ARTICLE 15

SOLAR ENERGY

1.Authority

Be it enacted by the Town of Augusta Town Board as follows: pursuant to §§ 261 through 265 of the Town Law and § 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the law of New York State, "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor."

2. Statement of Purpose

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

A. To take advantage of a safe, abundant, renewable and nonpolluting energy resource; B. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;

C. To increase employment and business development in the Town to the extent reasonably practical, by furthering the installation of solar energy systems;

D. To mitigate the impacts of solar energy systems on environmental resources such as important agricultural lands, forests, wildlife, viewsheds and other protected resources, and;

E. To create synergy between solar and economic revitalization, as well as the possibility of lowering utility bills for Town residents, to make the Town more resilient during storm events, to decrease dependence on the grid.

Definitions.

As used in this article, the following terms shall have the meanings indicated: BUILDING-INTEGRATED SOLAR ENERGY SYSTEM — A combination of solar panels and solar energy equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

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

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

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.

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

ROOF-MOUNTED SOLAR ENERGY SYSTEM — A solar energy system located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

SOLAR ACCESS — Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive solar energy systems on individual properties. SOLAR ENERGY EQUIPMENT — Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

SOLAR ENERGY SYSTEM — The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, solar panels and solar energy equipment. 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. A solar energy system is classified as a Tier 1, Tier 2, or Tier 3 solar energy system as follows.

C.

A.

B.

mounted solar energy systems.

Tier 1 solar energy systems include the following:

(2) Building-integrated solar energy systems.

Tier 2 solar energy systems include ground-mounted solar energy systems with system capacity up to 25 kW AC and that generate no more than 110% of the electricity consumed on the site over the previous 12 months.

(1) Roof-

Tier 3 solar energy systems are systems that are not included in the list for Tier 1 and Tier 2 solar energy systems.

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

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

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Applicability.

A. The requirements of this article shall apply to all solar energy systems permitted, installed, or modified in the Town of Augusta after the effective date of this article, excluding general maintenance and repair.

B. Solar energy systems constructed or installed prior to the effective date of this article shall not be required to meet the requirements of this article.

C. Modifications to an existing solar energy system that increase the solar energy system area or add additional site components to the original area of the solar energy system shall be subject to site plan approval.

D. All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code"), the NYS Energy Conservation Code ("Energy Code"), and the Town of Augusta Code.

General requirements.

A. A Building permit shall be required for installation of all solar energy systems.

B. Local land use boards are encouraged to condition their approval of proposed developments on sites adjacent to solar energy systems so as to protect their access to sufficient sunlight to remain economically feasible over time.

C. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (SEQRA)].

D. The NYS Unified Solar Permit, which is attached, shall be required to be filled out before any building or zoning permit will be issued.

E. The permitting fee for Tier 1 and Tier 2 solar energy systems shall be $50. The permitting fee for Tier 3 solar energy systems shall be $1,500, plus the reasonable cost of the reviewing board's outside consultant fees (engineering, surveying, legal, etc.).

Permitting requirements for Tier 1 solar energy systems.

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

A. Roof-mounted solar energy systems.

(1) Roof-mounted solar energy systems shall incorporate, when feasible, the following design requirements:

(a) Solar panels on pitched roofs shall be mounted with a maximum distance of eight inches between the roof surface the highest edge of the system. (b) Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

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

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

(2) Glare: All solar panels shall have anti-reflective coating(s).

(3) Height: All roof-mounted solar energy systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

B. Building-integrated solar energy systems shall be shown on the plans submitted for the building permit application for the building containing the system.

Permitting requirements for Tier 2 solar energy systems.

All Tier 2 solar energy systems shall be permitted in all zoning districts as accessory structures on parcels larger than two (2) acres and shall be exempt from site plan review under the local zoning code or other land use regulations, subject to the following conditions:

A. Glare: All solar panels shall have anti-reflective coating(s).

B. Setbacks: Tier 2 solar energy systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Tier 2 ground-mounted solar energy systems shall only be installed in the side or rear yards.

