

LOCAL LAW NO. 4 OF 2023 TO REVISE THE CONESUS TOWN CODE TO ADDRESS SOLAR ENERGY SYSTEMS AND BATTERY ENERGY STORAGE SYSTEMS

BE IT ENACTED, by the Town Board of the Town of Conesus, Livingston County, State of New York, as follows:

Section I. Authorization and Supersession

The adoption of this Local Law is in accordance with Section 10 of the New York Municipal Home Rule Law.

Section II. Title and Purpose

This law shall be known as and may be cited as Local Law No. 4 of 2023 to Revise the Conesus Town Code to Address Solar Energy Systems and Battery Energy Storage Systems. The purpose of this Local Law is to implement regulations to address solar energy systems and battery energy storage systems in Town.

Section III. Legislative Finding

The Town Board of the Town of Conesus finds and hereby determines that the Town Code should more comprehensively address solar energy systems and battery energy storage systems in Town, and, as such, the following regulations shall be adopted. This Local Law is aimed at advancing and protecting the public health, safety, and welfare of the Town by creating regulations for the installation and use of solar energy generating systems, battery energy storage systems and equipment, with the following objectives:

- A. To take advantage of a safe, abundant, green and renewable and non-polluting energy resource,
- B. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses,
- C. To increase employment and business development in the Town, to the extent reasonably practical, by furthering the installation of Solar Energy Systems and BESS,
- D. To mitigate the impacts of Solar Energy Systems and BESS on environmental resources such as important agricultural lands, forests, wildlife, wetlands and the Lake, and other protected resources, and
- E. To mitigate the aesthetic and character impacts of Solar Energy Systems and BESS on surrounding uses, including protecting the viewshed of Conesus Lake and Hemlock Lake and protecting the residential and commercial character of their respective neighborhoods.

Section IV. Substantive Legislation

Section 155-3 of the Conesus Town Code, entitled "Definitions and Word Use," shall be amended to remove the following definitions:

ACCESSORY BUILDING OR USE;
SOLAR POWER; and
ENERGY-GENERATING DEVICE.

Section 155-3 of the Conesus Town Code, entitled "Definitions and Word Use," shall be amended to add the following definitions therein in their appropriate alphabetical order:

ACCESSORY BUILDING, STRUCTURE OR USE: Any building, structure or use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

ACTIVE AGRICULTURAL LAND: Land used for a Farm Operation in accordance with Agriculture and Markets Law § 301 – uses of which include production of crops, livestock, and livestock products – within the past five years.

BATTERY ENERGY STORAGE SYSTEM ("BESS"): One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time (not to include a stand-alone 12-volt car battery or an electric motor vehicle).

DECOMMISSION: The removal and disposal of the Solar Energy System, including all components and subsystems thereof, including associated Equipment, as well as site restoration, all in accordance with a Decommissioning Plan.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: Components of a building which harness solar energy for usable forms of electric or thermal energy. These components are directly integrated into the building itself. By way of example, these may comprise specially treated windows and glass, shingles, etc. This does not include building-mounted or roof-mounted solar panels.

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

FARM OPERATION: Land and on-farm buildings, equipment, facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise, all as in accordance with Agriculture & Markets Law.

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

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System which is secured to the ground via a pole, ballast system, or other mounting system; is detached from any other structure; and which generates electricity for onsite or offsite consumption.

SMALL GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Ground-Mounted Solar Energy System which a) comprises a maximum of 2.0% of area of the lot on which it resides or b) has a total maximum of 1,000 square feet of Solar Facility Area, whichever is less. May only be utilized as an Accessory Structure. On-Site Use only.

ON SITE USE: Solar Energy System designed, installed, and operated so that the anticipated annual total amount of electrical energy generated does not exceed more than 110 percent of the anticipated annual total electrical energy consumed.

MEDIUM TO LARGE GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Ground Mounted Solar Energy System which does not qualify as a Small Ground-Mounted Solar Energy System or Small On-Farm Ground Mounted Solar Energy System due to a larger size or due to off-site Use.

SMALL ON-FARM GROUND MOUNTED SOLAR ENERGY SYSTEM: A Ground Mounted Solar Energy System situated on a parcel a part of a Farm Operation which a) comprises a maximum of 4.0% of area of the farm lot on which it resides, or b) has a total maximum of 4,000 square feet of Solar Facility Area, whichever is less. May only be utilized as an accessory structure.

