

**LOCAL LAW NO. 3 OF 2026**

**A LOCAL LAW REGULATING CERTAIN SOLAR ENERGY SYSTEMS IN THE TOWN OF MOUNT MORRIS, NEW YORK**

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**§1. Title**

This local law shall be known as the “Town of Mount Morris Solar Energy Law.”

**§2. Authority**

This local law is adopted pursuant to the New York State Constitution, Municipal Home Rule Law §§ 10 and 11, Town Law §§ 130, 261, and 274-a, and all other applicable provisions of New York State law.

**§3. Legislative Findings and Intent**

The Town Board of the Town of Mount Morris hereby finds, determines, and declares that this Local Law implements the Town of Mount Morris Comprehensive Plan by permitting appropriately scaled, on-site Solar Energy Systems while preventing additional large-scale solar energy development incompatible with the Town’s agricultural economy, environmental constraints, and rural character (Town of Mount Morris Comprehensive Plan, 2021).

**A. Comprehensive Plan Consistency.**

Pursuant to Town Law §272-a, land use regulations must be adopted in accordance with a duly adopted comprehensive plan. The Town of Mount Morris Comprehensive Plan, adopted May 20, 2021, expressly states that it serves as the foundation for zoning regulations and amendments thereto, and that land-use regulations consistent with the Comprehensive Plan provide significant legal protection for municipal land-use decisions (Town of Mount Morris Comprehensive Plan, 2021, Chapter 1: Background, p. 2, ¶¶ 2-4).

**B. Agriculture as a Primary Land Use and Economic Driver.**

The Comprehensive Plan identifies the Town of Mount Morris as a predominantly rural community whose land-use patterns and economy have historically been and continue to be driven by agriculture. The Plan recognizes that the Town contains extensive farmland and some of the highest-quality agricultural soils in New York State, and that agriculture remains the primary economic driver of the community (Town of Mount Morris Comprehensive Plan, 2021, Chapter 2: Mount Morris Today, p. 11, ¶¶ 1-3; USDA Natural Resources Conservation Service, Livingston County Soil Survey; New York State Department of Agriculture and Markets).

C. Prime Soils, Drainage, and Sensitivity to Disturbance.

The Comprehensive Plan documents that soils within the Town generally exhibit moderate-to-low permeability and poor natural drainage, conditions that heighten the risk of adverse impacts from grading, compaction, and large-scale land disturbance. The Plan further notes that most land outside the Village is actively farmed and located within a New York State Agricultural District, underscoring the need for land-use controls that avoid irreversible soil degradation (Town of Mount Morris Comprehensive Plan, 2021, Chapter 3: Natural Resources – Soils and Land Resources, p. 23, ¶¶ 2–5).

D. Rural Character, Open Space, and Community Values.

The Comprehensive Plan’s Vision Statement emphasizes preservation of rural character, open space assets, scenic landscapes, and a small-town atmosphere as defining characteristics of Mount Morris. Public participation and survey results incorporated into the Plan demonstrate that residents strongly value farmland preservation, environmental features, and protection of soil and water quality, and that incompatible or intensive land uses are discouraged (Town of Mount Morris Comprehensive Plan, 2021, Vision Statement, p. 3, ¶¶ 1–2; Chapter 1: Public Participation – Survey Results, p. 6, ¶¶ 6–9).

E. Energy Policy and Appropriate Scale.

While the Comprehensive Plan supports energy conservation and the use of alternative and renewable energy technologies, it does so primarily in the context of homes, businesses, and existing buildings. The Plan emphasizes energy efficiency, green building practices, and appropriately scaled renewable energy systems, and does not identify large-scale or utility-scale solar facilities as a preferred land use within agricultural or open-space areas (Town of Mount Morris Comprehensive Plan, 2021, Chapter 3: Sustaining Our Natural Resources – Alternative Energy, p. 27, ¶¶ 3–5).

F. Stormwater, Flooding, and Environmental Risk.

The Comprehensive Plan identifies stormwater management, drainage, and flooding as recurring concerns within the Town and directs that new development be carefully reviewed to ensure that it does not exacerbate these conditions. Given the Town’s documented soil characteristics and drainage limitations, large-scale solar facilities involving extensive grading, vegetation removal, and soil compaction present heightened environmental risks inconsistent with the Plan’s land-use objectives (Town of Mount Morris Comprehensive Plan, 2021, Chapter 3: Water Resources – Flood Zones and Stormwater, pp. 25–26, ¶¶ 1–4).

G. Cumulative and Irreversible Impacts.

The Town Board finds that large-scale Solar Energy Systems constitute long-term or effectively permanent land-use conversions that differ materially from traditional agricultural uses. Additional approvals of such facilities would result in further cumulative loss of farmland, fragmentation of agricultural operations, and erosion of rural character, contrary to the Comprehensive Plan’s goals of farmland preservation, sustainable land stewardship, and long-term community resilience (Town of Mount

Morris Comprehensive Plan, 2021, Chapter 3: Agriculture; Chapter 4: Effect of Adoption, p. 90, ¶¶ 1-2).

