

TOWN OF EAST OTTO

LOCAL LAW NO. 1 OF 2026

A LOCAL LAW AMENDING THE TOWN OF EAST OTTO ZONING ORDINANCE TO INCLUDE A NEW ARTICLE, ENTITLED “SOLAR ENERGY REGULATIONS”

BE IT ENACTED by the Town Board of the Town of East Otto as follows:

Section 1. Statement of Authority.

This local law is authorized by the New York State Constitution, the relevant provisions of the New York Municipal Home Rule Law, the Town Law, the laws of the Town of East Otto, and the general police power vested with the Town of East Otto to promote the health, safety and welfare of all residents and property owners therein.

Section 2. Amendment.

The Zoning Ordinance of the Town of East Otto is hereby amended as follows:

- A. The following Articles of the Zoning Ordinance of the Town of East Otto (Administration and Enforcement, are hereby renumbered, as follows:
 - a. Article Y (Administration and Enforcement) is hereby renumbered Article XI, and the sections in this Article are renumbered to begin with the numeral 11;
 - b. Article XI (Zoning Board of Appeals) is hereby renumbered Article XII, and the sections in this Article are renumbered to begin with the numeral 12;
 - c. Article XII (Planning Board) is hereby renumbered Article XIII, and the sections in this Article are renumbered to begin with the numeral 13; and
 - d. Article XII (Amendments) is hereby renumbered Article XIV, and the sections in this Article are renumbered to begin with the numeral 14.
- B. Section 14.1 (Mandatory Referral) is hereby renumbered 14.2.
- C. The following Article X, entitled Solar Energy Regulations, is added to the Zoning Ordinance:

ARTICLE 10: Solar Energy Regulations

10.1. Authority.

This chapter is adopted pursuant to §§ 261 through 265 of the Town Law of the State of New York, which authorizes the Town of East Otto to adopt laws which advance and protect the health, safety and welfare of the community and to make provisions for the accommodation of solar energy systems and equipment.

10.2. Findings.

The Town Board of the Town of East Otto makes the following findings:

- A. There is a current interest in developing Solar Energy installations within the Town of East Otto.
- B. There is a growing need to properly site solar energy systems within the boundaries of the Town of East Otto in order to protect 'residential, business areas and other land uses, to preserve the overall beauty, nature and character of the Town of East Otto and to promote the effective and efficient use of solar energy resources as well as the health, safety and general welfare of the citizens of the Town of East Otto.
- C. Prior to the adoption of this chapter, no specific procedures existed to address the siting of solar energy systems. Accordingly, the Town Board finds that the promulgation of this chapter is necessary to govern the location and construction of these systems.
- D. Solar energy systems need to be regulated for removal when no longer utilized.

10.3. Definitions.

The following definitions shall apply to this chapter:

APPLICANT

The person or entity filing an application and seeking an approval under this chapter; the owner of a solar energy system or a proposed solar

energy system project; the operator of solar energy system or a proposed solar energy system project; any person acting on behalf of an applicant, solar energy system or proposed solar energy system.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM

A solar energy and/or thermal heat system, including but not limited to photovoltaic building components, such as vertical facades, including glass and other facade material, semitransparent skylight systems, roofing materials and shading over windows.

BUILDING-MOUNTED SOLAR ENERGY SYSTEM

A solar energy and/or thermal heat system that is affixed to the side(s) of a building or other structure, either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building. Said system is designed and intended to generate electricity or heat primarily for use on said lot, but potentially for multiple tenants.

GROUND-MOUNTED SOLAR ENERGY SYSTEM

A solar energy and/or thermal heat system that is affixed to the ground either directly or by support structures or other mounting devices. Said system is an accessory structure, designed and intended to generate electricity or heat primarily for use on said lot, but potentially for multiple tenants. Ground-mounted solar energy systems not meeting the definition as outlined in this chapter will be treated as utility-scale solar energy systems and the requirements of such.

ROOFTOP-MOUNTED SOLAR ENERGY SYSTEM

Any solar energy and/or thermal heat system that is affixed to the roof of a building and wholly contained within the limits of the roof surface. Said system is designed and intended to generate electricity or heat solely for use on said lot, but potentially for multiple tenants.

SOLAR ENERGY SYSTEM FOR AGRICULTURAL USE

Any solar energy and/or thermal heat system that is used solely for agricultural production as defined in Agriculture and Markets Law§ 301(4).

