LOCAL LAW NO. 3 OF 2026

A LOCAL LAW REPEALING LOCAL LAW NO. 4 OF 2019 AND ESTABLISHING REGULATIONS FOR SOLAR ENERGY SYSTEMS WITHIN THE TOWN OF FRANKLINVILLE

SECTION 1: AUTHORITY

This Local Law is adopted pursuant to the authority granted under New York State Town Law §§ 261, 262, and 263, and Municipal Home Rule Law § 10. In accordance with Town Law § 263, this Local Law is enacted in furtherance of a comprehensive plan and is intended to promote the health, safety, and general welfare of the Town of Franklinville by regulating the siting and development of Solar Energy Systems in a manner consistent with the Town's land use policies, agricultural preservation goals, and community character.

SECTION 2: PURPOSE

The purpose of this Local Law is to promote the health, safety, and general welfare of the Town of Franklinville by regulating the siting, design, construction, operation, maintenance, and decommissioning of Solar Energy Systems.

The Town recognizes the value of Solar Energy Systems serving residential, agricultural, commercial, and other on-site energy needs. Larger Solar Energy Systems designed primarily for off-site generation may present different and greater land use impacts and therefore require additional review and standards to protect agricultural resources, neighboring properties, rural community character, natural resources, municipal infrastructure, and Town taxpayers.

This Local Law is intended to ensure that Solar Energy Systems are compatible with existing land uses, preserve the viability of agriculture, protect public infrastructure and municipal resources, and are consistent with the Town's Comprehensive Plan and long-term community goals.

SECTION 3: REPEAL OF PRIOR SOLAR LAW

Local Law No. 4 of 2019 entitled "A Local Law Regulating Solar Energy Systems", together with any amendments thereto, is hereby repealed in its entirety and replaced with the provisions of this Local Law.

SECTION 4: LEGISLATIVE FINDINGS

The Town Board of the Town of Franklinville hereby makes the following findings:

A. The Town of Franklinville contains significant agricultural lands that are a vital component of the Town's economy, heritage, and land use pattern.

B. Prime farmland and farmland of statewide importance are finite resources that, once converted to non-agricultural uses, are difficult or impossible to restore.

C. The Town values its rural character, scenic landscapes, and low-density development pattern, which contribute to the quality of life of its residents.

D. The Town recognizes the importance of renewable energy development, including solar energy, as part of New York State's energy policy; however, such development must be appropriately sited and scaled to avoid adverse impacts on agricultural resources, natural features, and neighboring properties.

E. Large-scale Solar Energy Systems may have significant impacts, including the conversion of agricultural land, changes to drainage patterns, visual impacts, and incompatibility with surrounding land uses.

F. Solar Energy Systems that are designed to serve on-site energy needs are generally compatible with existing land uses, while large-scale systems designed for off-site distribution may require additional regulation.

G. The Town Board finds that local regulation of Solar Energy Systems is necessary to ensure that such development is consistent with the Town's Comprehensive Plan and land use policies.

H. This Local Law is intended to promote the health, safety, and general welfare of the Town by establishing standards for the siting, design, and operation of Solar Energy Systems.

I. The Town Board finds that the standards established by this Local Law are reasonably related to the protection of public health, safety, and welfare; agricultural resources; neighboring properties; rural community character; natural resources; municipal infrastructure; and Town taxpayers, and are intended to avoid, minimize, or mitigate reasonably anticipated impacts associated with Solar Energy Systems.

J. Nothing herein is intended to conflict with or supersede the jurisdiction of New York State for projects subject to Article VIII of the Public Service Law; however, the standards contained herein reflect the Town's considered determination of appropriate siting and impact mitigation to the extent such standards are applicable and not preempted by Article VIII of the Public Service Law.

K. The Town Board finds that appropriate setbacks for Tier 3 Solar Energy Systems are necessary to reduce visual impacts, protect neighboring residences, preserve rural character, maintain roadway safety, minimize conflicts with agricultural operations, provide adequate separation for emergency access and maintenance, and lessen the cumulative impacts of large-scale energy development.

L. The Town Board further finds that multiple Tier 3 Solar Energy Systems, when considered collectively, may produce impacts substantially different from those associated with an individual facility. Accordingly, cumulative impacts upon agricultural resources, rural character, scenic resources, public infrastructure, and neighboring properties are appropriate considerations in reviewing applications for Tier 3 Solar Energy Systems.

M. The Town Board finds that utility-scale solar projects may create long-term obligations for inspection, monitoring, enforcement, engineering review, emergency planning, infrastructure

protection, and decommissioning that may impose substantial financial burdens upon municipalities unless appropriate cost recovery mechanisms are established.

N. The Town Board further finds that protection of Town roads, bridges, culverts, drainage systems, and other municipal infrastructure is essential because utility-scale energy projects frequently require the movement of heavy construction equipment capable of causing extraordinary wear or damage.

O. The Town Board finds that proper financial assurance is necessary to ensure that abandoned Solar Energy Systems are removed and affected lands restored without cost to taxpayers.

SECTION 5. RULES OF INTERPRETATION

A. The provisions of this Local Law shall be interpreted and administered in a manner that furthers the Legislative Findings and purposes set forth herein and protects the public health, safety, and welfare, agricultural resources, municipal infrastructure, natural resources, and taxpayers of the Town of Franklinville.

B. The standards contained in this Local Law are minimum requirements. Compliance with the minimum standards shall not be construed to create an entitlement to approval where the reviewing board determines, based upon substantial evidence in the record and written findings, that additional reasonable conditions are necessary to mitigate identified impacts or that the standards of this Local Law have not otherwise been satisfied.

C. Nothing in this Local Law shall be interpreted to limit the authority granted to the Town under the Town Law, the State Environmental Quality Review Act (SEQRA), the Agriculture and Markets Law, the Public Service Law, or any other applicable federal, state, or local law.

D. Nothing in this Local Law shall be construed to diminish or impair any requirement of the Town Code or other applicable law. Where the provisions of this Local Law and another provision of the Town Code both apply, they shall be interpreted to give effect to both whenever reasonably possible. If a direct conflict exists, the provisions of this Local Law shall govern with respect to Solar Energy Systems, except where otherwise required by law.

SECTION 6: DEFINITIONS

A. Active Agricultural Land - Land used for bona fide agricultural production within the past five (5) years or receiving an agricultural assessment pursuant to New York State Agriculture and Markets Law. Temporary, incidental, or minimal agricultural activity shall not be sufficient to qualify as Active Agricultural Land.

B. Agricultural Drainage Tile - A subsurface drainage system, including drainage tile, drainage tubing, or similar infrastructure, installed to improve agricultural soil conditions by removing excess groundwater.

C. Applicant- Any person, entity, or organization submitting an application for a Solar Energy System under this Local Law.

Battery Energy Storage System (BESS). Battery Energy Storage Systems shall be governed by the provisions of the Town of Franklinville Battery Energy Storage System Law, Local Law No. 4 of 2025, as may be amended from time to time. All Battery Energy Storage Systems associated with or proposed in conjunction with any Solar Energy System shall comply with both this Local Law and the Battery Energy Storage System Law. Compliance with one Local Law shall not relieve the applicant from complying with the other.

E. Building-Integrated Solar Energy System - A Solar Energy System that is incorporated into the structure or building envelope, including roofing materials, windows, or façade systems.

F. Commercial Operation - The date upon which a Solar Energy System begins producing electricity for regular operation following completion of construction and receipt of all required utility interconnection approvals.

G. Decommissioning - The removal of a Solar Energy System and the restoration of the site to its original or approved condition following abandonment or cessation of operations.

H. Farmland of Statewide Importance - Land designated as Farmland of Statewide Importance by the USDA or the New York State Department of Agriculture and Markets.

