**TOWN OF MINA**

**LOCAL LAW NO. 6 OF 2024**

**A LOCAL LAW CREATING NEW REGULATIONS FOR SOLAR ENERGY SYSTEMS**

Be it hereby enacted by the Town of Board of the Town of Mina, County of Chautauqua, and State of New York, as follows:

## SECTION 1. TITLE AND AUTHORITY.

This Local Law shall be referred to as "Solar Energy Systems" and shall repeal and replace Local Law No. 1 of 2023, titled "Solar Energy Systems Regulations".

This local law is adopted pursuant to the authority granted by sections 261-263 of Town Law and section 20 of the Municipal Home Rule Law of the State of New York, and:

1. Article IX of the New York State Constitution, §§ 1(a), 2 (c), and 3(c).);
2. New York Statute of Local Governments, §10(1), (5), (6) and (7);
3. New York Municipal Home Rule Law, §10(1)(i) and (ii) and §10(1)(a), (11), (12), and (14);
4. New York Town Law §130 (11) (peace, good order and safety), (15) (promotion of public welfare); and
5. New York Town Law §64(17-a) (protection of aesthetic interests), (23) (general powers).

## SECTION 2. PURPOSE

The Purpose of this law shall be to provide substantive and procedural standards for the siting, development, operation, and decommissioning of Solar Energy System in the Town of Mina. The Town Board of the Town of Mina hereby amends the Town of Mina's Zoning Law with this Solar Energy Systems Law to ensure any use of the Town's solar energy resource is considered for approval in a manner compatible with the Town's most current Comprehensive Plan and Zoning Law.

Through this law, the Town of Mina intends to minimize the potential adverse impacts of Solar Energy Systems to public health, safety, ground water, water supply, the environment, and the Town's community character and history.

The Town further finds that appropriate siting of Solar Energy Facilities, in a manner compatible with the Town's Comprehensive Plan objectives and vision of preserving its natural, historical, and cultural assets, along with sustaining its valuable economic and natural resources, particularly agricultural land use, open spaces, natural habitats, wetlands, and watersheds, is effectuated through this law.

## SECTION 3. DEFINITIONS

**Definitions.** As used in this Section, the following terms shall have the meaning indicated:

BATTERY ENERGY STORAGE SYSTEM (BESS): One or more devices, assembled, capable of storing energy to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. See the Town of Mina Battery Energy Storage System Law (to be adopted).

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: A solar energy system that consists of integrating photovoltaic modules into the building structure. Technologies include PV shingles or tiles, PV laminates, and PV Glass. Examples of placement include vertical facades, semi-transparent skylights, awnings, fixed awnings, and roofs.

FACILITY AREA: The cumulative land area occupied during the commercial operation of the solar energy generating facility. This shall include all areas and equipment within the facility's perimeter boundary including the solar energy system, onsite interconnection equipment, onsite electrical energy storage equipment, and any other associated equipment as well as any site improvements beyond the facility's perimeter boundary such as access roads, permanent parking areas, or other permanent improvements. The facility area shall not include site improvements established for impact mitigation purposes, including but not limited to vegetative buffers and landscaping features.

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., which may result from solar installations.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure (In Mina, they can be Tier 2, 3 or 4 systems).

KILOWATT (KW) AND MEGAWATT (MW): A unit of power. KW is equal to 1,000 watts of power. MW is 1,000 KW or a million watts of power.

NATIVE PERENNIAL VEGETATION: Wildflowers, grasses, or other native vegetation that serve as habitat, forage, or migratory stations. Such vegetation may be used to preserve land erosion or provide aesthetics to solar installations.

PRIME FARMLAND: soils classified by the NYS Department of Agriculture and Markets Agricultural Land Classification as mineral soils groups 1 through 4, prime farmland, and prime farmland if drained.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system in which solar panels are mounted on top of the structure of a roof either as a flush mounted system or as modules fixed to frames which can be tilted toward the sun at an optimal angle. Roof mounted systems shall be located on a roof of a permitted principal use or accessory structure (In Mina, they are typically Tier 1 systems).

SETBACK: Setbacks, for the purposes of ground mounted systems, shall be calculated from the fence line to any property line or designated item in the code (wells, structures, etc.).

SOLAR ACCESS: Space open and clear of overhangs, trees, shade, or other obstructions to permit the active use of solar energy systems on individual properties.

SOLAR ENERGY EQUIPMENT: Energy storage devices, materials, hardware, or electrical equipment and conduit associated with the production of electrical energy.

SOLAR ENERGY PRODUCTION FACILITY: Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

SOLAR ENERGY SYSTEM: Includes a combination of both solar panels and solar energy equipment. A Energy system in Mina can be defined as follows:

TIER 1 – rooftop, building mounted, or building integrated solar energy system – limited to 110% of electricity needed on site (as shown by the applicant and per NYSERDA rules).

