, etc.) by preserving to the maximum extent feasible the existing natural vegetation, creating the necessary berm structures and/or providing native landscaping of sufficient size, type and variety to create a natural looking vegetative barrier to provide screening during all seasons. Existing natural vegetative screening shall not be removed without due cause and no more than twenty five (25) percent of the existing perimeter vegetative screening (within the 100 foot setback) may be removed in order to accommodate a solar farm unless berms and/or newly proposed landscaping acceptable to the Planning Board is approved as part of the Special Use Permit. Screening must be installed to mitigate visual impacts from the solar field as well as all appurtenant structures such as inverters, batteries, equipment shelters, storage facilities, transformers, and fencing.

8. Signage. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. Solar equipment shall not be used for displaying any advertising. All signs, flags, streamers or similar items, both temporary and permanent, are prohibited on solar equipment except: (a) manufacturer's or installer's identification; (b) appropriate warning signs and placards; (c) signs that may be required by a federal agency; and (d) signs that provide a 24-hours emergency contact phone number and warn of any danger.
9. Glare. Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not create a safety hazard for adjacent buildings, properties, or roadways. Exterior surfaces of all collectors and related equipment shall have a non-reflective finish. Particular attention shall be paid to panel orientation with regard to airport runway locations, and airplane flyover/approach patterns to minimize potential glare impacts on pilots based on the Glare Hazard Analysis.
10. Noise. Noise producing equipment such as inverters shall be located to minimize noise impacts on adjacent properties. Their setback from property lines should achieve no discernable increase in noise levels at the property line.
11. Lighting. Any exterior lighting is prohibited unless required for safety/emergency lighting, in which case exterior lighting shall be limited to staff-activated emergency lighting. Such exterior lighting shall not project off the Site and should only be activated when the area within the fenced perimeters has been entered.
12. Safety. The owner/operator shall provide evidence that a copy of the site plan application has been submitted to the Fire Chief of the appropriate fire department as well as other relevant emergency medical response units. All means of shutting down the photovoltaic solar energy system shall be clearly marked on the site plan and building permit applications.
13. Any application under this Local Law shall meet any substantive provisions contained in the Special Use Permit requirements listed in Article V, Sections 505-530, of the Town of Lyme Zoning Law that, in the judgment of the Planning Board, are applicable to the system being

proposed. If any of the Special Use Permit requirements are not applicable, the Planning Board may waive those requirements.

14. The Planning Board may impose conditions on its approval of any Special Use Permit under this Local Law in order to enforce the standards referred to in this Section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

#### F. Security and Fees

1. The Applicant for either state or local siting approval shall deliver, along with its application for a Large-Scale Solar Energy System if local approval is sought, and concurrent with the filing of a New York State Executive Law §94-c Permit Application, if applicable, an amount specified in the Town of Lyme fee schedule, then in effect. This sum shall be held by the Town in a non-interest-bearing account to be administered in accordance with the following:
  - a. These funds shall be available to pay consultants and attorneys engaged by the Town of Lyme to assist in application review if a local permit is sought, and in review of a Section 94-c Permit Application should awarded intervenor funds be insufficient and/or otherwise exhausted.
  - b. Escrow funds may be used to pay consultants engaged by the Town to undertake periodic construction inspections and/or corrective action required to address deficiencies identified within the Engineer's construction inspection report, including but not limited to deficiencies related to erosion and sediment control.
  - c. Funds may also be used to pay contractors engaged by the Town to undertake corrective actions for sites that are operating in violation of their site specific SWPPP, and/or which have not corrected issues identified within the Engineer's report by the Owner/Operator within seven days of notification.
  - d. Following the grant or denial of the state or local application, and/or following the final construction inspection, the Town of Lyme shall return to the Applicant any excess remaining in escrow. If the escrow account has been depleted throughout the duration of the review and/or construction inspection period, the Applicant shall replenish the escrow in accordance with the fee schedule, depositing such funds as necessary for the Town of Lyme to pay any outstanding fees to consultants and contractors.
  - e. After construction is complete, the Owner/Operator shall engage the services of a New York State licensed engineer to complete annual site inspections of the condition of the perimeter landscaping, site access road, and the overall condition of the site and vegetative cover. Following each annual site inspection, said engineer shall provide a written report to the Town of Lyme Zoning Enforcement Officer. Corrective action will be required by the

Owner/Operator to address deficiencies as identified within the engineer's inspection report. The annual Site inspections will be performed each year no later than July 1st, with the corresponding inspection report delivered to the Town of Lyme no later than August 1st of the same year. If Owner/Operator fails to provide an annual inspection report, as required, the Town of Lyme may engage the services of its consultant(s) to provide these services in which instance the Operation and Maintenance Bond referenced in Section F.4.b may be used to compensate the Town's consultant(s) for associated labor and expenses. Any and all corrective actions recommended in the engineer's inspection report shall be completed no later than September 15th of the same year, unless an extension of time for the completion of same is granted by the Town Zoning Enforcement Officer. The Operation and Maintenance Bond may also be used at the discretion of the Town to pay contractors engaged to undertake corrective actions as required to address deficiencies identified within the annual site inspection which are not corrected by the Owner/Operator by the approved deadline for completing same.