UTILITY-SCALE SOLAR ENERGY SYSTEM

Any solar energy system that is designed and intended to supply energy exceeding 50 kw primarily into a utility grid for sale to the general public or to any utility.

10.4. Applicability.

The requirements of this chapter shall apply to all solar energy systems installed or modified after the effective date, excluding general maintenance and repair of solar energy systems.

- A. All solar energy systems existing on the effective date of this chapter shall be allowed to continue usage as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance shall comply with the requirements of this chapter.
- B. Any application for a solar energy system which is pending on the effective date of this chapter shall be subject to the provisions of this chapter.
- C. This chapter shall take precedence over any inconsistent provision contained in any other provision of the Town Code of the Town of East Otto.
- D. Any inconsistent provisions contained in any other provision of the Town Code are hereby superseded by this chapter.

10.5. General regulations.

The placement, construction and/or major modification of all solar energy systems within the boundaries of the Town of East Otto shall be permitted as follows:

- A. Residential solar energy systems up to 12 kw shall be permitted in all zoning districts upon issuance of a building permit, subject to compliance with the requirements and criteria of this chapter. Any residential solar energy system exceeding 12 kw, but less than 25 kw,

may be permitted upon issuance of a building permit, provided the applicant first obtains a variance and site plan approval from the Town Planning Board and otherwise complies with the requirements of this chapter.

- B. • Commercial solar energy systems up to 25 kw shall be permitted in all commercial zoning districts upon issuance of a building permit, subject to compliance with the requirements and criteria of this chapter. Any commercial solar energy system exceeding 25 kw, but less than 100 kw, may be permitted upon issuance of a building permit, provided the applicant first obtains a variance and site plan approval from the Town Planning Board and otherwise complies with the requirements of this chapter.
- C. Rooftop-mounted and building-mounted solar energy systems shall be allowed in all zoning districts upon issuance of a building permit, subject to compliance with the requirements and criteria of this chapter.
- D. Ground-mounted solar energy systems situate on lots of two or more acres in size and which otherwise comply with all of the requirements and criteria of this chapter shall be allowed in all zoning districts upon issuance of a building permit.
- E. Ground-mounted solar energy systems situate on lots less than two acres in size may be allowed in all zoning districts, conditioned upon site plan approval by the Town Planning Board and upon issuance of a building permit, subject to compliance with all provisions of this chapter as determined by the Town Planning Board. The Town Planning Board shall have the sole discretion as part of the site plan review process to determine whether a variance from the requirements of this chapter may be allowed.
- F. Utility-scale solar energy systems shall be allowed only by special permit and only in the R-A (Residence-Agricultural) District in accordance with the criteria established in this chapter, after SEQRA review and concurrent site plan approval by the Town Planning Board and upon issuance of a building permit.

10.6. General criteria.

- A. Rooftop-mounted and building-mounted solar energy systems shall not be more than three feet higher than the finished roof to which they are mounted and in no instance shall any part of the system extend within three feet of the edge of the roof. All rooftop-mounted and building-mounted solar energy systems shall meet all building permit requirements, including the New York State Uniform Fire Prevention and Building Code standards.
- B. Ground-mounted solar energy systems.
 - (1) Ground-mounted solar energy systems (not utility-grade systems) shall be subject to the following requirements:
 - (a) The location of the solar energy system shall be located in the side or rear yard of the property and not in the front yard.
 - (b) The location of the solar energy system shall be placed at least 50 feet from any side yard property line and at least 50 feet from any rear property line.
 - (c) The location of the solar energy system shall be placed at least 50 feet from any structure which is regularly occupied by humans, including accessory structures, regardless of whether said structure(s) are located on the applicant's lot or on any adjoining lot.
 - (d) The location of the solar energy system shall be placed at least 200 feet from any roadway, right-of-way, school, playground or park.
 - (e) A remote disconnect shall be provided and shown on the site plan.
 - (f) The height of the solar energy system shall not exceed 15 feet when oriented at maximum tilt.
 - (g) The total surface area of the solar panels on the solar energy system shall not exceed 500 square feet.