MINERAL SOIL GROUPS 1-4 (MSG 1-4): Soils recognized by the New York State (NYS) Department of Agriculture and Markets as having the highest value based on soil productivity and capability, in accordance with the uniform statewide land classification system developed for the NYS Agricultural Assessment Program.

NAMEPLATE CAPACITY: A solar energy system's maximum electric power output under optimal operating conditions. Nameplate Capacity may be expressed in terms of Alternating Current (AC) or Direct Current (DC).

NATIVE PERENNIAL VEGETATION: Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for Pollinators and shall not include any prohibited or regulated invasive species as determined by the NYS Department of Environmental Conservation.

NON-PARTICIPATING RESIDENCE: A residential property which is not on lands comprising the subject Solar Energy System and is not otherwise affiliated with the subject Solar Energy System in any contractual manner (e.g., via a lease relative to the System).

ON-FARM SOLAR ENERGY SYSTEM: A Solar Energy System located on a farm which is a "Farm Operation" (including as defined by Article 25-AA of the Agriculture and Markets Law, which may include one or multiple contiguous or non-contiguous parcels) in an agricultural district, which is designed, installed, and operated for On-Site Use.

OWNER: The owner of a Solar Energy System, which may be distinct from the owner of the land on which it sits (for example, in the case of a land lease). In some cases "owner" may refer to the owner of land, in which case such distinction is made in the text hereof.

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

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System located on the roof of any legally permitted building or structure, which produces electricity for onsite or offsite consumption.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

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

SOLAR ENERGY SYSTEM ("SES"): The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment.

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

The Conesus Town Code shall be amended by establishing Article X to be entitled “Solar Energy Systems and Battery Energy Storage Systems,” which shall read as follows:

155-60. Applicability.

- A. The requirements of this Article shall apply to all Solar Energy Systems and Battery Energy Storage Systems permitted, installed, or modified in Town after the effective date of this Article excluding general maintenance and repair.
- B. Solar Energy Systems and Battery Energy Storage Systems constructed or installed prior to the effective date of this Article shall not be required to meet the requirements of this Article.
- C. Modifications to an existing Solar Energy Systems that increase the Solar Facility Area by more than 5% of the existing Solar Facility Area shall be subject to this Article.
- D. Solar Energy Systems and Battery Energy Storage Systems on government-owned property operated for the benefit of a government entity are exempt from this Article.

155-61. General Requirements.

The following general requirements shall apply to all Solar Energy Systems and Battery Energy Storage Systems:

- A. A building permit shall be required for the installation of all Solar Energy Systems and Battery Energy Storage Systems.
- B. Prior to the issuance of the building permit and/or prior to any final application approval(s), any required construction and/or site plan documents must be signed and stamped by a NYS Licensed Professional Engineer or NYS Registered Architect.
- C. The location and design of Solar Energy Systems shall be such that their access to sufficient sunlight remains economically feasible over time.
- D. All Solar Energy Systems, including BESS, shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards, including as referenced in the NYS Uniform Fire Prevention and Building Code (“Uniform Code”), the NYS Energy Conservation Code (“Energy Code”), and the Conesus Town Code.
- E. Glare. All Solar Panels shall have anti-reflective coating(s).
- F. To the extent that a Solar Energy System is proposed within a watershed as per Chapter 79 of this Town Code, the provisions thereof shall apply.
- G. Solar panels shall not be used for purposes or in ways other than for what they are designed and intended – to generate solar energy.
- H. Reasonable costs incurred by the Town in its review of applications for Solar Energy Systems and Battery Energy Storage Systems, including but not limited to costs associated with review and assistance from consultants and other professionals, shall be reimbursable to the Town pursuant to its fee reimbursement law.

155-62. Requirements for Roof-Mounted and Building Integrated Solar Energy Systems.

All Roof-Mounted and Building-Integrated Solar Energy Systems shall be permitted in any zoning district upon the issuance of a building permit therefore, all in accordance with any applicable additional requirements which follow:

A. Additional Requirements for Roof-Mounted Solar Energy Systems. Roof-Mounted Solar Energy Systems shall incorporate the following design requirements:

1. Solar Panels on pitched roofs:
 - a. Shall be mounted with a maximum distance of 8 inches between the roof surface the highest edge of the system,
 - b. Shall be installed parallel to the roof surface on which they are mounted or attached, and
 - c. Shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
2. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet nor more than 24 inches above the flat surface of the roof, whichever is higher, but, in any event, may only extend up to the maximum allowed building height.
3. Roof-Mounted solar energy systems shall be designed and installed so as to protect against injury from the shedding of ice or snow from the roof onto any pedestrian or vehicular travel area, sidewalk, stairwell, driveway, parking area, or porch.
4. Proof shall be provided to the satisfaction of the Town Building Inspector which demonstrates structural integrity sufficient to support the load of any proposed Roof-Mounted Solar Energy Systems.