TIER 2 – ground mounted solar energy system that is an accessory use – limited to 110% of electricity needed on site (as shown by the applicant and per NYSERDA rules).

TIER 3 – "community scale" solar project up to 10 acres in size designed and intended to supply energy primarily into a utility grid for sale (as measured by the fenced-in area).

TIER 4 – utility scale solar. Any solar energy system that is 10 acres or more in size (as measured by the fenced-in area), that cumulatively on a lot is designed and intended to supply energy primarily into a utility grid for sale or does not meet the definition of a Tier 1, Tier 2 or Tier 3 solar energy system.

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

## SECTION 4. APPLICABILITY AND GENERAL REQUIREMENTS.

1. The requirements of this Section shall apply to all Solar Energy Systems installed or modified after the effective date of the local law by which it was adopted, excluding general maintenance and repair. It also will not apply to single pole mounted panels (less than 4 SF) that are used at boat docks or residential homes to charge small batteries. In addition, this law shall apply to all applications related to Solar Energy Systems pending before the Town Board, Planning Board, or Zoning Board of Appeals as of the effective date of this law, including any applications subject to any local moratorium on the review or processing of such applications.

2. All Solar Energy Systems shall be designed, erected and installed or modified in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Fire Protection and Building Code and the Town Code as well as the National Electrical Code (NEC), National Fire Protection Code 70 (NFPA 70), and local and NYS regulations.

3. Under SEQRA regulations, actions are classified as Type I, Type II, or Unlisted Actions. Type II Actions are exempt from review and include actions such as the construction, expansion or placement of minor or accessory structures. The Town of Mina considers building-integrated solar components and small-scale systems to be Type II Actions and therefore exempt from all SEQRA requirements, including the submission of an EAF (Environmental Assessment Form). Large-scale systems, utility-scale systems, and solar energy production facilities that meet thresholds contained in the SEQRA regulations and are considered more likely than others to have a significant adverse impact shall be considered Type I Actions. However, the need for a complete Environmental Impact Statement (EIS) shall be determined by the permitting board on a case-by-case basis in accordance with the significance of the potential adverse environmental impact.

4. All applications for solar projects shall include the appropriate application fee as determined by the Town, as set by resolution of the Town Board.

5. Electrical Inspection. All solar energy systems/installations will require approval by a certified electrical inspector prior to use.

6. Fire Service Notice. Notification in writing to the Fire Department having operational authority at the location where the system is installed shall be made no later than 10 days following installation or as prescribed later in this law. Notification shall include a site map showing the location of the solar energy electrical panel as well as other information concerning the operation and shutdown of the solar energy system and posting of that information (full requirements to be provided at building permit application, including roof load bearing information, if applicable).

7. Abandonment or Disuse. The property owner or homeowner bears full responsibility for all costs associated with the dismantling and proper disposal of any solar energy system that becomes unsafe, goes into disuse, and/or is abandoned. See the Decommissioning section of this law for requirements for larger systems.

**SECTION 5. TIER 1: SOLAR AS AN ACCESSORY USE/STRUCTURE.**

This section governs the placement and installation of smaller scale rooftop, building integrated or building mounted solar energy systems (Tier 1) as defined herein. The installation of these smaller scale solar energy systems does require the applicant to obtain a building permit from the Town of Mina.

1. Roof-mounted systems – Tier 1 Systems.

   Roof-mounted (Tier 1) systems are permitted as an accessory use in all zoning districts, except the B1 Historic Business District, when attached to a lawfully permitted principal structure and/or accessory structure, subject to the following requirements:

   (1) Height. Solar energy systems shall not exceed maximum height restrictions within any zoning district and are provided the same height exemptions granted to building- mounted mechanical devices and equipment.

   (2) Setback. Solar energy systems are subject to the setback requirements of the underlying zoning district (including any special lot requirements, if applicable).

   (3) Aesthetics. Solar energy equipment shall incorporate the following design requirements:

      [1] Solar energy equipment shall be installed outside the primary residence or accessory structure and as close to a public utility electrical meter as possible.

      [2] Roof-mounted panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system (or as required by the Building Code). Panels cannot exceed a height of 30 feet in accordance with the Town Zoning Code.

      [3] Access and Pathways (NFPA Section 324.7 or the current requirement section of that code): Roof access, pathways, and spacing requirements for solar photovoltaic systems shall be provided in accordance with NFPA Sections R324.7.1 through R324.7.6, or most recent standards.

EXCEPTIONS:

i. Roof access, pathways and spacing requirements need not be provided where an alternative ventilation method has been provided, or where vertical ventilation techniques will not be employed.

ii. Detached garages and accessory units.