H. Intent.

Based on the policies, findings, and goals articulated in the Town of Mount Morris Comprehensive Plan and related adopted planning documents, it is the intent of this local law to:

1. Implement the land-use framework and policy direction of the Town's adopted Comprehensive Plan;
2. Protect Prime Farmland Soils and Soils of Statewide Importance from permanent or long-term conversion;
3. Encourage appropriately scaled renewable energy systems, including roof-mounted and building-integrated solar;
4. Prevent additional large-scale solar energy development that is incompatible with the Town's agricultural economy, environmental constraints, and rural character.

**§4. Definitions**

For purposes of this local law, the following definitions shall apply:

**ACCESSORY USE** — A use incidental and subordinate to a lawful principal use on the same parcel.

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

**BATTERY ENERGY STORAGE SYSTEM (BESS)** — Any system or facility that stores electrical energy for later use (excluding standalone consumer batteries, 12-volt car batteries, 12-volt marine batteries, or electric motor vehicles).

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEM** — A Solar Energy System incorporated into the building's design, such as photovoltaic shingles, or panels integrated into facades.

**DUST** — Fine particulate matter consisting of soil, sand, silt, clay, aggregate, or other earthen materials that become airborne as a result of land-disturbing activities associated with the construction, operation, maintenance, restoration, or decommissioning of a solar energy system. Dust includes fugitive particulate matter generated by grading, excavation, trenching, soil stockpiling, vehicle traffic, equipment operation, wind erosion of exposed soils, and disturbance of agricultural lands.

**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 (in accordance with Agriculture & Markets Law § 301 [11]).

**FACILITY AREA** — The total area of all solar panels, racking, inverters, substations, energy storage (if applicable), access roads, gravel areas, and other operational components of a

Solar Energy System, excluding setback areas, vegetative buffers, landscaping, and screening areas.

GLARE — The presence of excessive brightness or reflected light that causes visual discomfort, distraction, or impairment, including specular or diffuse reflection from solar panels or associated equipment.

MOONLIGHT REFLECTION (MOONGLARE) — The reflection of lunar illumination from solar panels or related equipment that results in intermittent or sustained nighttime light intrusion onto neighboring properties, roadways, or agricultural lands.

NAMEPLATE GENERATING CAPACITY — The maximum rated output of a Solar Energy System in megawatts (MW) AC, as specified by the manufacturer and used to determine jurisdictional thresholds under applicable state law.

PRIME FARMLAND SOILS — Soils classified as Prime Farmland or Farmland of Statewide Importance by the USDA Natural Resources Conservation Service.

QUALIFIED SOLAR INSTALLER — A person or entity with skills and training in safe solar installation.

ROOF-MOUNTED SOLAR ENERGY SYSTEM — A Solar Energy System affixed atop a structure, either flush-mounted or on supporting frames to optimize sun exposure.

SENSITIVE RECEPTORS — Residences, public roads, farm dwellings, barns, livestock areas, crop lands, and farm operations, as defined in Agriculture and Markets Law §301(11), located on or adjacent to the project site.

SOLAR ENERGY SYSTEM — A system of components intended for the collection, inversion, distribution, storage, or generation of energy from sunlight, including solar collectors, mounting devices, support structures, inverters, meters, and related equipment.

TIER 1 SOLAR ENERGY SYSTEM — Tier 1 Solar Energy Systems shall include:

1. Roof-mounted Solar Energy Systems; and
2. Building-Integrated Solar Energy Systems.

TIER 2 SOLAR ENERGY SYSTEM — Tier 2 Solar Energy Systems include ground-mounted Solar Energy Systems that:

1. Generate no more than 150 percent of the electricity consumed on the site over the previous twelve (12) months, and shall not increase total lot coverage beyond the maximum lot coverage permitted in the zoning district where located.
2. Agricultural Operations. A Solar Energy System located on a farm operation as defined in §301(11) of the New York State Agriculture and Markets Law, located within a New York State Agricultural District, which primarily serves the energy needs of the farm operation and produces up to 110 percent of the farm's needs, or such other amount established by resolution consistent with Department of Agriculture and Markets guidance, shall be deemed a Tier 2 Solar Energy System.
3. Net Metering. A system otherwise meeting this definition shall not be excluded from Tier 2 classification due solely to the receipt of net-metering credits or sale of excess energy.

TIER 3 SOLAR ENERGY SYSTEMS — Solar Energy Systems not included in Tier 1, Tier 2, or Tier 4, including community solar projects, with a facility area not exceeding thirty (30) acres and a nameplate generating capacity of less than twenty-five (25) megawatts AC.

TIER 4 SOLAR ENERGY SYSTEMS — Any Solar Energy System with a facility area greater than thirty (30) acres and a generating capacity of twenty-five (25) megawatts AC or greater, including systems subject to state-level siting procedures administered by ORES or successor agencies.