B. Building-Integrated Solar Energy Systems shall be depicted on the plans submitted with the building permit application for the building containing the system.

155-63. Requirements for Battery Energy Storage Systems (“BESS”)

Battery Energy Storage Systems shall additionally comply with the following:

- A. Battery Energy Storage Systems are only permitted in conjunction with and as a part of an approved Solar Energy System, and only to the extent that they directly serve and relate only to the subject Solar Energy System.
- B. A building permit and an electrical permit shall be required for installation of all battery energy storage systems.
- C. For Rooftop, Building Integrated, Small Ground Mounted, and Small On-Farm Ground Mounted Solar Energy Systems, any associated Battery Energy Storage System shall be permitted subject to any review as may be required for the underlying associated Solar Energy System (e.g., site plan review). Additionally, a Conditional Use Permit shall be required for any such BESS, pursuant to the general Conditional Use Permit standards located at Article III of this Chapter. In addition to those general standards, the reviewing Board shall additionally take into consideration any necessary safety precautions that may be relevant depending on the size and location of the BESS, including, for example, setbacks, fencing, etc., and may impose conditions relating to the same.

D. For Medium to Large Solar Energy Systems, any associated BESS shall be reviewed as part of the underlying application, including as part of the Conditional Use Permit process set forth in this Chapter. Moreover, the reviewing Board shall additionally take into consideration any necessary safety precautions that may be relevant depending on the size and location of the BESS, including, for example, setbacks, fencing, etc., and may impose conditions relating to the same. The decommissioning and operation and maintenance plan for the associated Solar Energy System shall sufficiently address the BESS.

E. Additional Safety Requirements for all BESS:

1. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:

A) UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),

B) UL 1642 (Standard for Lithium Batteries),

C) UL 1741 or UL 62109 (Inverters and Power Converters),

D) Certified under the applicable electrical, building, and fire prevention codes as required.

E) Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.

2. Site Access. Battery Energy Storage Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department.

3. Battery Energy Storage Systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

155-64. Requirements for Small Ground-Mounted Solar-Energy Systems (including Small Ground-Mounted On-Farm SES).

All Small Ground-Mounted Solar Energy Systems (including Small Ground Mounted On-Farm SES) shall require site plan review in accordance with those requirements set forth in this Chapter for Site Plan review, and shall be subject to the following additional requirements:

A. Setbacks. Shall be subject to the setback regulations set forth in the table at Appendix 1 hereof. Fencing, collection lines, and landscaping may occur within the SES setbacks, subject to the final approval of the Planning Board pursuant to its review.

B. Location. May only be installed in the side or rear yards.

C. Accessory Use. Are only permitted as an Accessory Structure.

D. On-Site Use. May only be used for On-Site Use.

E. Height. Shall be subject to the height limitations set forth in the table at Appendix 3 hereof.

F. Buffering (view of SES from other properties). View of Small Ground-Mounted Solar-Energy Systems shall be minimized from adjacent properties, particularly residences, including with special attention to potential glare. This requirement shall be assessed and applied by the reviewing Board during site plan review.

G. Lakeview Protection. Solar Energy Systems shall be located in a manner to avoid and/or minimize blockage of views of Conesus Lake and Hemlock Lake from adjacent properties while still providing adequate Solar Access. This requirement shall be assessed and applied by the reviewing Board during site plan review.

155-65. Requirements for Medium to Large Ground-Mounted Solar-Energy Systems.