[4] Size of solar photovoltaic array (324.7.1). Each photovoltaic array shall not exceed 150 feet in any direction.

[5] Roof Access Points (324.1.2). Roof access points shall be located:

i. In areas that establish access pathways which are independent of each other and as remote from each other as practicable so as to provide escape routes from all points along the roof.

ii. In areas that do not require the placement of ground ladders over openings such as windows or doors or areas that may cause congestion or create other hazards.

iii. At strong points of building construction, such as corners, pilasters, hips, and valleys and other areas capable of supporting the live load from emergency responders.

iv. Where the roof access point does not conflict with overhead obstructions such as tree limbs, wires or signs.

v. Where the roof access point does not conflict with ground obstructions such as decks, fences, or landscaping.

vi. In areas that minimize roof tripping hazards such as vents, skylights, satellite dishes, antennas, or conduit runs.

[6] Ground access areas (324.7.3). Ground access areas shall be located directly beneath access roofs and roof access points. The minimum width of the ground access area shall be the full width of the access roof or roof access point, measured at the eave. The minimum depth shall allow for the safe placement of ground ladders for gaining entry to the access roof.

[7] Single ridge roofs (324.7.4). Panels, modules or arrays installed on roofs with a single ridge shall be located in a manner that provides two (2), 36 inches wide (914mm) access pathways extending from the roof access point to the ridge. Access pathways on opposing roof slopes shall not be located along the same plane as truss, rafter, or other such framing system that supports the pathway.

EXCEPTIONS:

i. Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) and less.

ii. Structures where an access roof fronts a street, driveway, or other area readily accessible to emergency responders.

iii. One access pathway shall be required when a roof slope containing panels, modules or arrays is located not more than 24 inches (610 mm) vertically from an adjoining roof which contains an access roof.

[8] Hip roofs (324.7.5). Panels, modules, and arrays installed on dwellings with hip roofs shall be located in a manner that provides a clear access pathway not less than 36 inches (914mm), extending from the roof access point to the ridge or peak, on each roof slope where panels, modules or arrays are located.

EXCEPTIONS:

i. Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) or less.
ii. Structures where an access roof fronts a street, driveway or other area readily accessible to emergency responders.

[9] Roofs with valleys (324.7.6), Panels and modules shall not be located less than 18 inches (457 mm) from a valley.

EXCEPTIONS:

i. Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) or less.

[10] Allowance for smoke ventilation operations (324.7.7). Panels and modules shall not be located less than 18 inches (457 mm) from a ridge or peak.

EXCEPTIONS:

i. Where an alternative ventilation method has been provided or where vertical ventilation methods will not be employed between the uppermost portion of the solar photovoltaic system and the roof ridge or peak.
ii. Detached garages and accessory structures.
iii. Notification to the Fire Service. Notification in writing to the Fire Department having operational authority at the location where the system will be installed shall be made no later than 10 (ten) days following installation:

[11] Notification shall include a site map showing the location of the solar energy electrical panel, as well as the proper operation of the disconnect switch(s) in the event of a fire or other emergency situation where the homeowner, tenant or other personnel is not available or familiar with the safe shut down operation of unit so as to have the ability to cut power from the solar panels.

[12] In addition a proper written statement showing the method of shut down shall be posted inside the main electrical panel of the unit which can be readily accessible for and to firefighting personnel.

i. Roof mounted solar panels must be positioned to avoid glare which interferes with other properties or restricts views.

ii. Roof mounted panels shall have non-hazardous anti-reflective coating and, in the event that the replacement of a panel is necessary, it shall also have non-hazardous anti-reflective coating.

**SECTION 6. TIER 2: GROUND MOUNTED SYSTEMS (SMALL-SCALE GROUND SOLAR).**

1. Ground mounted Tier 2 solar energy systems are permitted as an accessory use/structure in all zoning districts except the R-1, R-2 and B1 districts, and are subject to site plan approval and the requirements set forth in this section.

2. All Tier 2 ground-mounted solar panels shall be installed in the rear yard. Ground-mounted solar energy systems are not permitted in the front yard. Any application for installation and placement of a small-scale solar energy system under this section that requires a side yard location shall require an application containing a site plan showing the location of all solar energy system components, their location on the premises, their location on the premises in relation to the property line and any and all structures on the premises, and the nearest structure located on the premises adjacent thereto, and any other information requested by the Zoning Board of Appeals. The Zoning Board of Appeals in allowing this side yard installation may require additional screening or other requests or can deny this request.

3. Setback(s). Ground mounted solar panels are subject to setback requirements of the underlying zoning district, and if applicable, other requirements such as for special lots (corner, etc.). In no case, shall the setback from a property line be less than 25 feet.

4. Height. Solar panels are restricted to a height of fifteen (15) feet. All height measurements are to be calculated when the solar energy system is oriented at maximum tilt.