I. Glare - The reflection of light with intensity sufficient to cause annoyance, discomfort, or reduced visibility to surrounding properties or roadways.

J. Ground-Mounted Solar Energy System - A Solar Energy System that is affixed to the ground and not attached to a building or structure.

K. Non-Participating Property - Any property that is not subject to a lease, easement, or other agreement related to a Solar Energy System.

L. On-Site Use - The use of electricity generated by a Solar Energy System primarily to serve the electrical demand of the property on which the system is located. Incidental export of excess electricity to the grid shall not be considered off-site use.

M. Prime Farmland - Land classified as Prime Farmland by the United States Department of Agriculture (USDA) Natural Resources Conservation Service.

N. Project Area - The total land area encompassed within the boundaries of a Solar Energy System, including all panels, equipment, access roads, and associated infrastructure.

O. Previously Disturbed Land - Land previously altered by development, mining, industrial activity, landfills, transportation facilities, or other human activity that has substantially modified its natural condition.

P. Solar Energy Equipment - Electrical material, hardware, inverters, conduit, storage devices, or other equipment associated with the production of electricity from solar energy.

Q. Solar Energy System - A system consisting of solar panels, mounting systems, inverters, wiring, and related equipment designed to convert solar energy into electricity.

R. Solar Panel - A photovoltaic device capable of collecting and converting solar energy into electrical energy.

S. Tier 1 Solar Energy System (Roof-Mounted / Building-Integrated) - Tier 1 Solar Energy Systems are solar installations that are mounted on or integrated into the roof or structure of a legally permitted building and are designed primarily to serve the on-site electrical demand of the property.

T. Tier 2 Solar Energy System (Accessory Ground-Mounted / On-Site Use) – A ground-mounted or accessory Solar Energy System designed to serve the electrical demand of the property on which it is located and which does not exceed one hundred ten percent (110%) of the historical electrical consumption of that property. Tier 2 Solar Energy Systems shall not be designed or operated for the primary purpose of generating electricity for off-site distribution. The burden shall be on the applicant to demonstrate historical electrical consumption for a minimum of the preceding twelve (12) months. Projected or speculative future electrical demand shall not be used to justify system size. However, where twelve (12) months of historical electrical consumption is unavailable or does not reasonably reflect the electrical demand of the property due to new construction or a documented expansion of an existing residential, agricultural, commercial, or industrial use, the applicant may demonstrate anticipated electrical demand through an energy-use analysis prepared by a qualified professional and supported by building plans, equipment specifications, utility information, or other competent evidence acceptable to the reviewing authority. The applicant shall bear the burden of demonstrating that the proposed Tier 2 Solar Energy System is designed primarily to serve on-site electrical demand and is not intended to circumvent the requirements applicable to Tier 3 Solar Energy Systems.

U. Tier 3 Solar Energy System (Utility-Scale / Off-Site Use) – A Solar Energy System designed primarily for the generation of electricity for off-site distribution, sale, or commercial purposes and which does not meet the definition of a Tier 1 or Tier 2 Solar Energy System.

V. Utility Interconnection - Written approval issued by the serving electric utility authorizing a Solar Energy System to connect to and operate on the electric distribution or transmission system.

W. Material Modification - means any expansion, alteration, or change to a Solar Energy System that increases generating capacity, physical footprint, panel area, equipment, operational characteristics, impacts to neighboring properties, public infrastructure, agricultural resources, environmental conditions, or the anticipated cost of decommissioning or site restoration beyond that approved by the Town.

SECTION 7: APPLICABILITY

A. Applicability - This Local Law shall apply to all Solar Energy Systems proposed, constructed, installed, modified, or expanded within the Town of Franklinville on or after the effective date of this Local Law.

B. Existing Systems (Grandfathering) - Solar Energy Systems lawfully installed prior to the effective date of this Local Law shall be considered legal nonconforming uses and shall not be required to meet the requirements of this Local Law, except as provided herein.

C. Modifications and Expansions - Any Material Modification of an existing Solar Energy System shall be subject to the requirements of this Local Law. A Material Modification includes any increase in the system's footprint, generating capacity, physical dimensions, or other change meeting the definition contained in Section 6.

D. Maintenance and Repair - Routine maintenance and repair of an existing Solar Energy System that does not increase its size, capacity, or impact shall not be subject to this Local Law.

E. Change in Use or Classification - Any change in the use, function, or classification of a Solar Energy System, including conversion from an on-site system to a system designed for off-site distribution, shall require full compliance with this Local Law.

F. Phased or Segmented Projects Prohibited - No Solar Energy System shall be divided, phased, or segmented into multiple applications for the purpose of avoiding thresholds or review requirements. Projects on contiguous or related parcels under common ownership, control, development plan, financing, or shared infrastructure or interconnection point shall be considered a single project.

G. Compliance with Other Laws - All Solar Energy Systems shall be designed, constructed, and operated in compliance with all applicable federal, state, county, and local laws, including but not limited to the New York State Uniform Fire Prevention and Building Code, Energy Conservation Code, and applicable regulations of the New York State Department of Environmental Conservation.

H. Relationship to Other Town Regulations. Solar Energy Systems shall comply with all applicable federal, state, county, and local laws, including the Town of Franklinville Zoning Law, except where this Local Law expressly provides otherwise.

SECTION 8: GENERAL REQUIREMENTS

A. Permits Required - Tier 2 and Tier 3 Solar Energy Systems shall require Site Plan Approval and/or a Special Use Permit as provided in this Local Law and in accordance with the applicable procedures of the Town of Franklinville Zoning Law, as amended from time to time.

B. SEQR Compliance - All applications for Solar Energy Systems shall be subject to review under the New York State Environmental Quality Review Act (SEQRA). The level of review shall be determined by the review board based on the scope and potential impacts of the proposed project.

C. Burden of Proof - The burden shall be upon the applicant to demonstrate, through competent and substantial evidence, compliance with every applicable requirement of this Local Law. Failure to provide sufficient information or documentation demonstrating compliance with this Local Law may constitute grounds for denial of the application.

D. Escrow for Professional Review - The applicant shall be responsible for all reasonable costs incurred by the Town in reviewing, evaluating, processing, inspecting, administering, and enforcing any application submitted pursuant to this Local Law. Such costs may include, but are not limited to, engineering, planning, legal, environmental, agricultural, traffic, drainage, hydrologic, noise, visual, appraisal, and other professional consulting services reasonably determined by the Town to be necessary.

The Town shall have the sole authority to retain, direct, and supervise any independent consultants necessary to assist in the review of an application. The applicant shall have no authority to select, supervise, direct, or otherwise influence the work of any consultant retained by the Town.

Prior to the commencement of professional review, the Town may require the applicant to establish an escrow account in an amount reasonably determined by the Town to be sufficient to reimburse all anticipated review costs. The Town may require additional deposits whenever the escrow balance becomes insufficient to cover ongoing review expenses.

The Town shall deduct its reasonable professional review costs from the escrow account as they are incurred. Any unused escrow funds shall be returned to the applicant following completion of the review process and payment of all outstanding invoices.

No application shall be deemed complete, processed, or scheduled for public hearing until all required escrow deposits have been received.

E. Protection of Municipal Taxpayers - It is the intent of this Local Law to ensure that the costs associated with the review, permitting, construction, operation, inspection, monitoring, enforcement, maintenance, decommissioning, and restoration of Solar Energy Systems are borne by the applicant, owner, or operator, and not by the taxpayers of the Town of Franklinville.

Accordingly, applicants, owners, and operators shall be responsible for all reasonable costs incurred by the Town that are directly attributable to the proposed or approved Solar Energy System, including, but not limited to, engineering, planning, legal, environmental, agricultural, traffic, drainage, noise, visual, inspection, consulting, administrative, emergency response planning, infrastructure protection, and enforcement costs, to the extent authorized by law.