All Medium to Large Ground-Mounted Solar Energy Systems shall require Site Plan Review and a Conditional Use Permit, shall only be permitted in the A/RR Agricultural/Rural Residential District, and shall be subject to the following additional requirements:

A. Site Plan Application Requirements. In addition to those requirements for Site Plan applications already present in this Chapter, application for site plan review shall also include the following:

1. Name, address, and contact information of the system installer and the Owner and/or operator of the Solar Energy System.
2. Name, address, contact information, and signature of the project applicant, as well as the property owner(s) providing consent to the application and the use of the property for the Solar Energy System.
3. Nameplate Capacity of the Solar Energy System (as expressed in kW or MW).
4. Zoning district designation for the parcel(s) of land comprising the Solar Facility Area.
5. Property lines and physical features, including roads, for the project site.
6. Adjacent land uses on contiguous parcels.
7. Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.
8. A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all Battery Energy Storage System components if applicable and should include applicable setback and other bulk and area standards.
9. A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a building permit. Any additional information required by the Town shall be provided at the Town's request.

B. Conditional Use Permit Requirements. In addition to those requirements for Conditional Use Permits present in Article III in this Chapter (including a public hearing), the following additional requirements shall also apply:

1. Conditional Use Permit Application Requirements. In addition to those other requirements for Conditional Use Permits present in this Chapter, applications shall also require the following, which shall be addressed during Conditional Use Permit review:

- a. Reviewed for completeness. Applicants shall be advised within 30 days, or as soon as practicable thereafter, of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
- b. Map(s) of MSG 1-4 soils and Active Agriculture Lands on the parcel(s) comprising the Solar Facility Area and adjacent parcels.
- c. Erosion and sediment control and storm water management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the reviewing Board.
- d. A Property Operation and Maintenance Plan that sufficiently describes continuing site maintenance, including maintenance and repair of the Solar Energy System, regular testing, and property upkeep, such as mowing and trimming, which Plan is subject to review and approval during Conditional Use Permit review. This Plan shall also provide information relative to emergency response and maintaining emergency access, including via roadways during the winter months. Such Plan shall be specific to the proposed project and site. Compliance with this Operation and Maintenance Plan shall be a de facto condition of any Conditional Use Permit approval.

- 1) Relative to emergency planning, the Plan shall detail for the Solar Energy System, inclusive of any BESS:
 - a) Response logistics and safety training for emergency responders. Safety training shall be provided at the applicant's cost.
 - b) Sufficient processes and provisions to address situations including the handling of any emergencies that may include hazardous materials, including the process for cleanup and disposal thereof in compliance with law.
 - c) Emergency planning shall include documentation and verification that the system and its associated controls and safety systems are in compliance with all regulations, Codes and requirements.
 - d) Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
- 2) The reviewing Board may refer the Plan to local code enforcement official(s) / Fire Marshall / emergency responders for purposes of assessment for fire safety and emergency purposes. Such assessment may include reviewing adequate access, the length and width of access roads to adequately reach the proposed site, turnarounds and bump outs required to allow for emergency vehicle access/passing, and an approved driving surface capable of supporting the heavy weight of emergency apparatus. The reviewing Board shall take such assessment into consideration during its review, and may impose conditions related thereto.

- 3) A snow removal plan shall be provided as part of the Plan. It shall include plow frequency, proposed snow storage locations, and a maximum allowable snow cover at any one time.
- 4) In addition to any other requirements, the Operation and Maintenance Plan shall require that broken, damaged or inoperable parts of a Solar Energy System be promptly repaired/replaced and/or removed in accordance with applicable laws.

e. A Decommissioning Plan signed by the Owner and/or operator of the Solar Energy System shall be submitted by the applicant and subject to review and approval during Conditional Use Permit review. The Decommissioning Plan and compliance therewith shall be a de facto condition of any Conditional Use Permit approval. The Decommissioning Plan shall generally take the form specified by the Town, given the facts and circumstances of the particular application, and shall adequately address the following:

1. The time and steps required to decommission and remove the Solar Energy System, including any associated BESS, and any ancillary structures, including restoration required as a result of the installation and removal of the Solar Energy System, which shall begin no later than 4 months after a triggering event, and shall be completed within 12 months after a triggering event.
2. The cost of decommissioning and removing the Solar Energy System and BESS, as well as all necessary site remediation or restoration.
3. The provision of decommissioning security which shall adhere to the following requirements:

- a. The deposit, execution, or filing with the Town of cash, bond, or other form of security acceptable to the Town which shall be in an amount sufficient to ensure the removal of the SES and BESS and restoration of the site subsequent to the removal.

The amount of the bond or security shall be 115% of the estimated cost of removal and site restoration for the Solar Energy System and BESS, which shall be revisited every five years and updated as needed to reflect any changes (due to inflation or other cost changes). The decommissioning amount shall be reduced by the amount of 33% of the estimated salvage value of the Solar Energy System. Such cost and salvage values shall be established by an engineering estimate acceptable to the Town.