5. Lot Coverage. The surface area (facility area) of ground mounted solar panels shall be included in lot coverage and impervious surface calculations. The total lot coverage shall not exceed thirty-five percent (35%), accounting for all other impervious surfaces on the lot, such as buildings and driveways.

6. Glare. All Solar Panels shall have a non-hazardous anti-glare coating to prevent glare. Proof of such shall be provided during any approval process and at time of permit application.

7. The site plan for such installation shall be reviewed by the Zoning Board of Appeals and shall be approved by a majority thereof.

**SECTION 7. TIER 3 AND TIER 4: SOLAR AS PRINCIPAL USE.**

Larger-scale (Tier 3) and utility-scale (Tier 4) solar energy systems are permitted by the issuance of a special use permit by the Mina Town Board within the A1 (Agricultural) District, subject to the restrictions and requirements as set forth in this section. In order to ensure that the benefits of the project are available to the entire community, the Town of Mina requires the applicant for a large-scale or utility-scale solar energy system to enter into a Host Community Agreement with the Town.

1. Restrictions.

   (1) Large-scale solar energy systems shall not be located in the following areas:

[1] Within 500 feet of County Touring Route 1/Route 426 and Route 430.
[2] Within 500 feet of Ball Diamond Road.
[3] Within 1000 feet of the boundary of Findley Lake and any sewer district.
[4] In areas with slopes greater than ten percent (10%).
[5] within 500 feet of a designated stream, creek, or river shown on a U.S. Geological Survey map or a NYS-regulated wetland.

(2) Utility-scale solar energy systems shall not be located in the following areas:
[1] Within 1,000 feet of County Touring Routes 1/Route 426 and Route 430.
[2] Within 1,000 feet of Ball Diamond Road.
[3] Within 2,000 feet of the boundary of Findley Lake and any sewer district.
[4] In areas with slopes greater than ten percent (10%)
[5] Within 500 feet of a designated stream, creek, or river shown on a U.S. Geological Survey map or a NYS-regulated wetland.

2. General Requirements

(1) Every application for a large-scale or utility-scale solar energy system within the Town of Mina shall be made to the Town Board and shall be approved by a majority vote thereof.

(2) Prior to Town Board review of the application it may refer said application to the Zoning Board of Appeals for site plan review, report and recommendation for approval or disapproval and input on SEQR.

(3) The Town Board shall hold a public hearing upon ten (10) days' notice duly posted and published in the official newspaper of the Town and on the Town bulletin board, before granting the special use permit. This hearing shall take place after the Zoning Board of Appeals issues their report.

(4) Once the Town Board makes a final SEQR decision and if the special use permit is approved, the project will return to the Zoning Board of Appeals for final conditional site plan review and approval.

(5) On applying for a building/site development permit for the project, the applicant/developer shall present final design plans and other SUP requirements to the Town for review for conformance to the SUP and its conditions, and site plan approvals and conditions. No building/site development permit shall be issued until the project is shown to meet all the SUP and site plan requirements, has received all other regulatory approvals and meets other requirements of the Town.

3. Special Use Permit Application Requirements. Every application for a Special Use Permit under this section shall contain the following information:

(1) A completed proposed draft of the applicable State Environmental Quality Review Act (SEQRA) form (typically a FEAF).

(2) Verification of utility notification. Foreseeable infrastructure upgrades shall be documented and submitted. Off-grid systems are exempt from this requirement.

(3) Name, address, and contact information of the applicant, property owner(s) and agent submitting the proposed project application.

(4) If the property of the proposed project is to be leased, legal consent among all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, and identifying the party primarily responsible for paying any property taxes, Host community agreement or penalties attributable to the project.

(5) Technical drawings signed by a NYS Professional Engineer, showing the layout of the proposed solar energy system, including proposed access roads, landscaping, and screening (see site plan requirements).

(6) Equipment specification sheets for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

(7) A property operation and maintenance plan describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, and maintenance of landscaping, fencing and other screening components, etc.

(8) A decommissioning plan (completed by a licensed engineer and signed by the engineer and owner/operator):

[1] To ensure the proper removal of large-scale and utility scale systems, the decommissioning plan shall include details regarding the removal of all infrastructures and the remediation of soil and vegetation back to its original state prior to construction, unless otherwise permitted. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a Professional Engineer or contractor. Cost estimates shall take inflation into account and not reflect any salvage value. *In the case of a lease, the cost of decommissioning shall be borne by the entity or corporation that is leasing the property in question and not the landowner.*

[2] A form of decommissioning security acceptable to the Town, through escrow, letter of credit, bond or the equivalency of, shall be established during the special use permit process and must be in place prior to the commencement of construction to cover the cost of decommissioning the site. After completion of the project, the escrow, bond or equivalency of, shall be renewed on a determined schedule, adjusted for inflation and based on updated cost estimates. The amount of surety required shall be a minimum of 125 percent of the estimated cost to decommission (not allowing for recycle value). This decommissioning security shall be revisited a minimum of every 5 years or at times of bond renewal. The revisiting will take into consideration inflation and other cost increases.