C. Height: Tier 2 solar energy systems shall be subject to the height limitations specified for accessory structures within the underlying zoning district.

D. Screening and visibility.

(1) All Tier 2 solar energy systems shall have views minimized from adjacent properties to the extent reasonably practicable.

(2) Solar energy equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the

north, while still providing adequate solar access.

E. Lot Size: Tier 2 solar energy systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

Permitting requirements for Tier 3 solar energy systems.

Tier 3 solar energy systems are conditionally permitted through the issuance of a special use permit within the A-1 Agricultural zoning district, and subject to site plan application requirements set forth in this section.

A. Applications for the installation of a Tier 3 solar energy system shall be:

(1) Reviewed by the Town Code Enforcement Officer for completeness. Applicants shall be advised within 20 business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

(2) Subject to a public hearing to hear all comments for and against the application, The Zoning Board of Appeals of the Town of Augusta shall have a notice printed in a newspaper of general circulation in the Town at least five days in advance of such hearing. The secretary to the Zoning Board of Appeals shall send notice by certified mail to all landowners within 1,500 feet of the property at least five days prior to such a hearing.

(3) Referred to the Oneida County Department of Planning pursuant to General Municipal Law § 239-m if required.

(4) Upon closing of the public hearing, the Zoning Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The sixty-two-day period may be extended upon consent by both the Zoning Board and applicant.

B. Underground requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation anypoles, with new easements and right-of-way.

C. Vehicular paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

D. Signage.

(1) No signage or graphic content shall be displayed on the solar energy systems except the manufacturer's name, equipment specification information, safety information, and twenty-four-hour emergency contact information. Said information shall be depicted within an area no more than eight square feet.

(2) As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

E. Glare. All solar panels shall have anti-reflective coating(s).

F. Lighting. Lighting of the solar energy systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from

abutting properties.

G. Tree-cutting. Removal of existing trees larger than four (4) inches in diameter should be minimized to the greatest extent possible. Clear cutting of forested land for solar energy systems shall be prohibited.

H. Decommissioning.

(1) Solar energy systems that have been abandoned and/or not producing electricity for a period of one year shall be removed at the owner's and/or operator's expense, which at the owner's option may come from any security made with the Town as set forth in Section 10(b)[1] herein.

(2) A decommissioning plan signed by the owner and/or operator of the solar energy system shall be submitted by the applicant, addressing the following: (a) The cost of removing the solar energy system.

(b) The time required to decommission and remove the solar energy system and any ancillary structures.

(c) The time required to repair any damage caused to the property by the installation and removal of the solar energy system.

(3) Security.

(a) The deposit, executions, or filing with the Town Clerk bond, or other form of security reasonably acceptable to the Town attorney and/or engineer shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The site must be returned to pre-construction condition. The amount of the bond or security shall be 125% of the cost of removal of the Tier 3 solar energy system and restoration of the property with an escalator of 2% annually for the life of the solar energy system. The security required shall name both the Town of Augusta and the property owner where the facility is located. The owner of the facility shall provide bond certification notice annually that shall include the current site owners contact information to the Town of Augusta Clerk's Office.

(b) In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

(c) In the event of default or abandonment of the solar energy system, the system shall be decommissioned as set forth in Section 10(b) and 10(c) herein.

(4) Temporary Access Easement

(a) The property owner shall provide a temporary access easement to the Town Of Augusta and it's agents if the owner of the project fails to complete the work required to decommission the facility as required.

I. Site plan application. For any solar energy system requiring a special use permit, site plan approval shall be required. Any site plan application shall include the following

information:

(1) Property lines and physical features, including roads, for the project site.

(2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.

(3) A one- or three-line electrical diagram detailing the solar energy system layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.