Nothing in this Local Law shall be construed to require the Town to expend public funds for the benefit of a Solar Energy System, except where otherwise required by applicable federal or state

law. The Town may require escrow accounts, financial security, reimbursement agreements, or other lawful financial assurances to ensure compliance with this Local Law and to protect the public from bearing costs associated with the project.

The provisions of this Local Law shall be interpreted and administered in a manner that protects the public health, safety, and welfare while ensuring that private development does not impose unreasonable financial burdens upon the Town or its taxpayers.

F. Compliance with Laws and Codes - All Solar Energy Systems shall be designed, constructed, operated, and maintained in compliance with all applicable federal, state, and local laws, including but not limited to:

- NYS Uniform Fire Prevention and Building Code
- NYS Energy Conservation Code
- NYS Department of Environmental Conservation regulations

G. Site Access and Emergency Response - All Solar Energy Systems shall be designed to provide adequate access for emergency responders and service personnel. Applicants shall provide an emergency response plan, including system shut-off procedures, to the local fire department prior to operation.

H. Utility Notification - The applicant shall provide documentation demonstrating that the proposed Solar Energy System has been reviewed by the appropriate utility company and has received evidence that the applicant has submitted an interconnection request or received utility acknowledgment or preliminary approval, as applicable.

No Certificate of Occupancy, Certificate of Compliance, Certificate of Completion, final inspection approval, or authorization to commence commercial operation shall be issued until the applicant provides written confirmation from the serving utility that permanent interconnection has been approved and the facility is authorized for commercial operation.

Nothing herein shall be construed as relieving the applicant of obtaining all other permits and approvals required by law.

I. Underground Utilities - All on-site utility lines shall be placed underground to the extent practicable, except for the point of interconnection to the utility grid.

J. Lighting - Lighting for Solar Energy Systems shall be limited to that required for safety and operational purposes and shall be shielded and directed downward to minimize off-site glare and light pollution.

K. Signage - No signage shall be permitted on Solar Energy Systems except for:

- Manufacturer identification
- Safety and warning signs
- Emergency contact information

All signage shall comply with applicable provisions of the Town Code.

L. Vegetation and Land Management - Applicants shall submit a vegetation management plan that minimizes environmental impacts, promotes soil stability, and provides for the long-term maintenance of the site.

The plan shall include measures for the control of invasive and noxious weeds, routine vegetation maintenance, erosion prevention, and the replacement of dead or diseased plantings used for screening or buffering.

Native vegetation and pollinator-friendly species shall be utilized to the maximum extent practicable, provided such vegetation does not interfere with the safe operation or maintenance of the Solar Energy System.

The owner or operator shall maintain all required landscaping, vegetative buffers, screening, pollinator habitat, and other approved vegetation throughout the operational life of the facility.

Dead, diseased, damaged, or missing vegetation shall be replaced during the next growing season with vegetation of equal or greater effectiveness.

Continued failure to maintain required vegetation shall constitute a violation of this Local Law and may result in enforcement action or use of available financial security where authorized by law.

M. Agricultural Drainage Protection - Where a proposed Solar Energy System is located on or adjacent to active agricultural land, the applicant shall identify all known subsurface drainage tiles, field drainage systems, drainage ditches, and other agricultural drainage infrastructure within the project area to the extent reasonably practicable.

The applicant shall design, construct, and maintain the project in a manner that avoids damage to existing agricultural drainage systems. Any drainage tile, field drainage system, ditch, or other drainage infrastructure damaged during construction, operation, maintenance, or decommissioning shall be repaired or replaced at the applicant's expense with materials and methods that restore the drainage system to equal or better functionality.

The applicant shall take all reasonable measures to prevent soil compaction, erosion, sedimentation, or alterations to existing drainage patterns that would adversely affect adjacent agricultural operations or neighboring properties.

N. Glare and Reflection - Solar Energy Systems shall be designed and located to prevent glare or reflection that may create a nuisance or hazard to neighboring properties, public roads, or aviation.

O. Maintenance - Solar Energy Systems shall be maintained in good working order and in compliance with all applicable safety standards. Any damaged or non-functioning components shall be repaired or removed promptly. Applicants shall submit an Operations and maintenance plan when required by this Local Law which may be incorporated by reference into any approval.

P. Annual Inspection - The Town reserves the right to inspect any Tier 2 or Tier 3 Solar Energy System at reasonable times, upon reasonable notice where required by law, to verify continued compliance with this Local Law, any conditions of approval, and all applicable permits.

The owner or operator shall provide reasonable access to the property for such inspections.

If an inspection identifies deficiencies or violations, the owner or operator shall correct such deficiencies within a reasonable period established by the Town. Failure to correct identified deficiencies may result in enforcement action, including permit suspension or revocation.

The Town may require the owner or operator to reimburse the Town for the reasonable costs of professional inspections where specialized expertise is required.

Q. Insurance – Prior to issuance of any permit, the applicant shall provide evidence of Commercial General Liability Insurance covering the construction, operation, maintenance, and decommissioning of the Solar Energy System.

Minimum coverage shall be:

- Tier 2 Solar Energy Systems: $2,000,000 per occurrence.
- Tier 3 Solar Energy Systems: $5,000,000 per occurrence, or such greater amount as the Town Board reasonably determines is necessary based upon the size and complexity of the project after consultation with the Town's insurance carrier or risk management professionals.

Such insurance shall remain continuously in force throughout the life of the project. Certificates of renewal shall be provided annually without request.

R. Abandonment - Any Solar Energy System that ceases operation for a continuous period of twelve (12) months shall be considered abandoned and shall be subject to decommissioning in accordance with this Local Law.

S. Pre-Application Conference - Applicants for Tier 3 Solar Energy Systems shall be required to participate in a pre-application conference with the Town prior to submitting a formal application.

T. Application Completeness Standard - No application shall be deemed complete until all required materials, studies, and fees have been completed in accordance with this Local Law.

U. Agricultural Compatibility - Solar Energy Systems located in agricultural districts shall be designed to minimize impacts on agricultural operations and shall not interfere with ongoing farming activities.

V. Failure to Comply - Failure to comply with any provision of this Local Law, any condition of approval, or any approved plan, permit, or requirement imposed pursuant to this Local Law shall constitute grounds for permit denial, suspension, revocation, enforcement action, or any other remedy authorized by law.

W. No Entitlement to Approval - Compliance with the provisions of this Local Law shall not be deemed to create an entitlement to approval of any application. The reviewing board retains the authority to approve, approve with conditions, or deny any application based upon the standards set forth in this Local Law, the protection of the public health, safety, and general welfare, and the compatibility of the proposed use with surrounding land uses and the Town's Comprehensive Plan.

X. Indemnification - The owner or operator of any Tier 2 or Tier 3 Solar Energy System shall, to the fullest extent permitted by law, defend, indemnify, and hold harmless the Town of Franklinville, the Town Board, Planning Board, Zoning Board of Appeals, Code Enforcement Officer, Highway Superintendent, employees, consultants, agents, and representatives from and against any and all claims, actions, damages, liabilities, losses, costs, and expenses, including reasonable attorney's fees and expert witness fees, arising out of or related to the design, permitting, construction, operation, maintenance, transfer, decommissioning, or removal of the Solar Energy System, except to the extent caused solely by the negligence or willful misconduct of the Town.

Y. Coordination with Town Zoning Law - Except where expressly modified by this Local Law, all applications for Solar Energy Systems shall comply with the applicable procedural and administrative requirements of the Town of Franklinville Zoning Law, including but not limited to provisions governing zoning permits, Site Plan Review, Special Use Permits, enforcement, appeals, certificates, and administration. In the event of a conflict between this Local Law and the Zoning Law, the provisions of this Local Law shall control with respect to Solar Energy Systems.