- b. In the event of default in completing construction of the SES within the permitting periods herein, or a default in removal of the same in accordance herewith, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

4. The Decommissioning Plan and associated security must be provided prior to the issuance of a Building Permit.

5. The Decommissioning Plan shall ensure the safe disposal of all items, including hazardous waste in accordance with local, state, and federal waste regulations.

2. Conditional Use Permit Standards. In addition to those standards and requirements for Conditional Use Permits already present in this Chapter, the following shall also apply and shall be reviewed during Conditional Use Permit review:

A. Underground Requirements. All utility lines located outside of the Solar Facility Area shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

B. Vehicular Paths. Vehicular paths within the Solar Facility Area shall be designed in compliance with Uniform Code requirements to ensure emergency access, while minimizing the extent of impervious materials and soil compaction.

C. Signage.

1. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet, or larger if permitted by the reviewing Board during Conditional Use Permit review.

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

D. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be shielded and downcast from abutting properties.

E. Inverters shall be placed as feasibly close to the center/interior of the project so as to minimize the impact thereof, such as potential noise, etc. The project shall be developed such that operational noise impacts to nearby properties is materially minimized or avoided.

F. Lot size. The property on which the Medium to Large Solar Energy System is placed shall meet the lot size requirements of the underlying zoning district, if any.

G. Setbacks. Medium to Large Solar Energy System shall be subject to the setback regulations set forth in the table at Appendix 2 hereof. Fencing, collection lines, access roads and landscaping may occur within the setback, but only upon approval pursuant to the Conditional Use Permit review.

H. Height. Medium to Large Solar Energy System shall comply with the height limitations set forth in the table at Appendix 3 hereof. This height requirement may be varied by the reviewing Board during Conditional Use Permit review if the panels are being raised to accommodate continued or new agricultural practices.

I. Lot coverage. Medium to Large Solar Energy Systems are subject to the lot coverage requirements in the underlying zoning district.

J. Fencing Requirements. The Solar Energy System, including any structure for Battery Energy Storage System components, shall be enclosed by a 7-foot-high fence, or at a greater height if otherwise required by NEC, with a self-locking gate to prevent unauthorized access.

K. Buffering (View of SES from other properties). Views of Solar Energy Systems shall be minimized from adjacent properties, particularly residences, including with special attention to potential glare. This may include, for example, architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area. The following additional requirements shall apply:

1. Visual Assessment. The applicant shall conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, a glare analysis, inclusive of the Solar Energy System, utility poles, etc., may be required.
2. Screening and Landscaping Plan. The applicant shall submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized from public roadways and adjacent properties.
 - i. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following any applicable rules and standards established by the Town. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening.
 - ii. A variety of native, non-invasive deciduous and evergreen trees and/or shrubs, of various sizes/heights/planting off-sets shall be used to create a natural appearance and protect against possible disease. The potential impact of tree mortality on the effectiveness of the buffer should be assessed.
 - iii. The Plan shall identify trees/vegetative buffers to remain and to be removed. Adequate spacing between the perimeter site fencing and limit of disturbance for vegetative buffers to be installed should be provided.
 - iv. The Board, during the Conditional Use Permit process, may elect to waive certain screening and landscaping requirements in select locations based on an applicant's demonstration of non-impact or impact mitigation.

L. Viewshed Protection. Solar Energy Equipment shall be located in a manner to avoid and/or minimize blockage of views from adjacent properties while still providing adequate Solar Access. This requirement shall be assessed and applied by the reviewing Board during Conditional Use Permit review.

M. Lakeview Protection. Solar Energy Systems shall be located in a manner to avoid and/or minimize blockage of views of Conesus Lake and Hemlock Lake from adjacent properties while still providing adequate Solar Access. This requirement shall be assessed and applied during Conditional Use Permit review.

N. Environmental Resources

1. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the maximum extent possible.
2. The applicant shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing Native Perennial Vegetation and foraging habitat beneficial to game birds, songbirds, and Pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the Owners shall use native plant species and seed mixes and seed all appropriate areas within the Solar Facility Area. Any project which is designed to incorporate agricultural or farm-related activities or uses within the Solar Facility Area may be excluded from this

requirement based on the amount of space actually occupied by the agricultural use(s). This exclusion will only be allowed based on a determination that these lands are being used for actual agricultural uses.