[3] If the solar energy system fails or falls into disuse or abandonment (as defined by this Code), the Town of Mina may immediately liquidate the escrow to decommission the facility.

(9) Stormwater management and erosion and sediment control plans in accordance with New York State and Local requirements. Special requirements (stricter standards; especially during construction) may be added for projects within the Findley Lake Watershed Area.

(10) A lighting plan. Lighting of the solar energy system shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast (dark sky compliant) from adjacent properties.

(11) Information on any noise impacts on surrounding homes or other sensitive receptors. The 1-hour average noise generated from the solar energy system shall not exceed 45 decibels, as measured from the property line. If the applicant controls multiple, contiguous parcels, only the exterior boundary of the aggregated parcels shall be considered the "property line" for purposes of measuring noise.

(12) An assessment of the visual impacts of the solar energy system (including any above grade poles) on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis must be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including, for example, a digital viewshed report, may be required.

(13) An economic impact analysis, if the solar energy system meets the definition of a utility-scale Tier 4 system. The economic impact analysis will be used to determine the effect that the system will have on the economy of the Town, including factors related to commerce, employment, housing, transportation, tourism, education, environmental protection, municipal services, revenues, and taxation.

(14) An emergency operations plan must be submitted at the time of application. This plan shall address the issues in the Town's guidance document (available through the Town) and any additional items that are requested by the Zoning Board and Town Board. The Zoning Board will receive input from emergency service providers and others as deemed necessary. If approved, 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.

Prior to beginning operation of the facility, the owner shall schedule a day for training for the fire department and emergency service providers. At that training, keys/access codes shall be provided to the emergency service providers for accessing the facility.

(15) A site plan in accordance with the Town of Mina's site plan requirements and drawn in sufficient detail as follows:

[1] Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposal 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 sites involved, and utility lines, both above and below ground, on the site and adjacent to the site; and

[2] A landscape plan signed by a professional Landscape Architect, including the type of planting under the panels (and a reasoning for its selection); and

[3] Property lot lines and the location and dimensions of all existing structures and uses on site within 500 feet of the solar panels, and the zoning of the site and surrounding properties; and

[4] Proposed fencing and/or screening for said project.

(16) Information on the equipment to be installed, including the requirement that the system components not contain any hazardous substances.

(17) Information on the environmental and cultural resources (as identified through the NYSDEC Mapping system and by the Town of Mina) on the subject property and surrounding properties.

(18) Elevations showing the front and side view of all components of the solar energy system (panels, inverters, interconnection poles, etc.).

(19) Any such additional information as may be required by the Town's professional engineer or consultant, Town of Mina Zoning Board of Appeals, Town Board, Town Attorney, or Code Enforcement Officer.

(20) Information on soils, lot coverage, etc. illustrating how the project meets the requirements of this law.

4. Special Use Permit Standards for Tier 3 and 4 Solar Energy Systems

(1) All large-scale (Tier 3) and utility-scale (Tier 4) solar energy systems shall be set back a minimum of 200 feet from any non-participating property line, 50 feet from a participating property line, 250 feet from any road right of way, and a minimum of 500 feet from any residential building, school, place of public worship. or designated historic district or landmark (as measured from the closest fenced area). The system shall also be a minimum of 500 feet from any water well on adjacent properties. If the applicant controls multiple, contiguous parcels (participating properties), only the exterior boundary of the aggregated parcels shall be considered the "property line" for purposes of determining setbacks.

(2) All larger-scale (Tier 3) and utility-scale (Tier 4) solar energy systems shall be enclosed by fencing to prevent unauthorized access. Warning signs shall be placed on the entrance and perimeter of the fencing. The height and type of fencing shall be determined by the site plan review process, blend into the character of the area, and meet applicable NYS codes and requirements. In areas with large deer populations, an eight-foot fence may be necessary. In areas of important habitats or species, the NYSDEC may require a gap at the bottom of the fence.