SECTION 9: PERMITTED USES BY ZONING DISTRICT

A. Permitted Uses

Tier 1 Solar Energy Systems shall be permitted as accessory uses in all zoning districts.

Tier 2 Solar Energy Systems shall be permitted as accessory uses in all zoning districts, subject to the requirements of this Local Law.

Tier 3 Solar Energy Systems may be permitted only in Agricultural, Business, and Industrial zoning districts, subject to issuance of a Special Use Permit and Site Plan Approval in accordance with this Local Law and the applicable procedures of the Town of Franklinville Zoning Law, as amended from time to time.

A Tier 3 Solar Energy System shall be considered a principal use of the parcel and shall not qualify as an accessory use.

B. On-Site Use Limitation - Tier 2 Solar Energy Systems within Rural Residential and Agricultural districts shall be designed and operated primarily to serve the electrical demand of the property on which they are located and shall not be used for off-site commercial distribution of energy.

C. Additional Siting Criteria for Tier 3 -

In districts where Tier 3 Solar Energy Systems are permitted, such systems shall be subject to the following:

1. The proposed use shall be compatible with surrounding land uses.
2. The site shall be suitable in terms of size, location, and infrastructure.
3. The project shall not result in the loss of significant agricultural resources.
4. The project shall comply with all applicable dimensional, buffering, and environmental standards of this Local Law.

The burden shall be on the applicant to demonstrate compliance.

SECTION 10: TIER I SOLAR ENERGY SYSTEMS

A. Permitted Use - Tier 1 Solar Energy Systems shall be permitted as accessory uses in all zoning districts, subject to the requirements of this Local Law.

B. Permit Requirements

1. A building permit shall be obtained in accordance with this Local Law and the applicable provisions of the Town of Franklinville Zoning Law.
2. Tier 1 systems shall not require Site Plan Approval or a Special Use Permit.

C. Height and Placement

1. Solar panels shall not extend more than **five (5) feet** above the highest point of the roof surface to which they are attached.
2. Solar panels shall be mounted parallel to the roof surface where practicable.
3. Roof-mounted systems shall not exceed the maximum building height permitted in the applicable zoning district.

D. Aesthetic and Design Standards

1. Solar panels shall be installed in a manner that minimizes visual impact and is consistent with the architectural character of the structure to the extent practicable.
2. All wiring and electrical connections shall be installed to minimize visual impact where feasible.

E. On-Site Use Requirement - Tier 1 Solar Energy Systems shall be designed and operated primarily to serve the electrical demand of the property on which they are located.

F. Glare and Reflection - Solar panels shall be designed and located to minimize glare or reflection that may create a nuisance or hazard to neighboring properties or public roadways.

G. Safety and Code Compliance - All Tier 1 Solar Energy Systems shall comply with:

- New York State Uniform Fire Prevention and Building Code
- New York State Energy Conservation Code
- Applicable electrical and safety standards

H. Structural Integrity - The installation of any Tier 1 Solar Energy System shall not compromise the structural integrity of the building on which it is mounted.

I. Prohibited Installations - Tier 1 Solar Energy Systems shall not be installed on structures that are unsafe, unpermitted, or not in compliance with applicable building codes.

SECTION 11: TIER 2 SOLAR ENERGY SYSTEMS

A. Permitted Use - Tier 2 Solar Energy Systems shall be permitted as accessory uses in all zoning districts, subject to the requirements of this Local Law.

B. Permit Requirements

1. A building permit shall be obtained in accordance with this Local Law and the applicable provisions of the Town of Franklinville Zoning Law.
2. Tier 2 systems exceeding 1,000 square feet of panel area or 25 kW of capacity shall require Site Plan Approval by the Planning Board.

C. On-Site Use Limitation

Tier 2 Solar Energy Systems shall be designed and operated primarily to serve the electrical demand of the property on which they are located and shall not exceed one hundred ten percent (110%) of the historical electrical consumption of that property.

Tier 2 Solar Energy Systems shall not be designed or operated for the primary purpose of generating electricity for off-site distribution or commercial sale.

The burden shall be on the applicant to demonstrate historical electrical consumption for a minimum of the preceding twelve (12) months. Projected or speculative future **electrical** demand shall not be used to justify system size.

However, where twelve (12) months of historical electrical consumption is unavailable or does not reasonably reflect the electrical demand of the property due to new construction or a documented expansion of an existing residential, agricultural, commercial, or industrial use, the applicant may demonstrate anticipated electrical demand through an energy-use analysis prepared by a qualified professional and supported by building plans, equipment specifications, utility information, or other competent evidence acceptable to the reviewing authority. The burden shall remain upon the applicant to demonstrate that the proposed Tier 2 Solar Energy System is designed primarily to

serve on-site electrical demand and is not intended to circumvent the requirements applicable to Tier 3 Solar Energy Systems.

D. Location and Placement

1. Tier 2 systems shall be located on the same parcel as the principal use they serve.
2. Systems shall not be located in required front yard setbacks.
3. Systems shall be sited to minimize impacts on agricultural operations and existing land uses.

E. Setbacks

Tier 2 Solar Energy Systems shall comply with the following minimum setbacks:

1. **Property Lines:** 50 feet
2. **Principal Structures on Adjacent Parcels:** 100 feet
3. **Public Roads:** 100 feet

F. Height - Ground-mounted solar arrays shall not exceed **15 feet in height** from the ground surface to the highest point of the system.

G. Lot Coverage - Tier 2 Solar Energy Systems shall not occupy more than:

1. **25% of the lot area for parcels up to 10 acres**
2. **30% of the lot area for parcels between 10 and 50 acres**
3. **35% of the lot area for parcels greater than 50 acres**

H. Agricultural Compatibility - Tier 2 Solar Energy Systems located in Agricultural or Rural Residential districts shall be designed and installed in a manner that does not interfere with ongoing agricultural operations, including but not limited to:

- access to fields
- drainage patterns
- soil productivity

I. Screening and Visual Impact

1. Where visible from adjacent residential properties or public roads, the Town may require vegetative screening to minimize visual impacts.
2. Screening shall be appropriate to the scale and location of the system.
3. Required screening shall be maintained for the entire operational life of the facility.

J. Glare and Reflection - Solar panels shall be designed and located to minimize glare or reflection that may create a nuisance or hazard to neighboring properties or public roadways.

K. Lighting - Lighting shall be limited to that necessary for safety and maintenance and shall be shielded to prevent off-site impacts.

L. Construction Standards - Construction activities associated with Tier 2 Solar Energy Systems shall be conducted in a manner that minimizes impacts to neighboring properties, public infrastructure, and the environment. At a minimum:

1. Appropriate erosion and sediment control measures shall be installed and maintained throughout construction in accordance with all applicable laws and permits.
2. Reasonable dust control measures shall be implemented during construction to prevent dust from becoming a nuisance to neighboring properties or public roadways.
3. Public roads affected by construction activities shall be kept free of excessive mud, dirt, gravel, and debris. The applicant shall promptly remove any material deposited on public roadways as a result of construction activities.
4. Any areas disturbed during construction shall be stabilized and restored upon completion of construction, including regrading, reseeding, and erosion control, as appropriate.
5. Construction activities shall not unreasonably interfere with adjoining agricultural operations, public roads, drainage systems, or neighboring properties.

M. Prohibited Uses - Tier 2 Solar Energy Systems shall not:

1. Be used as a primary use of the parcel.
2. Be subdivided or phased to avoid classification as a Tier 3 system.
3. Be designed or operated for commercial energy generation beyond on-site use.

N. Maximum System Size Cap - No Tier 2 Solar Energy System shall exceed 5 **acres of panel coverage**.

O. Accessory Use Limitation - Tier 2 Solar Energy Systems shall remain clearly incidental and subordinate to the principal use of the property.