- (h) The total area occupied by the solar energy system on a lot shall not exceed 10% of the total area of the lot upon which the system is proposed.
 - (i) The design, construction, operation and maintenance of the proposed system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, parks, schools and rights-of-way in excess of that which already exists.
 - 0) The application should include evidence that the system shall be used solely to reduce the on-site consumption of electricity. Remote net metering shall be permitted if all locations (host and satellite) are geographically located within East Otto.
- (2) Any proposed solar energy system that meets all of the above general criteria! shall be allowed upon issuance of a building permit. Any proposed solar energy system that does not meet all of the above criteria shall be allowed only upon site plan approval by the Town Planning Board and issuance of a building permit.

C. Site plan requirements for a ground-mounted solar energy system.

- (1) If site plan approval is required by this chapter for a ground-mounted solar energy system, the applicant shall submit a site plan application, including the following:
 - (a) Plans and drawings of the solar energy system showing the proposed layout of the solar energy system along with a description of all components, existing vegetation, any proposed clearing and grading of the lot involved, any stormwater or erosion disturbances, and utility lines, both above and below ground, on the site and adjacent to the site;
 - (b) A recently dated (within one year) survey of the property showing all lot lines and the location and dimensions of all existing structures and uses on the property;
 - (c) The location of any residence or structure on any other property located within 300 feet of the proposed solar panels or of any park,

school, playground or public roadway within 300 feet of the proposed solar panels;

(d) Copies of the owner's deed and property tax bill;

(e) Any proposed fencing and/or screening for the project; and

(f) Any such additional information as may be required by the Town's professional engineer or consultant, Town Planning Board, Building Inspector or other agent/employee of the Town.

(2) The design, construction, operation and maintenance of ground-mounted solar energy systems shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, parks, schools and roadways in excess of that which already exists.

- D. Solar storage batteries. When solar batteries are included as part of any solar energy system, they shall be placed in a secure container or enclosure meeting the requirements of the New York State Building Code.
- E. All solar energy systems shall adhere to all applicable federal, state, county and Town laws, regulations and building, plumbing, electrical and fire codes.
- F. All solar energy systems shall be accessible for all emergency service vehicles and personnel.
- G. All structures and devices used to support solar collectors shall be nonreflective and/or painted a subtle or earth tone color. The design, construction, operation and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads and public parks in excess of that which already exists.
- H. The development and operation of a solar energy system shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats identified by the federal, state or local governments or their agencies.
- I. Artificial lighting of any solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.

- J. If the use of an approved solar energy system is discontinued, the owner or operator shall notify the Building Inspector within 30 days of such discontinuance. If a solar energy system is to be retained and reused, the owner or operator shall further inform the Building Inspector of this, in writing, at such time and obtain any necessary approvals within one year; otherwise, it shall automatically be deemed abandoned (and removed per this chapter).
- K. In deciding whether to issue a site plan approval of the proposed solar energy system, the Planning Board shall have the discretion to vary from and/or waive stated criteria where appropriate in meeting the goals and objectives of this chapter.
- L. The Planning Board shall meet in public, and any person interested in the application may attend said meetings. The Town Clerk shall make legal posting and advertising of the public meetings. Additionally, the Town Clerk shall provide written notice (by regular first-class mail to the address contained on the Town tax bill) of said meetings to all adjoining property owners at least 10 days' prior to said meeting. All persons shall have the right to speak in favor or against said application.

10.7. Special permit requirements.

Applications for special permits for utility-scale solar energy systems under this chapter shall be made as follows: Applicants for a special permit to place, construct, or to make a major modification to a utility- scale solar energy system within the Town of East Otto shall submit six sets of the following information to the Building Inspector, who shall first present the application to the Town Board. The Town Board shall initially review the application and shall then refer the matter to the Town Planning Board for review and recommendation and for concurrent site plan review. At any time in the process, the Building Inspector, the Town Board or the Planning Board may request that a professional engineer or consultant review the matter and act as consultant to the Town in the permitting process. The Planning Board may make such additional referrals and requests as it deems appropriate. No such application shall be deemed filed until all required application fees and related costs have been paid by the applicant. In the event a consultant is hired by the Town, the applicant shall pay the costs thereof. The following information shall be contained in the initial

application:

- A. A completed full environmental assessment form (EAF) under the State Environmental Quality Review Act (SEQRA) which shall fully describe the proposed system, its location, purpose and potential environmental impact. The Town Planning Board shall be designated as the lead agency for the SEQRA process. A visual site assessment may also be requested subject to the discretion of the Planning Board.
- B. The following additional information shall be required:
 - (1) Name, address, telephone number of the property owner and the section, block, lot (SBL) tax number of the parcel(s) involved. Copies of the deed and a current survey shall be included. If the property owner is not the applicant, the application shall include the name, address and telephone number of the applicant and a letter of authorization signed by the property owner authorizing the applicant to represent the property owner; the applicant must demonstrate fee simple property ownership; and
 - (2) Documentation of access to the project site, including location of all access roads, gates, parking areas, etc.; and
 - (3) Documentation of the clearing, grading, stormwater and erosion control plans; and
 - (4) Utility interconnection data and a copy of written notification to the utility of the proposed interconnection; and One- or three-line electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices; and
 - (5) A property owner or applicant who has installed or intends to install a utility-scale solar energy system may choose to negotiate with other property owners in the vicinity for any necessary solar skyspace easements or other applicable easements. The issuance of a special use permit does not constitute solar skyspace rights, and the Town shall not be responsible for ensuring impermissible obstruction to the solar skyspace as a result of uses or development performed in accordance with the Town code; and

- (6) The viability and suitability of the site for agricultural production and/or livestock grazing, including, but not limited to, the identification of important farm soils (Prime, prime drained, Statewide importance, soil groups 1-4) and the extent of agricultural activity.

C. A site plan 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 proposed layout of the entire solar energy system along with a description of all components (including inverters and transformers), 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) Property lot lines and the location and dimension of all existing structures and uses on site and off site which are within 500 feet of the solar panels; and
- (3) Proposed fencing and/or screening for said project (location, extent, and details);
- (4) Location of access roads (with road details):
- (5) Location of battery storage (if planned for or anticipated in future phases); Battery storage location will require consideration of fire suppression equipment and compensation to the town and / or fire department for any additional equipment necessary to comply with fire codes and /or laws. and
- (6) All other relevant information as required in § **212-6**.

D. A decommissioning plan to ensure the proper removal of utility-scale solar energy systems. The decommissioning plan is to be submitted as part of the special permit application to the Building Inspector for approval and must specify that after the utility-scale solar energy system is no longer in use (as determined by the owner/operator or the Building Inspector), it shall be removed by the applicant or any subsequent owner. The decommissioning plan shall identify the anticipated life of the project. The plan shall

demonstrate how the removal of all infrastructure and restoration shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected time line for execution and a cost estimate for decommissioning prepared by a professional engineer or qualified contractor. Cost estimates shall take inflation into consideration and be revised every five years during the operation of the system and include any salvage value. Removal of the large-scale solar energy system must be completed in accordance with the approved decommissioning plan and the standards provided as follows:

- (1) The applicant shall submit a decommissioning and site restoration plan, including cost estimate, to the Town for its review and approval prior to the approval of any wind energy permit. The restoration plan shall identify the specific properties it applies to and shall indicate removal of all buildings, structures, wind turbines, hazardous materials, access roads and/or driveways and foundations to 3.5 feet below finish grade including all above and below ground improvements and equipment, foundations, and structures including but not limited to substations, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and other associated facilities, so that any ground is again tillable and suitable for agricultural use. Road repair costs, if any shall be indicated, and all revegetation necessary to return the subject property to the condition existing prior to the installation of the utility-scale solar energy system. The restoration plan shall reflect the site-specific character, including topography, vegetation, drainage and any other unique environmental features. The plan shall include a detailed estimate of the total cost (by element) of implementing the removal and

restoration plan. The decommissioning plan shall include information regarding the anticipated life of the project.

- (2) The Town should retain the sole right to determine that the site has been fully decommissioned. Any costs borne by the Town in making this determination should be passed on to the project developer. The project developer should be fully responsible for any removal costs which exceed the decommissioning bond.

E. Removal and restoration bond.

- (1) A bond or other approved security shall be provided to cover the cost of removal and restoration of the area impacted by the solar system. Security shall be in an amount equal to 150% of the estimated cost to restore the property as presented in the approved decommissioning plan. Security shall cover the full decommissioning costs without recoverable costs from salvage value; applicant to include anticipated salvage value as indicated in Subsection **D** above, but this shall not be factored into the decommissioning costs. Any remaining security after full removal and restoration of the site, to the satisfaction of the Town, will be returned to the applicant or any subsequent owner. Property should be restored to match its agricultural value before the onset of the project.
- (2) Proof of said decommissioning and site restoration bond shall be provided to the Town on an annual basis. The bond amount shall be increased each year to account for inflationary costs. The sufficiency of such bond shall be confirmed at least every five years by analysis and report of the cost of removal and site restoration. Such report shall be procured by the sponsor and filed with the Town every five years. If the report demonstrates that the amount of the bond is insufficient, the bond amount shall be increased to the amount necessary to cover such cost within 10 days after the applicant's receipt of such report and the increased bond shall be filed with the Town Clerk.