(3) All larger-scale and utility-scale solar energy systems shall have views minimized from adjacent properties and roadways using landscaping that shall, at a minimum, be comprised of evergreen/coniferous trees, at least eight (8) to ten (10) feet in height at the time of planting (depending on site conditions and the results of the visual impact assessment) and at the recommend spacing for the tree species. It is a preference that existing trees and vegetation be preserved to help screen the project (layouts should try and accomplish this, if applicable). New trees to be planted may need to be planted in a staggered, "zig-zag" pattern to maximize screening. Supplemental deer-resistant shrubs are to be planted between the evergreen/coniferous trees at the reasonable discretion of the Town Board. Use of multiple species is encouraged to **prevent** disease and contribute to a more naturalistic aesthetic. In some cases, existing vegetation located on participated properties may be used to satisfy all or a portion of the required landscaped screening. Berms can also be utilized (but not preferred) to reduce the heights of proposed plantings, but the berms must not interfere with site drainage and must be properly designed to maintain vegetation. Suitable tree and shrub species are to be determined by a professional arborist and approved by the Town. All plantings shall be maintained in accordance with the approved property operation and maintenance plan and must be replaced if dead or diseased for the life of the permit.

(4) On-site electrical interconnection lines and distribution lines shall be placed underground, unless otherwise required by the utility. For poles that are required, they must be placed a minimum of 100 feet from an adjoining non-participating property line.

(5) The removal of trees six (6) inches or more in diameter at breast height shall not exceed 10% of the project area, or five acres, whichever is less. The removal of shrubs, underbrush, and trees under three (3) inches in diameter at breast height shall be limited to the extent necessary for the construction and maintenance of the solar installation. Plans submitted should clearly indicate tree locations and those to be removed (clearing limit).

(6) Deforestation Mitigation: In accordance with the restrictions set in Section (e), forested sites shall not be deforested, and sites deforested less than five years before application submittal shall not be used to construct Solar Energy Systems, unless the applicant offsets the adverse impact of deforestation through conservation of the same amount of existing similar habitat, or creation of the same number of new sites to host similar habit ("Conserved Forest Habitat"). Conserved Forest Habitat created pursuant to this section shall be permanently conserved through creation of public parkland with covenants prohibiting deforestation and requiring the land to be kept in a natural, forested state, or by creation of a conservation easement held by an entity other than the applicant, and with restrictions requiring the land to be kept in a natural, forested state, or by any other means of permanent conservation acceptable to the Town. The Town may, but is not required to, hold any real property interest created pursuant to this section. Conserved Forest Habitat shall be located within the Town of Mina.

(7) Forest Buffer: when the site contains or is surrounded by existing forest, a buffer of at least 50 feet of forest on the participating parcel where no trees shall be cut shall be established and maintained as a forested zone for the life of the facility. The exception to this shall be dead or diseased trees, which will be cut and removed to encourage healthy growth of existing trees.

(8) The height of a larger-scale or utility-scale solar energy system shall not exceed 20 feet when oriented at maximum tilt. Heights up to 30 feet would be allowed for projects that will have farming under the panels.

(9) Tier 3 and Tier 4 Solar Energy Systems shall not result in conversion of more than 10% of soils classified by the NYS Department of Agriculture and Markets Agricultural Land Classification as mineral soils groups 1 through 4, prime farmland, and prime farmland if drained. All Solar Energy Facilities shall also adhere to the Department of Agriculture and Markets' Guidelines for Construction Mitigation for Agricultural Lands. Converted farmland includes both prime farmland inside any perimeter fencing associated with Tier 3 or 4 facilities, and any adjacent prime farmland on the same parcel as the fencing that is no longer suitable for farming because of the Tier 3 or 4 facility.

(10) To offset or mitigate the adverse impact of using high quality soils for a non-agricultural purpose, and/or as required by New York Public Service Law Section 138(4), any Solar Energy Facility sited on soils classified by the NYS Department of Agriculture and Markets' Agricultural Land Classification as mineral soils groups 1 through 4, prime farmland, and/or prime farmland if drained, shall (1) prepare and carry out an agricultural co-utilization plan acceptable to the Town; and (2) permanently conserve an equal amount of soils classified by the NYS Department of Agriculture and Markets' Agricultural Land Classification as mineral soils groups 1 through 4, prime farmland, and/or prime farmland if drained, located in the Town of Mina, in a manner acceptable to the Town.

(11) All components of a large-scale or utility-scale solar energy system shall not contain any hazardous materials that could contaminate soils or the air by their release, including but not limited to lead, cadmium, and PFAS substances. Proof of such shall be submitted at time of application and at time of building permit application. Any proposed changes to the system components including the addition of any anti-glare materials after construction will require coordination with the Town's Building Department and may require return to the Town Board for evaluation of the SUP.

(12) Access roads must meet applicable NYSDEC requirements for limited use pervious access roads and provide adequate access for emergency vehicles (H20 loading; sufficient width, turnarounds, and/or pull-offs). This includes extending access roads to allow emergency responders to respond to medical emergencies or fires throughout the site. The applicant must provide written documentation that the applicable emergency service providers have reviewed and approved the type and location of the proposed access roads.