2. Operation and Maintenance Bond. Where solar facilities are to be operated, maintained and inspected by and at the responsibility of the Applicant or developer, prior to issuance of the building permit, these entities may be required to provide the Town of Lyme with a bond, cash escrow, irrevocable letter of credit from an approved financial institution, or other acceptable surety, to ensure there are resources available to support and sustain the proper operation and maintenance of all storm water management, site civil and landscaping elements until the facility is removed from operation. If there is failure to properly inspect, operate and maintain said facility, the Town may draw upon the account to cover costs of proper inspection, operation and maintenance, including legal, engineering and contractor costs. The bond amount shall be based on the estimated cost of annual inspections and typical maintenance actions over a five year period, subject to third party review at the developer's expense, if requested by the Planning Board.
3. Host Agreement: An agreement between an applicant for a Large Scale Solar Energy System and the Town of Lyme shall identify the gap in payments and/or special costs to the Town of hosting the solar energy system and provide a means by which the Applicant will provide for such periodic payments. The Host Agreement shall be in place before a Building Permit will be issued. Nothing contained in this law shall be read as limiting the ability of the Town of Lyme to enter into a Host Agreement and/or a Payment in Lieu of Taxes ("PILOT") agreement with any Applicant to compensate the Town for expenses and/or impacts on the community.
4. Payments in Lieu of Taxes (PILOT): The Planning Board shall not issue a Special Use Permit or approve a Site Plan for a Large-Scale Solar Energy System unless and until the Town has made an agreement with the Applicant/Owner on a PILOT, unless the Town Board has determined that the PILOT is not necessary and/or beneficial.

G. Road Use Agreement. The Planning Board may request that the Applicant provide the transportation routes including a description of local roadways to be used to transport heavy equipment and panels during construction. Based on the assessment of these routes, the Planning Board with input from the Town Board and Highway Superintendent, may require that a Road Use Agreement be executed as a condition of final approval as surety for the repair of roadways post construction, if needed.

H. Abandonment and Decommissioning

1. Solar facilities which have commenced installation but have failed to complete construction within eighteen (18) months, may be considered abandoned, in which instance the Town may notify the owner to complete construction within an agreed timeframe and/or activate the Decommissioning Bond.

2. Solar Energy Systems are considered abandoned after twelve (12) months without electrical energy generation and must be removed from the property. The Owner/Operator must restore operation equal to 80% of the approved capacity or commence implementation of the approved Decommissioning Plan within 180 days of notification.

3. Applications for extensions for a period of six months are reviewed by the Planning Board. The site shall be restored to its pre-development condition, including vegetative cover and/or cover crop, as appropriate, within one (1) year of notification. If removal and restoration has not been completed within the required timeframes, the Decommissioning Bond may be activated.

**ARTICLE 9. Solar Rights.**

A. Pursuant to Chapter 263 of New York Town Law, all parcels within the Town of Lyme shall be permitted to enjoy access to direct sunlight.

B. No structure shall be constructed, nor vegetation installed, that limits direct solar access greater than fifty percent (50%) of the ground surface of adjoining lots to less than six (6) hours per day on any day of the year.

**ARTICLE 10. BATTERY STORAGE.**

**A. GENERAL REQUIREMENTS.**

1. A building permit and an electrical permit shall be required for installation of all battery energy storage systems.

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

3. 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 Code.

**B. 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.

**C. PERMITTING REQUIREMENTS FOR TIER 2 BATTERY ENERGY STORAGE SYSTEMS.**

Tier 2 Battery Energy Storage Systems are permitted through the issuance of a special use permit within the \_\_\_\_\_ zoning districts, and shall be subject to the Uniform Code and the site plan application requirements set forth in this Section.

1. Applications for the installation of Tier 2 Battery Energy Storage Systems shall be:
  - a. Reviewed by the Zoning Enforcement Officer for completeness. An application shall be complete when it addresses all matters listed in this Local Law including, but not necessarily limited to: compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code; and matters relating to the proposed battery energy storage system and Floodplain, Utility Lines and Electrical Circuitry, Signage, Lighting, Vegetation and Tree-cutting, Noise, Decommissioning, Site Plan and Development, Special Use and Development, Ownership Changes, Safety, and Permit Time Frame and Abandonment. Applicants shall be advised within ten (10) business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
  - b. Subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town shall have a notice printed in a newspaper of general circulation in the Town at least five (5) days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within two hundred (200) feet of the property at least ten (10) days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.
  - c. Referred to the County Planning Department pursuant to General Municipal Law § 239-m if required.
  - d. Upon closing of the public hearing, the Planning Board shall take action on the application within sixty-two (62) days of the public hearing, which can include approval, approval with conditions, or denial. The sixty-two (62) period may be extended upon consent by both the Planning Board and Applicant.
2. Utility Lines and Electrical Circuitry. 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.