F. Operations and maintenance plan that includes responsible entity with such activity, frequency of maintenance, frequency and scope of any replacement equipment, replacement of any fencing or screening vegetation, a safety plan that includes any special instructions to local fire agencies, and any other such information as required by the Planning Board.

G. Liability insurance. Prior to issuance of the building permit, the project sponsor shall provide proof in the form of an insurance certificate or policy issued by an insurance company, that liability insurance has been obtained to cover damage or injury which may result from the failure of any components of the utility-scale solar energy system. Such insurance policy shall provide coverage of not less than \$5,000,000 and shall name the property owner and the Town of East Otto as an additional named insured.

Upon request, the sponsor shall provide updated proofs of coverage to the Town on any utility-scale solar energy system constructed on Town property or Town rights-of-way.

- H. If ownership of the utility-scale solar energy system, or ownership of the underlying land upon which the utility-scale solar energy system facility is located, should change hands, the original holder, and subsequent owners, shall provide notification to the Town Clerk 90 days' prior to the change of ownership.
- I. The new owner of the utility-scale solar energy system shall present proof to the Town Clerk prior to taking ownership that the required bonds and insurance policies remain in full force and effect. The new owner shall provide a written statement to the Town Clerk that he/she is aware of the conditions and requirements of the solar energy permit which continue to govern the operation of the facility.
- J. Any such additional information as may be required by the Town's professional engineer or consultant, Town Planning Board or other agent or employee of the Town.

10.8. Special permit criteria.

Special permits issued for a utility-scale solar energy system shall meet the following minimum conditions:

- A. Minimum lot area: The minimum lot area shall be 25 acres.
- B. The maximum lot area shall be 50 acres
- C. Setbacks: Any utility-scale solar energy system shall adhere to the following setbacks:
 - (1) A minimum of 300 feet from all property lot lines.
 - (2) From all buildings or structures: a minimum of 300 feet from any inhabited building or structure, except for buildings and structures located on the proposed project lot.
 - (3) From any public roadway, park, playground or school: a minimum of 300 feet from any public roadway, park, playground or school.

- D. Maximum overall height: The height of a utility-scale energy system shall not exceed 20 feet when oriented at maximum tilt.
- E. A utility-scale solar energy system shall not be located in an area consisting of soil groups 1-4. This is determined by the USDA specifications and analysis by recognized government agencies.
- F. A utility-scale solar energy system shall adhere to all applicable federal, state, county and Town of East Otto laws, regulations, building, plumbing, electrical and fire codes.
- G. Development and operation of a utility-scale solar energy system shall not have a significant adverse impact on adjoining property owners, wildlife, fish or plant species or their critical habitats or other significant habitats.
- H. The design, construction, operation and maintenance of a utility-scale solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads and public parks in excess of that which already exists.
- I. All structures and devices used to support solar collectors shall be nonreflective and/or painted in a subtle or earth tone color.
- J. All transmission lines and wiring associated with a utility-scale or solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and state and local code requirements. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan.
- K. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.
- L. Lighting on any structure associated with the system shall not be allowed, except to the extent it may be required by state or federal law.
- M. No advertising signs shall be permitted on the solar energy system. Signage shall be included which provides twenty-four-hour emergency contact phone numbers to the owner of the system and in accordance with state or federal law.

- N. Any site containing a utility-scale solar energy system shall contain fencing or other device acceptable to the Town enclosing all solar energy system components.
- O. A berm, landscape screen or other opaque enclosure, or any combination thereof acceptable to the Town capable of screening the site may be required along any property line that abuts an existing roadway or residence.
- P. After completion of a utility-scale solar energy system, the applicant shall provide a post- construction certification from a professional engineer registered in New York State that the project complies with all applicable codes and industry practices and is operating according to the design plans.
- Q. The applicant is required to obtain all necessary and required regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval related to the completion of a utility-scale solar energy system.
- R. A bond or other appropriate form of security shall be offered by the applicant as part of the decommissioning plan as set forth in § **212-7E**, to cover the cost of the removal and site restoration, and said proof of appropriate form of security shall be filed prior to construction and on an annual basis with the Town Clerk.
- S. Clearing, grading, stormwater and erosion control. Before the Town of East Otto shall issue a building permit for a utility-scale solar energy system, the applicant shall submit a stormwater and erosion control plan to the Town Planning Board for its review and approval. The plan shall minimize the potential adverse impacts on wetlands and Class I and Class II streams and the banks and vegetation along those streams and wetlands and minimize erosion or sedimentation.