(13) No signage or graphic content shall be displayed on the solar energy system components, except for the manufacturer's name, equipment specification information, safety information, and 24-hour contact information. All other information/signage as required by the National Electric Code.

**SECTION 8. OWNERSHIP CHANGES.**

1. If the owner of the solar energy 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, HCA, and decommissioning plan. A new owner or operator of the solar energy system shall notify the Town Code Enforcement Officer of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification to the Town Code Enforcement Officer in writing. The special use permit and all other local approvals for the solar energy system would be void if a new owner or operator fails to provide written notification to the Town Code 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.

2. Any changes or alterations post-construction to a large-scale or utility-scale solar energy system shall be allowed only by amendment to the special use permit and/or site plan (if required) subject to all requirements of this Code.

**SECTION 9. SOLAR STORAGE BATTERIES.**

1. If solar storage batteries are included as part of the Solar Energy Collection system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code. All solar storage batteries, their maintenance, placement, and location shall also comply with all applicable rules and regulations as promulgated by New York State Building and Fire Code and the National Electric Code.

2. When batteries are no longer in use, they shall be disposed of in accordance with the laws of the State of New York and any applicable Federal or Local disposal rules or regulations.

3. See the Town of Mina's Battery Energy Storage System Law for additional requirements and restrictions.

**SECTION 10. MAINTINENCE AND PROCEDURES.**

1. Time limit on completion: Upon the granting of a special use permit for a large-scale or utility-scale solar energy system, the building permit shall be obtained within twelve (12) months and the project shall be completed within twenty-four (24) months of the granting of the special use permit. If not constructed, the special use permit and site plan approval and building permit shall require new review and approval.

2. Inspections: Upon reasonable notice, the Town of Mina Building Inspector or his or her designee may enter a lot on which a solar energy system has been approved for the purpose of ensuring compliance with any requirements or conditions. Twenty-four hours' advance notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. The applicant/operator shall authorize and cooperate in such inspection. Furthermore, a large scale or utility-scale solar energy system shall be inspected annually or at any other time deemed necessary by the Town's Building Inspector by a New-York-State-licensed professional engineer that has been approved by the Town. Any fee or expense associated with this inspection shall be borne entirely by the permit holder.

3. General complaint process: During construction, the Town Building Inspector can issue a stop order at any time for any violations of the special use permit or building permit. After construction is complete, the permit holder of a large scale or utility-scale solar energy system shall establish a contact person, including name and phone number, for receipt of any complaint concerning any permit requirements.

4. Continued operation: A solar energy system shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all approval requirements and conditions. Further, the Building Inspector shall also have the right to request documentation from the owner of a solar energy system regarding the system's usage at any time.

5. Annual report: The owner and/or operator of a large-scale or utility-scale solar energy system must submit to the Town’s code enforcement officer a yearly report, due no later than February 15, which is certified as accurate and complete under penalty of perjury and contains the following information:

    (1) The rated capacity of the system;

    (2) The amount of electricity generated by the system in the most recent twelve-month period;

    (3) The amount of electricity transmitted to the power grid in the most recent twelve-month period; and

    (4) Any damage that has occurred to the system in the most recent twelve-month period, evidence that the damage was repaired (if damage has occurred), and testing of groundwater or wells (if damage has occurred) and the findings of that testing; and

    (5) Any updates or maintenance performed to solar energy system components in the most recent twelve-month period and potential plans for such in the coming year.

    (6) Removal. All solar energy systems shall be dismantled and removed by the owner/operator immediately from a lot when the special use permit or approval has been revoked by the Town of Mina Town Board or the solar energy system has been deemed to be non-operating or abandoned by the Building Inspector for a period of more than 365 days at

the cost of the owner. If the owner/operator does not dismantle and remove said solar energy system as required, the Town Board may, after a hearing at which the owner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and utilize the Bond to remove the solar energy system in accordance with the decommissioning plan. Such action shall be in addition to and not in lieu of any other enforcement remedies the Town may have.

(7) Determination of abandonment or non-operation: A determination of the abandonment or non-operation of a solar energy system shall be made by the Town Building Inspector, who shall provide the owner/operator with written notice by personal service or certified mail at the address shown in the records of the Town or the application. Any appeal by the owner of the Building Inspector's determination of abandonment or inoperability shall be filed with the Town of Mina Town Board within 30 days of the Building Inspector causing personal service or mailing certified mail of his written determination and the Board shall hold a hearing on same. The filing of an appeal does not stay the following time frame unless the Town Board or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of the 366 days from the date of determination of abandonment or inoperability without re-activation approved or upon completion of dismantling and removal, any approvals for the solar energy system shall automatically expire.