SECTION 12: TIER 3 SOLAR ENERGY SYSTEMS

A. Permitted Use - Tier 3 Solar Energy Systems may be permitted only in zoning districts where authorized pursuant to Section 9 of this Local Law, and only upon issuance of a Special Use Permit and Site Plan Approval.

B. Application Requirements- In addition to all requirements of this Local Law, applications for Tier 3 Solar Energy Systems shall include, at a minimum:

1. Site plans showing all proposed structures, panels, access roads, and infrastructure
2. Electrical and engineering plans
3. Property ownership or lease agreements

4. Operation and maintenance plan
5. Emergency response plan
6. Decommissioning plan
7. Proof of utility interconnection review
8. All required impact studies as set forth herein.

C. Permit Expiration

Any approval granted pursuant to this Local Law shall expire unless construction commences within twelve (12) months of the date of approval and is substantially completed within twenty-four (24) months, unless extended by the reviewing board upon a written finding of good cause.

D. Dimensional Requirements -

1. **Setbacks** - Tier 3 Solar Energy Systems shall comply with the following minimum setbacks:

   - Property lines: **200 feet**
   - Non-participating residences: **300 feet**
   - Public roads: **350 feet**

   These setbacks represent the Town Board's legislative determination of the minimum separation distances necessary to protect public health, safety, neighboring properties, agricultural operations, scenic resources, and community character. Any request for relief from these standards shall require an area variance granted by the Zoning Board of Appeals pursuant to Town Law § 267-b. Nothing herein shall be construed to limit the Planning Board's authority to require additional setbacks or buffering as conditions of Special Use Permit approval where supported by site-specific evidence and written findings.

2. **Height** - Solar panels and associated structures shall not exceed **15 feet in height.**

3. **Lot Coverage** - Tier 3 Solar Energy Systems shall not exceed:

   - **25% of lot area for parcels up to 10 acres**
   - **30% for parcels between 10 and 50 acres**
   - **35% for parcels greater than 50 acres**

4. Project Scale- The size and configuration of a Tier 3 Solar Energy System shall be appropriate for the physical characteristics of the site and shall be designed to avoid or minimize significant adverse impacts upon:

   a. Agricultural resources, including Prime Farmland and Farmland of Statewide Importance;
   b. Existing agricultural operations;
   c. Neighboring residential properties;
   d. Public roads and infrastructure;

e. Community character and scenic resources;
f. Natural resources, drainage patterns, and environmental features.

The applicant shall demonstrate that the scale of the proposed project is compatible with these standards through the studies required by this Local Law.

5. Cumulative Impact Analysis

The applicant shall submit a Cumulative Impact Assessment evaluating the combined effects of the proposed Tier 3 Solar Energy System together with any existing, approved, proposed, or reasonably foreseeable Tier 3 Solar Energy Systems located within a two (2) mile radius of the project boundary. For purposes of this subsection, a reasonably foreseeable Tier 3 Solar Energy System means a project for which a formal application has been submitted to the Town or another governmental siting authority, or for which the Town has received formal written notice under an applicable state permitting process. Landowner discussions, lease negotiations, option agreements, or speculative proposals alone shall not constitute a reasonably foreseeable project.

At a minimum, the assessment shall evaluate:

a. Cumulative loss or conversion of agricultural land, including Prime Farmland and Farmland of Statewide Importance.
b. Cumulative visual impacts upon public roads, residential neighborhoods, scenic resources, parks, recreational trails, and community gateways.
c. Cumulative impacts upon public infrastructure, including roads, bridges, emergency services, utilities, drainage systems, and stormwater facilities.
d. Cumulative traffic impacts associated with construction and operation.
e. Cumulative impacts upon community character, rural landscapes, and surrounding land uses.
f. Whether the proposed project, when considered together with existing or reasonably foreseeable utility-scale solar facilities, would result in significant adverse cumulative impacts that cannot be adequately mitigated.

The Planning Board shall consider the results of the Cumulative Impact Assessment in determining whether the proposed project satisfies the standards for issuance of a Special Use Permit.

E. Farmland Protection

1. Tier 3 Solar Energy Systems shall be designed to avoid or minimize the conversion of Prime Farmland and Farmland of Statewide Importance. Where such lands cannot reasonably be avoided, the applicant shall demonstrate that:

   - no feasible alternative site exists;
   - impacts have been minimized to the maximum extent practicable; and
   - agricultural productivity will be preserved through the Agricultural Soil Restoration Plan.

2. Tier 3 Solar Energy Systems shall avoid active agricultural land to the maximum extent practicable. Where such land cannot reasonably be avoided, the applicant shall demonstrate through competent evidence that no feasible alternative exists and that impacts have been minimized and agricultural productivity preserved. Subdivision of parcels for the purpose of avoiding these restrictions is prohibited.

The Town may rely on USDA, NYS Department of Agriculture and Markets, or other recognized mapping and data sources in determining soil classification and agricultural use. Temporary or nominal agricultural activity shall not be sufficient to establish active agricultural use for the purposes of this Local Law.

F. Agricultural Mitigation and Soil Restoration Plan

Projects located on or adjacent to agricultural lands shall be designed, constructed, operated, decommissioned, and restored in a manner that minimizes adverse impacts to agricultural operations and preserves the long-term agricultural productivity of the site.

The applicant shall submit an Agricultural Soil Restoration Plan, prepared by a qualified professional experienced in agricultural soils, agronomy, soil science, or agricultural engineering, demonstrating how agricultural resources will be protected during construction and restored following construction and decommissioning.

At a minimum, the Plan shall address:

1. Topsoil Protection
    - Methods for stripping, segregating, stockpiling, protecting, and replacing topsoil.
    - Identification of anticipated topsoil depths across the project site.
    - Procedures to minimize mixing of topsoil and subsoil.
2. Soil Compaction Prevention and Remediation
    - Measures to minimize soil compaction during construction.
    - Identification of construction equipment restrictions where appropriate.
    - Procedures for post-construction soil decompaction, including deep ripping, subsoiling, or other accepted agricultural practices where necessary.
3. Agricultural Drainage Protection
    - Identification of known drainage tile, drainage systems, field ditches, and other agricultural drainage infrastructure.
    - Procedures for avoiding damage during construction.
    - Restoration or replacement of any damaged drainage infrastructure to equal or greater functionality.
4. Soil Restoration
    - Procedures for restoring disturbed agricultural land to a condition capable of supporting agricultural production.

- Replacement of topsoil to substantially the same depth existing prior to construction, where practicable.
- Measures to restore soil productivity and minimize erosion.

5. Post-Construction Monitoring
   - Monitoring of restored agricultural areas for a period of three (3) growing seasons following completion of construction. If restoration standards have not been achieved after three growing seasons, monitoring shall continue until the Town determines restoration objectives have been satisfied.
   - Annual reports documenting restoration progress, drainage performance, and corrective measures undertaken if deficiencies are identified.
6. Corrective Measures
   - If post-construction monitoring demonstrates that soil productivity, drainage, or restoration standards have not been achieved, the owner or operator shall implement reasonable corrective measures approved by the Town until compliance is achieved.

G. Special Use Permit Standards

In evaluating an application for a Tier 3 Solar Energy System, the Planning Board shall consider the Legislative Findings set forth in Section 4 of this Local Law together with the purposes of this Local Law, the evidence submitted by the applicant, comments received during the review process, and the standards set forth below:

1. Compatibility with surrounding land uses
2. Impact on agricultural resources
3. Visual impacts and community character
4. Adequacy of infrastructure and access
5. Compliance with all applicable standards of this Local Law
6. The proposed project shall avoid or minimize adverse impacts to existing and planned recreational trails, fishing access, NYSSA snowmobile trails, parks, and similar community resources. Where such resources are affected, reasonable access shall be maintained whenever practicable.
7. The cumulative impacts of the proposed facility, when considered together with existing, approved, and reasonably foreseeable Tier 3 Solar Energy Systems within the surrounding area, will not result in significant adverse impacts upon agricultural resources, public infrastructure, community character, scenic resources, neighboring properties, or the public health, safety, and general welfare, consistent with the Legislative Findings and purposes of this Local Law.