3. To the extent reasonably practicable, the project shall use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.

O. Agricultural Resources. Solar Energy Systems for which the Solar Facility Area includes lands consisting of MSG 1-4 shall adhere to the following requirements:

1. Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 50% of the area of MSG 1-4 located on the parcels which contain the SES.
 - a. A Solar Energy System may exceed the 50% MSG 1-4 coverage threshold only to the extent it incorporates an onsite activity or program which provides for the use of the land as a Farm Operation. Exceedance beyond the 50% threshold will thus only be allowed based on a determination that the subject lands exceeding the 50% are also being used as a Farm Operation (e.g., such that the subject lands exceeding the 50% are being used both and dually for the SES and the Farm Operation at the same time).
 - b. Subject to discretion of the reviewing Board during its review hereunder, if the landowner demonstrates that – notwithstanding the classification as MSG 1-4 – such lands cannot be feasibly employed in agriculture due to excessive wetness, rocky conditions or slopes, such lands may be excluded from counting as part of the area of MSG1-4 for purposes of calculations under this section.

2. Solar Energy Systems located on MSG 1-4 shall be constructed, monitored, and decommissioned in accordance with the current version of the NYS Department of Agriculture and Markets’ “Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands.” However, provisions of the same may be waived or varied by the reviewing Board where the Board finds that any such waiver is otherwise consistent with applicable and relevant Conditional Use Permit standards herein given the particular circumstances of the subject application, and only where such waiver or variance is limited such that said Guidelines continue to be applied to maximum extent practicable and feasible given the particular circumstances of the subject application.

In carrying out this provision, the Board may incorporate reasonable conditions relating to the same as a part of its determination.

P. Ownership Changes. If the Owner or operator of the Solar Energy System changes or the landowner of the subject property changes, the Conditional Use Permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the Conditional Use Permit and Decommissioning Plan, and the security continues in full effect upon change of ownership. Evidence in writing of the same shall be provided to the Town prior to any such change. Should there be a failure to comply with this provision, the Conditional Use Permit shall automatically terminate and decommissioning in accordance herewith shall then be required. Any approval terminated under this subsection may be reinstated subject to the same review and approval process for a new applications under this Law.

Q. Taxation. So long as the Town has not acted to remove the real property tax exemption under

§ 487 of the New York Real Property Tax Law, the Town may require that a project involving a Solar Energy System enter into a payment in lieu of taxes agreement, all as permitted at § 487 of the New York Real Property Tax Law.

R. Pre-Construction Meeting. Prior to the issuance of any building permits for Medium to Large Ground-Mounted Solar-Energy Systems, a pre-construction meeting shall be held between the Owner/operator/applicant and the Town.

155-66. Safety, Generally.

- A. Solar Energy Systems, Solar Energy Equipment and BESS shall be certified under the applicable electrical and/or building codes as required.
- B. Solar Energy Systems and BESS shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal, at a level acceptable to the local emergency service providers.
- C. If a Battery Energy Storage System is included as part of the Solar Energy System, it shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with law.
- D. Where deemed necessary, the Applicant shall ensure emergency access to the Solar Facility Area for local first responders by installing an emergency lock box or similar device.

155-67. Permit Timeframe, Decommissioning, Abandonment and Compliance.

- A. The duration of the Conditional Use Permit shall be as set forth at Chapter 155, Subsection 155-19.
- B. Should the Building Permit or Conditional Use Permit expire, terminate or otherwise no longer permit the construction and/or operation of the Solar Energy System, or should operation of the Solar Energy System cease, the use of the Solar Energy System and BESS shall be prohibited and the Solar Energy System and BESS shall be decommissioned and removed and all site restoration and remediation activities shall be completed by and at the sole cost of the Owner and/or operator, all within 12 months of any such triggering event, and such decommissioning activity to begin with 4 months of such triggering event, all in accordance with the Decommissioning Plan.
- C. Upon substantial cessation of electricity generation of a Solar Energy System (the generation of less than 5% of the rated capacity) on a continuous basis for 12 months, the Solar Energy System shall be considered abandoned and its operation shall be ceased, and the Decommissioning Plan shall be implemented, requiring that the Solar Energy System and BESS be decommissioned and removed by and at the sole cost of the Owner and/or operator, and all site restoration and remediation activities shall be completed, which shall all be completed within 12 months of such abandonment, with such decommissioning activity to begin with 4 months of such abandonment.
- D. If the Owner and/or operator fails to comply with decommissioning as set forth herein, including within the time set forth herein, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and BESS and restoration of the site in accordance with the decommissioning plan and this Article.