3. Signage.
  - a. The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.
  - b. As required by the 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.
4. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
5. Vegetation and tree-cutting. Areas within ten (10) feet on each side of Tier 2 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.
6. Noise. The one (1) hour average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of sixty (35) dB as measured at the outside wall of any non-participating residence or occupied community building. Applicants may submit equipment and component manufacturer's noise ratings to demonstrate compliance. The applicant may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.
7. Decommissioning.
  - a. Decommissioning Plan. The applicant shall submit a decommissioning plan, developed in accordance with the Uniform Code, to be implemented upon abandonment and/or in conjunction with removal from the facility. The decommissioning plan shall include:
    - i. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;
    - ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
    - iii. The anticipated life of the battery energy storage system;

- iv. The estimated decommissioning costs and how said estimate was determined;
  - v. The method of ensuring that funds will be available for decommissioning and restoration;
  - vi. The method by which the decommissioning cost will be kept current;
  - vii. The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and
  - viii. A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.
- b. Decommissioning Fund. The owner and/or operator of the energy storage system, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town for the removal of the battery energy storage system, in an amount to be determined by the Town, for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant.
8. Site Plan Application. For a Tier 2 Battery Energy Storage System requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:
- a. Property lines and physical features, including roads, for the project site.
  - b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
  - c. A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
  - d. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
  - e. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.



- f. Name, address, phone number, and signature of the project Applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.
- g. Zoning district designation for the parcel(s) of land comprising the project site.
- h. Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, Battery energy storage system commissioning shall be conducted by a New York State (NYS) Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Zoning Enforcement Officer prior to final inspection and approval and maintained at an approved on-site location.
- i. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.
- j. Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code.
- k. 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 Planning Board.
- l. Prior to the issuance of the building permit or final approval by the [Reviewing Board], but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer.
- m. Emergency Operations Plan. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:
  - i. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
  - ii. Procedures for inspection and testing of associated alarms, interlocks, and controls.

- iii. Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
  - iv. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
  - v. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
  - vi. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
  - vii. Other procedures as determined necessary by the [Village/Town/City] to provide for the safety of occupants, neighboring properties, and emergency responders.
  - viii. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.
9. Special Use Permit Standards.
- a. Setbacks. Tier 2 Battery Energy Storage Systems shall comply with the setback requirements of the underlying zoning district for principal structures.
  - b. Height. Tier 2 Battery Energy Storage Systems shall comply with the building height limitations for principal structures of the underlying zoning district.
  - c. Fencing Requirements. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a seven (7) foot high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
  - d. Screening and Visibility. Tier 2 Battery Energy Storage 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 and not interfering with ventilation or exhaust ports.
10. Ownership Changes. If the owner of the battery energy storage system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special

use permit, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the Zoning Enforcement Officer of such change in ownership or operator within thirty (30) days of the ownership change. A new owner or operator must provide such notification to the Zoning Enforcement Officer in writing. The special use permit and all other local approvals for the battery energy storage system would be void if a new owner or operator fails to provide written notification to the Zoning Enforcement Officer in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this Local Law.

**D. SAFETY.**

1. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:
  - a. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
  - b. UL 1642 (Standard for Lithium Batteries),
  - c. UL 1741 or UL 62109 (Inverters and Power Converters),
  - d. Certified under the applicable electrical, building, and fire prevention codes as required. Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.
2. Site Access. Battery energy storage 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 2 Battery Energy Storage System is located in an ambulance district, the local ambulance corps.
3. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

**E. PERMIT TIME FRAME AND ABANDONMENT.**

1. The Special Use Permit and site plan approval for a battery energy storage system shall be valid for a period of twenty-four (24) months, provided that a building permit is issued for construction and construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within twenty-four (24) months after approval, Town may extend the time to complete construction for one hundred eighty (180) days. If the owner and/or operator fails to perform substantial construction after thirty-six (36) months, the approvals shall expire.

2. The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than one (1) year. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, enter the property and utilize the available funds for the removal of a Tier 2 Battery Energy Storage System and restoration of the site in accordance with the decommissioning plan.

**ARTICLE 11. ENFORCEMENT.**

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

**ARTICLE 12. SEVERABILITY.**

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