The burden shall be on the applicant to demonstrate compliance with all criteria. Compliance with the standards set forth in this Local Law shall not be deemed to create an entitlement to approval. The reviewing board may deny an application where it finds that the proposed use is

not in harmony with the intent of this Local Law or would adversely affect the health, safety, or general welfare of the community.

H. Impact Studies

The applicant shall provide the following studies, prepared by qualified professionals:

1. Agricultural Impact Statement
2. Visual Impact Assessment
3. Noise Impact Study. A Noise Impact Study prepared by a qualified acoustical engineer shall be submitted. Existing ambient sound levels shall be established through a pre-construction sound survey prepared by a qualified acoustical engineer using generally accepted industry practices. The survey shall identify the measurement locations, dates and times of measurement, weather conditions, instrumentation, and methodology used to establish the existing ambient sound levels. The Noise Impact Study shall demonstrate that operational sound levels will not exceed five (5) dBA above the established ambient sound levels as measured at the property line of any non-participating property using ANSI or other nationally recognized acoustical standards.
   The Town may require post-construction sound testing whenever complaints are received or whenever the Town has reasonable cause to believe the facility is not in compliance.
   Where noncompliance is confirmed, all testing, consultant review, and corrective measures shall be completed at the owner's expense.

4. Glare Analysis.
   The Town may require post-construction glare evaluation if complaints are received or if the Town has reasonable cause to believe glare from the facility creates a hazard or nuisance. If corrective measures are required, they shall be implemented at the owner's expense.
5. Stormwater and Drainage Study.
6. Following commencement of commercial operation, the owner or operator shall inspect and maintain all stormwater management facilities throughout the life of the project.
   An annual certification prepared by a qualified professional shall be submitted to the Town confirming that all stormwater facilities continue to function as approved.
   Any deficiencies shall be corrected promptly at the owner's expense.

7. Road Impact Study.

   The Road Impact Study shall evaluate the anticipated impacts of construction and operation of the proposed Solar Energy System upon Town, County, and State highways, bridges, and other public infrastructure expected to be used during construction. At a minimum, the study shall include:

   a. Estimated construction traffic volumes, including the number and type of heavy vehicles.
   b. Proposed construction haul routes.
   c. Identification of roads and bridges anticipated to be used during construction.

d. An evaluation of the ability of such roads and bridges to safely accommodate anticipated construction traffic.

e. A proposed traffic management plan identifying measures to minimize impacts to public safety, emergency services, schools, agricultural operations, and neighboring properties.

The Town may require independent peer review of any impact study at the applicant's expense.

8. Historic and Cultural Resources Assessment.

   Where required under applicable federal or New York State law, or where the proposed project has the potential to affect known or identified historic, archaeological, cultural, or scenic resources, the applicant shall provide documentation demonstrating compliance with all applicable requirements of the New York State Historic Preservation Office (SHPO), the State Environmental Quality Review Act (SEQRA), and any other applicable federal or state review process.
   The Town may require additional information reasonably necessary to evaluate potential impacts to locally significant historic resources, cemeteries, parks, recreational trails, scenic viewsheds, or other recognized cultural resources identified during the review process.

9. Economic Impact Analysis when reasonably necessary due to project size or anticipated impacts.

I. Road Use Agreement

Prior to the issuance of any building permit or commencement of construction for a Tier 3 Solar Energy System, the applicant shall enter into a Road Use Agreement with the Town in a form approved by the Town Board and Town Attorney.

At a minimum, the agreement shall provide for:

1. Identification of approved construction haul routes.
2. A pre-construction survey documenting the condition of all Town roads, bridges, culverts, shoulders, drainage facilities, and other public infrastructure anticipated to be used by the project.
3. A post-construction survey documenting the condition of the same infrastructure upon completion of construction.
4. Repair or restoration, at the applicant's expense, of any damage attributable to project-related activities.
5. Reimbursement to the Town for reasonable engineering, inspection, administrative, and legal costs associated with roadway protection and repair.
6. Compliance with any construction traffic routes, seasonal restrictions, weight limits, or other roadway conditions established by the Town.

7. Such additional terms and conditions as the Town Board determines are reasonably necessary to protect public infrastructure, public safety, and the general welfare, supported by written findings.
8. The Town Highway Superintendent shall be consulted in the preparation and administration of the Road Use Agreement.

J. Road Protection Financial Security

Prior to the issuance of any building permit or commencement of construction, the applicant shall provide separate financial security, in a form acceptable to the Town, to guarantee the repair or replacement of any damage to Town roads, bridges, culverts, drainage facilities, shoulders, guide rails, signs, utilities, or other public infrastructure resulting from project construction or related activities.

The amount of such financial security shall be determined by the Town Board upon recommendation of the Town Highway Superintendent and Town Engineer, based upon the anticipated use of Town infrastructure.

The Town may require the amount of such financial security to be adjusted if project conditions or anticipated impacts materially change.

Such financial security shall remain in effect until the Town has inspected all affected public infrastructure following completion of construction and has determined that no further repairs are necessary.

If the owner or operator fails to repair construction-related damage within a reasonable time established by the Town, the Town may utilize the financial security to complete such repairs and recover any additional costs permitted by law.

Financial security shall be posted before any site disturbance, clearing, grading, excavation, or delivery of construction materials.

K. Responsibility for Construction Damage

The owner or operator shall be responsible for repairing or replacing, at its sole expense, any damage to Town roads, bridges, culverts, drainage facilities, shoulders, ditches, guide rails, signage, utilities, or other public infrastructure resulting directly or indirectly from project construction, maintenance, or decommissioning.

All repairs shall be completed in accordance with Town standards and subject to inspection and approval by the Town Highway Superintendent or the Town's designated engineer, including damage discovered after construction that is reasonably attributable to project activities.

L. Construction Management Plan

Prior to the issuance of any building permit or commencement of site disturbance for a Tier 3 Solar Energy System, the applicant shall submit a Construction Management Plan as part of the Special Use Permit and Site Plan Approval process. The Planning Board shall review the plan in consultation with the Town Highway Superintendent, Code Enforcement Officer, and other appropriate agencies.

At a minimum, the Construction Management Plan shall include:

1. A proposed construction schedule, including anticipated start and completion dates.
2. Proposed construction hours consistent with this Local Law.
3. The location of construction entrances, staging areas, material laydown areas, equipment storage areas, contractor parking, and temporary facilities.
4. Delivery schedules for major equipment and identification of anticipated oversized or overweight vehicle deliveries.
5. Temporary traffic control measures, including proposed haul routes, signage, flagging operations, and coordination with emergency service providers where necessary.
6. Measures to control dust, mud, erosion, sediment, and debris during construction, including procedures to maintain public roads and rights-of-way in a safe and clean condition.
7. Procedures for protecting and restoring Town roads, shoulders, culverts, drainage facilities, utilities, and other public infrastructure affected by construction activities.
8. Twenty-four (24) hour emergency contact information for the owner, project manager, and construction superintendent.
9. Procedures for coordinating construction activities with the Town Highway Superintendent, Code Enforcement Officer, emergency responders, utility providers, and other affected public agencies.
10. Procedures for providing advance written notice to the Town of oversized or overweight deliveries, temporary lane closures, road restrictions, or other construction activities that may affect public travel or emergency response.