**SECTION 11. REIMBURSEMENT OF FEES AND EXPENSES.**

1. The Applicant for a Solar Energy Facility Permit for a non-Tier 1 Solar Energy Facilities shall be responsible for reimbursing the Town for the cost of any legal services or engineering review by the Town Designated Engineer required in processing the application, and monitoring construction of the facility (collectively the "professional services fees"). Applications for non-Tier 1 Solar Energy Facilities shall be accompanied by a payment of thirty-five-thousand-dollars ($35,000.00) to the Town, to be held in an escrow controlled by the Town (the "professional services escrow"), for the purposes of paying any professional services fees incurred for review of the application, and construction and compliance monitoring. Whenever the amount of funds in the professional services escrow falls below $10,000, the Applicant shall contribute an additional $10,000.00 to the escrow. Any funds remaining in the professional services escrow upon commencement of commercial operation of the non-Tier 1 Solar Energy Facilities shall be returned to the Applicant, or its successor or assign.

   Town Board may use the Town Designated Engineer (TDE) and retain consultants, lawyers, and/or other experts necessary to assist the Town in reviewing and evaluating the Application.

2. The applicable fees for any review or permit required by this local law can be re-set from time to time by resolution of the Town Board.

3. The Applicant for a Solar Energy Facility Permit for a Non-Tier 1 Solar Energy Facilities shall be responsible for reimbursing the Town for the cost of any legal services or engineering review by the Town Designated Engineer required in processing the application, and monitoring construction of the facility (collectively the "professional services fees"). Applications for Non-Tier 1 Solar Energy Facilities shall be accompanied by a payment of thirty-five-thousand-dollars ($35,000.00) to the Town, to be held in an escrow controlled by the Town (the "professional services escrow"), for the purposes of paying any professional fees incurred for review of the application, or construction and compliance monitoring. Whenever the amount of funds in the professional services escrow falls below $10,000.00, the Applicant shall contribute an additional $10,000.00 to the escrow. Any funds remaining in the professional services escrow upon commencement of

commercial operation of the Non-Tier 1 Solar Energy Facilities shall be returned to the Applicant, or its successor or assign.

4. Town Board may use the Town Designated Engineer (TDE) and retain consultants, lawyers, and/or other experts necessary to assist the Town in reviewing and evaluating the application.

**SECTION 12. SOLAR ENERGY SYSTEM LIABILITY INSURANCE.**

1. The holder of a special use permit for a larger-scale or utility-scale solar energy system shall agree to secure prior to construction and maintain for the duration of the permit, public liability insurance as follows:

   (1) Commercial general liability covering personal injuries, death, and property damage: $5,000,000 per occurrence ($10,000,000 aggregate) which shall specifically include the Town of Mina and its officers, councils, employees, attorneys, agents, and consultants as additional named insured.
   (2) Umbrella coverage: $10,000,000.

2. Insurance Company: The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in New York State and with at least a Best's rating of "A."

3. Insurance Policy Cancellation: The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town of Mina with at least thirty (30) days prior written notice in advance of cancellation.

4. Insurance Policy Renewal: Renewal or replacement policies shall be delivered to the Town of Mina at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

5. Copies of Insurance Policy: No more than fifteen (15) days after the grant of the permit before construction is initiated, the permit holder shall deliver to the Town of Mina a copy of each of the policies or certificates representing the insurance in the required amounts.

6. Certificate of Insurance: A certificate of insurance states that it is for informational purposes only and does not confer sufficient rights upon the Town of Mina; therefore, a certificate of insurance shall not be deemed to comply with this law.

7. Indemnification: Any application for a solar energy system within the Town of Mina shall contain an indemnification provision. The provision shall require the Applicant/Owner/Operator to at all times defend, indemnify, protect, save, hold harmless, and exempt the Town of Mina and its officers, councils, employees, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages whether compensatory or punitive, or expenses arising therefrom either at law or in equity which might arise out of or are caused by the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said solar energy system, excepting however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town of Mina or its employees or agents. With respect to the penalties, damages, or changes referenced herein, reasonable attorneys' fees, consultant fees, and expert witness fees are included in those costs that are recoverable by the Town of Mina.

**SECTION 13. VIOLATIONS.**

1. Any violation of any provisions of this section shall be punishable by penalty or a term of imprisonment as prescribed in Section 268 of the Town Law of the State of New York.

2. Notwithstanding the above, the Town Board of the Town of Mina hereby reserves the right to proceed to enforce the provisions of this section by civil action, injunction, and any other remedy afforded to it by the laws of the State of New York or the United States.

**SECTION 14. VALIDITY AND SEVERABILITY.**

If any part or provision of this Local Law shall be declared invalid, void, unconstitutional or unenforceable by a court of law, all unaffected provisions hereof shall survive such declaration and this Local Law shall remain in full force and effect as if the invalidated portion had not been enacted.

**SECTION 15. EFFECTIVE DATE.**

This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York.