10.9. Maintenance, procedures and fees.

- A. Within 30 days after completion of its review of the application and completion of the site plan review process, the Planning Board shall send the Town Board written findings and recommendations and site plan

approval, disapproval or approval with conditions. Following receipt of the Planning Board's written recommendations on the application, together with a final site plan approval, at the next regularly scheduled meeting of the Town Board, the Town Board shall schedule a public hearing on the application. The purpose of the public hearing shall be on the topic of whether or not to issue a special permit to construct a utility-scale solar energy system. The public hearing before the Town Board shall be held within 60 days after receipt of the written recommendations of the Town Planning Board. Legal posting and advertising of the public hearing shall be made by the Town Clerk. Written notice (by regular first-class mail to the address contained on the Town tax bill) of said public hearing shall be given to all adjoining property owners by the Town Clerk at least 10 days prior to said public hearing. Within 60 days after completion of the public hearing, the Town Board shall render a final decision, in writing, to the applicant. The Town Board may vote to grant a special permit, deny a special permit, or grant a special permit with stated conditions. The Town Board may, but is not required to, follow the recommendations of the Town Planning Board.

- B. Time limit on completion. After the granting of a special permit of a utility-scale solar energy system by the Town Board, the applicant shall obtain a building permit within six months after the date the special permit was approved. The project shall be completed within 12 months after issuance of the building permit. A six-month extension to obtain a building permit and/or the completion time may be approved by the Planning Board upon request by the applicant. If the system is not constructed within the above time frame, or if no application for extension is filed, the special permit, building permit and site plan approval shall automatically lapse 12 months after the date of the approval of the special permit by the Town Board.
- C. Inspections. Upon reasonable notice, the Town Building Inspector 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 shall be deemed reasonable notice. Furthermore, a utility-scale solar energy system shall be inspected annually by the Town Building Inspector or a licensed professional engineer that has been designated by the Town, and a copy of the inspection report shall be submitted to the Town Building Inspector. Any fee or expense associated

with this inspection shall be borne entirely by the permit holder.

- D. General complaint process. During construction, the Town Building Inspector can issue a stop order at any time for any violations of a special permit or building permit. After construction is complete, the permit holder shall designate a contact person, including name, address and phone number, for receipt of any complaint concerning any permit or operational issues.
- E. 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. Furthermore, the Building Inspector shall also have the right to request documentation from the owner for a solar energy system regarding the system's usage at any time.
- F. Removal. All solar energy systems shall be dismantled and removed immediately from a lot when the special permit or approval has been revoked by the Town of East Otto Planning Board or the solar energy system has been deemed inoperative or abandoned by the Building Inspector for a period of more than 365 days, at the cost of the owner. If the owner does not dismantle and remove the 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 place the cost of removal as a tax lien on said parcel.
- G. Determination of abandonment or inoperability. A determination of the abandonment of or inoperability of a solar energy system shall be made by the Town Building Inspector, who shall provide the owner with written notice by personal service or certified mail. Any appeal by the owner of the Building Inspector's determination of abandonment or inoperability shall be filed with the Town Board within 30 days of the Building Inspector causing personal service or mailing by certified mail 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 365 days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals for the solar energy system shall automatically **expire**.