The Planning Board may impose reasonable conditions related to the Construction Management Plan where supported by written findings and where necessary to protect public health, safety, public infrastructure, and the general welfare. The Construction Management Plan may be modified during construction upon approval by the Planning Board, following consultation with the Town Highway Superintendent, where necessary to address unforeseen field conditions or to improve public safety.

M. Construction Hours

Construction activities, including grading, excavation, pile driving, delivery of materials, operation of heavy equipment, and other noise-generating activities, shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Saturday. Construction activities shall not occur on Sundays or federally recognized holidays, except in the event of an emergency necessary to protect public health, safety, or property, or with prior written approval of the Town.

N. Screening and Buffers

1. A continuous, year-round vegetative buffer of not less than **eight (8) feet in height** shall be required along all property lines and road frontages, unless the Planning Board determines, based upon site conditions and written findings, that an alternative buffering design will provide equivalent or greater visual screening.
2. Additional buffering may be required where necessary to mitigate visual impacts.

Any trees, shrubs, or other required landscaping that die, become diseased, or fail to provide the required screening shall be replaced within the next growing season with vegetation of similar type and size, unless otherwise approved by the Town.

O. Access and Security

1. All Tier 3 Solar Energy Systems shall be enclosed by fencing sufficient to prevent unauthorized access.
2. Access roads shall be designed to accommodate emergency vehicles.
3. The owner or operator shall provide current emergency contact information to the Town, Code Enforcement Officer, Highway Superintendent, and local fire department and shall promptly update such information whenever changes occur.
4. Where determined necessary by the Fire Chief or Code Enforcement Officer, an approved Knox Box or equivalent emergency access system shall be installed.
5. The owner or operator shall meet annually with the local fire department to review emergency response procedures and shall update the Emergency Response Plan whenever material changes are made to the facility.
6. The owner or operator shall reimburse the Town for all reasonable costs incurred in preparing for, responding to, and maintaining emergency response capabilities associated with the Solar Energy System. Such costs may include, but are not limited to:
    a. specialized training for fire, EMS, highway, and other emergency personnel;
    b. emergency response planning and annual plan updates;
    c. consultant review of emergency procedures;
    d. emergency drills or exercises reasonably required by the Town;
    e. specialized equipment or supplies reasonably necessary to safely respond to incidents involving the facility; and
    f. reasonable costs associated with periodic review and updates of emergency response procedures.
7. The Town may require reimbursement only for costs reasonably related to the size, design, and hazards associated with the approved facility.
8. The design, construction, operation, and maintenance of a Tier 3 Solar Energy System shall not obstruct, interfere with, or impair access to existing public or private utility easements. The applicant shall identify all recorded utility easements within the project area and demonstrate that the proposed project will not interfere with the lawful use, maintenance, repair, or replacement of utility facilities.

P. Decommissioning

1. A decommissioning plan shall be submitted as part of the application and approved prior to issuance of any permit or approval for a Tier 3 Solar Energy System.

2. The owner or operator shall provide and continuously maintain decommissioning financial security in accordance with Section 12(S) of this Local Law in an amount sufficient to secure the Town against the costs of decommissioning, removal, site restoration, and other obligations required by this Local Law.

3. The decommissioning financial security shall expressly authorize the Town, upon default by the owner or operator and following any notice and opportunity to cure required by this Local Law or the terms of the financial instrument, to draw upon or otherwise utilize the financial security to perform or complete required decommissioning, removal, site restoration, or other corrective work for which the owner or operator is responsible.

4. The owner or operator shall remain responsible for any decommissioning, removal, restoration, administrative, engineering, legal, or other lawful costs incurred by the Town that exceed the amount of available financial security.

5. The decommissioning plan shall comply with all requirements of Section 13 (Decommissioning) of this Local Law.

Q. Transfer of Ownership

No permit, Special Use Permit, Site Plan Approval, or other approval issued pursuant to this Local Law shall be transferred to a new owner or operator without prior written notice to the Town.

Any successor owner or operator shall assume, in writing, all obligations, responsibilities, conditions of approval, permit requirements, maintenance obligations, decommissioning obligations, financial security requirements, and all other applicable provisions of this Local Law prior to the transfer becoming effective.

No transfer of ownership, operational control, leasehold interest, or other interest in the Solar Energy System shall relieve any prior owner or operator of liability for any violation of this Local Law, permit condition, agreement, obligation, or default occurring prior to the effective date of such transfer, unless the Town Board expressly releases such liability in writing.

The owner or operator shall notify the Town in writing of any proposed transfer of ownership or operational control not less than thirty (30) days prior to such transfer. The notification shall identify the successor owner or operator and include documentation demonstrating acceptance of all obligations imposed under this Local Law.

Failure to comply with this section shall constitute grounds for suspension or revocation of any permit or approval issued pursuant to this Local Law.

R. Co-Located Battery Energy Storage Systems

Where a Battery Energy Storage System is proposed as part of, accessory to, or in conjunction with a Tier 3 Solar Energy System, the Battery Energy Storage System shall comply with all applicable requirements of the Town of Franklinville Battery Energy Storage System Law, Local Law No. 4 of 2025, as amended from time to time, in addition to the requirements of this Local Law.

Approval of a Solar Energy System under this Local Law shall not constitute approval of a Battery Energy Storage System, nor shall approval under the Battery Energy Storage System Law constitute approval of a Solar Energy System. Each approval shall be obtained independently as required by the applicable Local Law.

For projects subject to Public Service Law Article VIII, this subsection shall apply only to the extent not preempted by applicable State law.

S. Financial Condition Notification

The owner or operator shall notify the Town in writing within thirty (30) days of:

- bankruptcy;
- receivership;
- insolvency;
- dissolution;
- merger resulting in a change of ownership;
- assignment of project ownership;
- transfer of controlling interest; or
- any event reasonably affecting the owner's ability to comply with this Local Law.

Failure to provide such notice shall constitute a violation of this Local Law.

T. Decommissioning Financial Security

1. Financial security shall be provided in a form acceptable to the Town, including but not limited to an irrevocable letter of credit, cash escrow, or other financial instruments approved by the Town Board. Any financial security instrument shall be in a form approved by the Town Board and Town Attorney and shall expressly authorize the Town to access or draw upon the security upon a default requiring decommissioning, removal, restoration, or other corrective action under this Local Law.
2. The estimated decommissioning cost shall be prepared by an independent Professional Engineer licensed in the State of New York and experienced in utility-scale solar facility decommissioning. The Town may retain an independent engineer, at the applicant's expense, to review, revise, or verify the estimate. The estimate shall exclude salvage value and shall include all costs associated with removal, transportation, recycling, disposal, restoration of agricultural soils, drainage restoration, road restoration, grading, reseeding, engineering, legal, administrative, permitting, inflation, and contingency costs.

Financial security shall equal one hundred twenty-five percent (125%) of the approved estimate.

3. Financial security shall remain in full force and effect throughout the life of the Solar Energy System and shall not be reduced, canceled, terminated, or allowed to lapse without the prior written approval of the Town.
4. Failure to maintain the required financial security shall constitute grounds for permit suspension or revocation.
5. The Town shall have the right to draw upon financial security whenever necessary to complete decommissioning, restore the site, repair damages, or otherwise remedy a default by the owner or operator in complying with this Local Law or any condition of approval.
6. Financial security shall be adjusted annually using the Engineering News-Record Construction Cost Index (or another nationally recognized construction cost index acceptable to the Town) between formal reviews if construction costs materially increase.
7. The Town may require the owner or operator to submit a revised decommissioning cost estimate and provide additional financial security whenever the Solar Energy System undergoes a Material Modification that may increase the cost of decommissioning or site restoration. Any revised estimate shall be prepared and reviewed in the same manner as the original estimate required by this Local Law.