(4) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

(5) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the solar energy system. Such information of the final system installer shall be submitted prior to the issuance of building permit.

(6) Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the solar energy system.

(7) Zoning district designation for the parcel(s) of land comprising the project site. (8) Property operation and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

(9) Erosion and sediment control and stormwater management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.

(10) Prior to the issuance of the building permit or final approval by the Planning Board, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

J. Special use permit standards.

(1) Lot size.

(a) The property on which the Tier 3 solar energy system is placed shall be more than fifty (50) acres.

(2) Setbacks.

(a) The Tier 3 solar energy systems shall be set back a minimum of 200 feet from the center of the roadway, and 100 feet from the rear and side property lines unless full visual screening is provided with consideration being given to allow remaining portions of the parcel to remain as productive agricultural lands.

(3) Height.

(a) The Tier 3 solar energy systems shall comply with the building height limitations for principal structures of the underlying zoning district.

(4) Lot coverage. The following components of a Tier 3 solar energy system shall be considered included in the calculations for lot coverage requirements:

[1] All area cover by the perimeter of the solar panel footprint.

[2] All mechanical equipment of the solar energy system, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.

[3] Paved access roads servicing the solar energy system.

(5) Fencing requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a seven-foot high fence, as required by NEC, with a self-locking gate to prevent unauthorized access. The reviewing Board may require the fence to be a "no sight" fence.

(6) Screening and visibility.

(a) Solar energy systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.

(b) Solar energy systems larger than five acres shall be required to:

[1] Conduct a visual assessment of the visual impacts of the solar energy system on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, shall be required to submitted by the applicant.

[2] Submit a screening and landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of solar panels and solar energy equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.

(7) Agricultural resources. For projects located on agricultural lands:

(a) Tier 3 solar energy system owners shall develop, implement, and Maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing a native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

(a) Tier 3 solar energy systems shall to the greatest extent possible be sited to preserve prime agricultural soil on the parcel.

(8) Existing driveways shall be used for site access to the greatest extent possible. Access drives leading from a public highway to any gate or fence securing the site shall allow sufficient room for at least one full size pickup tuck vehicle to stop and park entirely off the public highway right-of-way before entering the gated portion of the site. Driveway surfaces shall remain unpaved and pervious to the penetration of rainwater. In the case of constructing any roadways necessary to access the solar farm, they

shall be constructed to a sufficient width that allows for the passage of emergency vehicles in the event of an emergency. Each application shall be accompanied by correspondence from the fire department and emergency care provider with primary jurisdiction over the site as to the acceptability of the proposed ingress and to egress from the solar farm site.

Safety

A. Solar energy systems and solar energy equipment shall be certified under the applicable electrical and/or building codes as required.

B. Solar energy systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 solar energy system is located in an ambulance district, the local ambulance corps.

C. If storage batteries are included as part of the solar energy system, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town of Augusta and any applicable federal, state, or county laws or regulations.

Permit time frame and abandonment.

A. The special use permit and site plan approval for a solar energy system shall be valid for a period of 18 months, provided that a building permit is issued for construction or construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 18 months after approval, the applicant or the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 24 months, the approvals shall expire.

B. Upon cessation of electricity generation by a solar energy system on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the solar energy system to implement the decommissioning plan. The decommissioning plan must be completed within 360 days of notification.

C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the solar energy system and restoration of the site in accordance with the decommissioning plan. Further, the Town may perform the decommissioning itself, and recover all costs of such decommissioning, including reasonable attorneys' fees. If necessary the Town's costs will be recoverable against the owner of the land (including as a tax lien) and the operator of the solar array, on a joint and several liability basis.

D. If the owner or operator of the solar energy system changes or the owner of the real 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

solar energy system shall notify the zoning enforcement officer of such changes in ownership or operator within 30 days of the ownership change.

Enforcement.

Any violation of this article shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town of Augusta and the State of New York.

Severability.

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the 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.

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