H. Application and annual fees.

- (1) Utility-scale solar energy system. The applicant shall pay an initial application fee in an amount as set by the Town Board, upon filing its special permit and site plan application, to cover the cost of processing and reviewing the application. If approved, the owner shall thereafter pay an annual fee in the amount as set by the Town Board to cover the cost of processing and reviewing the annual inspection report and for administration, inspections and enforcement.
 - (2) Site plan application for freestanding and ground-mounted solar energy systems. An applicant shall pay the standard site plan review fee as determined and established from time to time by the Town Board.
 - (3) The Town of East Otto reserves the right to provide, by local law or otherwise, that no exemption pursuant to the provisions of the New York State Real Property Tax Law (RPTL) § 487 shall be applicable within its jurisdiction.
- I. Upon completion of its deliberations, the Town Planning Board shall send a written recommendation to the Town Board. The Planning Board may recommend that a special permit be issued, or may recommend a denial of a special permit, or may recommend that a special permit be issued subject to conditions, as determined by the Planning Board. The Planning Board's recommendations shall be in writing and shall include all findings and conclusions deemed relevant by the Planning Board. Special permits for utility-scale solar energy systems granted under this chapter shall be issued by the Town Clerk at the direction of the Town Board, following a public hearing held by the Town Board, as required for all special use permits under Chapter **265**, Article XIII, of the Town Code.
- J. The Town Board shall conduct a public hearing on the application. Within 60 days after the conclusion of the public hearing, the Town Board may vote to grant a special permit, deny a special permit or grant a special permit with written stated conditions. The decision of the Town Board shall be by written decision based upon substantial evidence considered by the Board. Special permits for utility-scale solar energy systems granted under this chapter shall be issued by the Town Clerk after approval and at the direction of the Town Board. Upon issuance of a special permit, the applicant shall then obtain a

building permit from the Building Inspector for the construction of a utility-scale solar energy system.

- K. Any changes or alterations post-construction to any solar energy system shall be done only by amendment to the applicable special permit and/or site plan (if required) subject to all requirements of this chapter. Special permits for utility-scale solar energy systems shall be assignable or transferrable so long as the applicable system is in full compliance with this chapter and all of the conditions imposed thereon, and the Building Inspector is notified, in writing, of the proposed assignment or transfer at least 30 days' prior thereto.
- L. In addition to the requirements of this chapter, the special permit application shall be subject to any other site plan approval requirements set forth in the Town Code.

10.10. Solar energy systems for agricultural use.

Applications for solar energy systems which are to be used solely to offset energy use as part of a farm operation [as defined in Agriculture and Markets Law § 301(11)] located in a state or county agricultural district shall include the following information:

- A. Name and address of the applicant.
- B. Evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such application.
- C. A drawing or diagram drawn in sufficient detail to show the following:
 - (1) Location of the proposed system on the site.
 - (2) Property lot lines and the location and dimensions of all existing structures and uses within 500 feet of the proposed system.
 - (3) Dimensional representation of the various structural components of the proposed solar energy system.
- D. Environmental assessment form (short form) pursuant to 6 NYCRR 617.
- E. Such additional information as may be reasonably requested by the Town Planning Board for a complete understanding of the proposed system.

- F. The Planning Board may determine that not all of these requirements are necessary for a particular proposed project.
- G. A permit fee, in an amount as established by the Town Board from time to time.
- H. The applicant shall include evidence that the system will be used solely to reduce the on-site consumption of electricity. Remote net metering shall be permitted if all agricultural locations (host and satellite) are geographically located within East Otto
- I. Evidence that the electrical output from the solar energy system will not exceed 110% of the farm's anticipated electrical needs.

10.11. Revocation of permits or approvals.

If the applicant and/or owner of any solar energy system violates any of the conditions of its special permit or site plan approval or violates any other federal, state, county or local law, rule or regulation, this shall be grounds for the revocation of the applicable special permit, site plan approval or building permit previously issued to the applicant. Revocation may occur after the applicant and/or owner is notified, in writing, of the violations and the Town Planning Board holds a hearing on same.

10.12. Interpretation and conflicts.

In the interpretation and application of this chapter, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare of the residents of the Town of East Otto. It is not intended to interfere with, abrogate, or annul other rules, regulations or laws, provided that whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted law, rule or regulation, the most restrictive, or those which impose the highest standards, shall govern.

10.13. Severability.

If any section, subsection, phrase, sentence or other portion of this chapter is for any reason held invalid, void, unconstitutional or otherwise unenforceable by

any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

10.14. Tax exemption; payments in lieu of taxes.

Solar energy systems shall be exempt from assessment/taxation as provided under Real Property Tax Law§ 487. However, the Town of East Otto reserves the right to require the owner of a utility scale solar energy system to enter into a contract for payments in lieu of taxes (PILOT) as a requirement for receiving a special permit under§ **212-7**.

Section 3. Full force and effect.

Except as herein amended, the Zoning Ordinance of the Town of East Otto shall be and remain in full force and effect.

Section 4. Effective date.

This local law shall take effect immediately upon filing with the Office of the Secretary of State.