U. Annual Reporting

On or before January 31 of each year, the owner or operator of a Tier 3 Solar Energy System shall submit an annual report to the Town demonstrating continued compliance with this Local Law and all conditions of approval.

At a minimum, the annual report shall include:

1. The name, mailing address, telephone number, and email address of the current owner or operator.
2. The name and twenty-four (24) hour emergency contact information for the individual responsible for the operation of the facility.
3. Certification that the facility remains in commercial operation and continues to comply with all applicable permits, approvals, and conditions of this Local Law.
4. Proof that all required insurance remains in effect.
5. If construction remains ongoing, evidence that any required Road Protection Financial Security remains in effect until released by the Town.
6. Confirmation that all required financial security remains in effect.
7. Documentation of any changes in ownership, operational control, or emergency contact information that have occurred during the preceding year.
8. Summary of complaints logged and resolution in accordance with Section 14 below.
9. Any other information reasonably requested by the Town to verify continued compliance with this Local Law.

10. Certification that all required landscaping, screening, stormwater facilities, and drainage improvements continue to comply with approved plans.

V. Ongoing Municipal Cost Recovery

Throughout the operational life of the facility, the owner or operator shall reimburse the Town for all reasonable engineering, planning, legal, environmental, agricultural, inspection, consulting, and administrative costs reasonably incurred by the Town in monitoring compliance with this Local Law, investigating complaints, reviewing annual reports, conducting inspections, enforcing permit conditions, reviewing proposed modifications, or otherwise administering this Local Law.

The Town may require the owner or operator to replenish an escrow account whenever reasonably necessary to ensure payment of such costs.

Failure to reimburse such costs within thirty (30) days after billing shall constitute a violation of this Local Law.

W. Prohibited Conditions

Tier 3 Solar Energy Systems shall not:

1. Be subdivided or phased to avoid regulatory thresholds.
2. Be located in prohibited zoning districts.
3. Be constructed in a manner inconsistent with approved plans.

SECTION 13. DECOMMISSIONING

A. Decommissioning Required - All Solar Energy Systems shall be removed and the site restored in accordance with this section upon abandonment, discontinuance of use, or the expiration of any applicable permit or approval.

B. Abandonment - A Solar Energy System shall be considered abandoned if it ceases to produce electricity for a continuous period of **twelve (12) months**, unless the owner demonstrates to the satisfaction of the Town that the system will be returned to service.

C. Removal Requirements - Upon abandonment or decommissioning, the owner and/or operator shall:

1. Remove all solar panels, mounting systems, equipment, structures, fencing, and above-ground infrastructure.
2. Remove all underground infrastructure to a minimum depth of **three (3) feet**, unless otherwise approved by the Town
3. Restore the site to its original condition or to a condition suitable for agricultural use.
4. Regrade and stabilize soils to prevent erosion.
5. Reseed or replant disturbed areas with appropriate vegetation.

6. Any Battery Energy Storage System installed in conjunction with a Solar Energy System shall be removed and decommissioned in accordance with the Battery Energy Storage System Law.

D. Timeframe for Removal - All decommissioning and site restoration shall be completed within **twelve (12) months** of the date the system is deemed abandoned or the permit is revoked or expired.

E. Decommissioning Plan Required- Prior to issuance of any permit for a Tier 2 or Tier 3 Solar Energy System, the applicant shall submit a decommissioning plan for review and approval by the Town.

The plan shall include:

1. A detailed description of removal and site restoration activities
2. A cost estimate for decommissioning prepared by a qualified professional engineer.
3. Identification of the party responsible for decommissioning
4. A schedule for removal
5. Provision for financial security to secure decommissioning costs

F. Town Right to Enforce

If the owner or operator fails to complete decommissioning within the required timeframe, the Town may:

1. Enter the property and complete removal and restoration.
2. Use financial security to cover all associated costs
3. Recover any additional costs incurred by the Town through legal means, including the placement of a lien on the property

G. Continuing Obligation - The obligations of this section shall run with the land and shall be binding upon all successors and assigns of the property owner and system operator.

H. Salvage Value Exclusion - The decommissioning cost estimate shall not include any assumed salvage value of system components.

I. No Depreciation - Depreciation of equipment or facilities shall not be used to reduce the amount of financial security required under this Local Law.

J. Independent Review- The Town may require independent review of the decommissioning cost estimate at the applicant's expense.

K. Financial Security- Financial security required under Section 11(O) shall be provided prior to the issuance of any building permit, Special Use Permit, or authorization to commence construction.

Financial security shall remain in effect until the Town has inspected the site and issued written confirmation that decommissioning and site restoration have been satisfactorily completed in accordance with this Local Law.

SECTION 14: ENFORCEMENT

A. Enforcement Authority. This Local Law shall be administered and enforced by the Town Code Enforcement Officer, or such other officer or officers as may be designated by the Town Board. The enforcement provisions of this Local Law are supplemental to, and shall be administered in conjunction with, the applicable enforcement provisions of the Town of Franklinville Zoning Law, except where this Local Law expressly provides otherwise. Nothing in this section shall be construed to limit the Town's authority to enforce the specific requirements, conditions, financial assurances, or remedies established by this Local Law.

B. Violations - Any failure to comply with the provisions of this Local Law, or with any condition of approval issued pursuant to this Local Law, shall constitute a violation.

C. Complaint Resolution - The owner or operator shall maintain a log of complaints received regarding the operation of the Solar Energy System and the actions taken to address such complaints. Upon request of the Town, the owner or operator shall provide a copy of the complaint log and documentation of corrective actions taken.

D. Stop Work Orders- The Code Enforcement Officer is authorized to issue a stop work order for any Solar Energy System that is being constructed, installed, modified, or operated in violation of this Local Law or any approval granted hereunder.

E. Permit Suspension and Revocation - The Town may suspend or revoke any permit, approval, or authorization issued under this Local Law upon finding that:

1. The applicant has violated any provision of this Local Law.
2. The applicant has failed to comply with any condition of approval.
3. The application contained false or misleading information; or
4. The required financial security has not been maintained.

F. Penalties - Any person, firm, or corporation who violates any provision of this Local Law shall be subject to a fine of not less than $500 and not more than $1,000 per day, or imprisonment for a period not to exceed fifteen (15) days, or both. Each day that such violation continues shall constitute a separate and distinct offense.

G. Civil Remedies - In addition to any other remedy provided by law, the Town may maintain an action or proceeding in a court of competent jurisdiction to:

1. Prevent, restrain, correct, or abate any violation.
2. Compel compliance with this Local Law.

3. Recover damages or costs incurred by the Town.

H. Cost Recovery - The Town may recover all reasonable costs incurred in enforcing this Local Law, including but not limited to legal, engineering, and administrative expenses, from the property owner or operator. Such costs may be assessed against the property and collected in the same manner as Town taxes.

I. Entry Upon Property - The Code Enforcement Officer or authorized representatives of the Town may enter upon any property at reasonable times, upon notice where required by law, for the purpose of inspecting compliance with this Local Law.

J. Injunctive Relief - The Town may seek injunctive relief to prevent or remedy any violation of this Local Law.

K. Non-Exclusive Remedies - The remedies provided in this section are cumulative and not exclusive, and the Town may pursue any and all remedies available under law.

L. Default and Town Action - In the event of a violation involving abandonment, failure to decommission, or failure to maintain required financial security, the Town may:

1. Declare the system in default;
2. Access and utilize financial security;
3. Enter the property to complete required work;
4. Recover any additional costs as provided herein.

SECTION 15: SEVERABILITY

If any clause, sentence, paragraph, subdivision, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

It is hereby declared to be the intent of the Town Board that this Local Law would have been enacted even if such invalid provisions had not been included herein.

SECTION 16: EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State in accordance with Section 27 of the New York State Municipal Home Rule Law.