E. The landowner shall additionally be responsible for compliance with this Chapter, including that the landowner shall additionally be responsible for the decommissioning of the Solar Energy System and BESS, including where the Solar Energy System Owner or operator fails to comply with the provisions hereof relative to decommissioning.

Appendix 1: Setback Requirements for Small Ground-Mounted Solar Energy Systems and Small On-Farm Ground Mounted Solar Energy Systems

Zoning District	Front*	Side	Rear
Lake Upland	30'	20'	25'
Lake Shore	—	—	—
Hemlock	30'	20'	25'
Hamlet	30'	15'	25'
Agricultural / RR	30'	20'	25'

—: Not Allowed

* Note that placement in the front yard is not permitted.

Appendix 2: Setback Requirements for Medium to Large Ground-Mounted Solar Energy Systems

Zoning District	Front	Side	Rear	Non-Participating Occupied Residence*
Lake Upland	-	-	-	-
Lake Shore	-	-	-	-
Hemlock	-	-	-	-
Hamlet	-	-	-	-
Agricultural/RR	100'	50'	50'	250'

Key: - : Not Allowed

* To be measured from the Solar Facility Area to the subject primary residential structure.

Appendix 3: Height Requirements

The following table sets forth height requirements for each type of Solar Energy System. The height of systems will be measured from the highest natural grade below each Solar Panel.

Zoning District	Roof-Mounted	Small Ground-Mounted and Small On Farm	Med. To Large Ground-Mounted
Lake Upland	See 155-63	12'	---
Lake Shore	See 155-63	---	—
Hemlock	See 155-63	12'	---
Hamlet	See 155-63	12'	---
Agricultural / RR	See 155-63	12'	12'

Key: —: Not Allowed

155-68. Enforcement.

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in this Chapter.

Section 155-33 of the Conesus Town Code, Subsection A thereof (“Uses allowed in all Districts”), shall be amended by adding the following additional uses to such subsection:

- (8) Roof-Mounted Solar Energy System, and
- (9) Building-Integrated Solar Energy System.

Section 155-37 of the Conesus Town Code, Subsection B thereof (“Permitted Uses” in the Hamlet/Mixed Use District) shall be amended by adding the following additional uses to such subsection:

- (15) Small Ground-Mounted Solar Energy System, and
- (16) Small On-Farm Ground-Mounted Solar Energy System.

Section 155-39 of the Conesus Town Code, Subsection B thereof (“Permitted Uses” in the Lake Upland District) shall be amended by adding the following additional uses to such subsection:

- (8) Small Ground-Mounted Solar Energy System, and
- (9) Small On-Farm Ground-Mounted Solar Energy System.

Section 155-40 of the Conesus Town Code, Subsection B thereof (“Permitted Uses” in the A/RR District) shall be amended by adding the following additional uses to such subsection:

- (11) Small Ground-Mounted Solar Energy System, and
- (12) Small On-Farm Ground-Mounted Solar Energy System.

Section 155-41 of the Conesus Town Code, Subsection B thereof (“Permitted Uses” in the Hemlock District) shall be amended by adding the following additional uses to such subsection:

- (8) Small Ground-Mounted Solar Energy System, and
- (9) Small On-Farm Ground-Mounted Solar Energy System.

Section 155-40 of the Conesus Town Code, Subsection C thereof (“Conditionally permitted uses” in the A/RR District) shall be amended by adding the following additional use to such subsection:

- (8) Medium to Large Ground-Mounted Solar Energy System.

Section V. Validity and Severability

Should any word, section, clause, paragraph, sentence, part or provision of this local law be declared invalid by a Court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

Section VI. Repeal, Amendment and Supersession of Other Laws

All other ordinances or local laws of the Town of Conesus which are in conflict with the provisions of this local law are hereby superseded or repealed to the extent necessary to give this local law force and effect during its effective period, including but not limited to the repeal and supersession of the moratorium relative to solar energy systems in the Town of Conesus that was implemented by way of Local Law No. 3 of 2021 (including any extension thereof such as its extension by way of subsequent amendment to said Local Law).

Section VII. Effective Date

This Local Law shall be effective immediately upon its approval.