#### **§5. Applicability and Prohibited Uses**

- A. This Local Law shall apply to all parcels within the Town of Mount Morris outside the Village of Mount Morris.
- B. Tier 4 Solar Energy Systems are not permitted as-of-right in any zoning district within the Town of Mount Morris and may be considered only pursuant to the requirements of this Local Law to the maximum extent permitted by state law.
- C. No site plan approval, special use permit, variance, or other discretionary approval shall be granted for a prohibited Solar Energy System.

#### **§6. Solar Energy System Use Regulations**

- A. Tier 1 Solar Energy Systems – Permitted.

Tier 1 Solar Energy Systems are permitted in all zoning districts as accessory uses, subject to §7 of this Local Law and all applicable codes.

- B. Tier 2 Solar Energy Systems – Limited and Regulated.

Tier 2 Solar Energy Systems may be permitted only upon Planning Board approval, provided that:

- 1) Prime Farmland Soils are avoided to the maximum extent practicable;
- 2) Land disturbance is limited to the minimum area necessary; and
- 3) All requirements of §8 of this Local Law are satisfied.

- C. Tier 3 Solar Energy Systems – Severely Restricted.

- 1) Tier 3 Solar Energy Systems are prohibited on Prime Farmland Soils, Soils of Statewide Importance, Active Agricultural Land, and land within a New York State Agricultural District.
- 2) Tier 3 Solar Energy Systems may be considered only on previously disturbed, non-agricultural land and only upon full compliance with §9 of this Local Law. No Tier 3 system is permitted as-of-right.

- D. Tier 4 Solar Energy Systems – Additional Requirements.

Applications for Tier 4 Solar Energy Systems (including any project subject to ORES or successor agencies) shall, at a minimum, meet all applicable requirements of §9 of this Local Law (Tier 3 Solar Energy Systems) as baseline local standards, plus additional requirements set forth in §10 of this Local Law to address scale-related impacts.

#### **§7. Tier 1 Solar Energy Systems**

A. Permitted Use

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

B. Required Approvals

Roof-mounted Tier 1 Solar Energy Systems require a building permit.

C. Roof-Mounted Design and Installation Standards

Tier 1 Solar Energy Systems shall comply with all of the following:

- 1) Systems shall be mounted parallel to the roof surface or fully integrated into the building structure.
- 2) Panels shall not extend more than 18 inches above the roof surface on pitched roofs, and shall not extend above the parapet or more than 24 inches above the roof surface on flat roofs.
- 3) Installation shall not compromise roof integrity or structural safety.
- 4) Required fire access pathways shall be maintained in accordance with the New York State Fire Code.
- 5) Electrical disconnects and rapid shutdown systems shall be clearly labeled and accessible.
- 6) Glare shall be minimized through panel placement and non-reflective materials.
- 7) Systems shall comply with the New York State Uniform Fire Prevention and Building Code, Fire Code, and National Electrical Code.

D. Building-Integrated Design and Installation Standards

- 1) Panels shall be integrated into building design and not obstruct windows, doors, or architectural features
- 2) Panels shall not extend more than three (3) feet from the building façade
- 3) The maximum height of a building-integrated Solar Energy System shall be 18 feet, as measured from the lowest point where the system is affixed to the vertical façade of the building

E. Emergency and Safety Requirements

- 1) The power supply cutoff device for any Tier 1 Solar Energy System shall be located on the outside of the structure or structures that support such systems, in close proximity to where the power supply enters the system, along with twenty-four-hour emergency contact information, where it can be easily accessed by emergency personnel.
- 2) All solar systems must be designed to prevent glare onto neighboring properties, streets, or rights-of-way

F. Maintenance and Removal

Any Tier 1 system that is not operational for twelve (12) consecutive months shall be deemed abandoned and shall be removed by the property owner within 90 days of notice.

## **§8. Tier 2 Solar Energy Systems**

### **A. Permitted Use**

Tier 2 Solar Energy Systems are permitted in all zoning districts as accessory uses.

### **B. Required Approvals**

Tier 2 applications are classified as Type I actions under SEQRA, and require:

- 1) Site plan approval;
- 2) A building permit; and
- 3) A special use permit issued by the Town Planning Board.

### **C. Design and Installation Requirements**

- 1) All support structures shall be nonreflective, and glare shall be minimized through panel placement and non-reflective materials.
- 2) Required fire access pathways shall be maintained in accordance with the New York State Fire Code.
- 3) Electrical disconnects and rapid shutdown systems shall be clearly labeled and accessible.
- 4) Systems shall comply with the New York State Uniform Fire Prevention and Building Code, Fire Code, and National Electrical Code.

### **D. Height**

The maximum height of a Tier 2 system shall be 20 feet above grade

### **E. Siting and Layout Standards**

Tier 2 Solar Energy Systems are considered accessory structures and shall be counted toward lot coverage calculations for the parcel.

Tier 2 systems shall:

- 1) Be located to minimize visual impacts and shading onto public roads and adjoining residential properties.
- 2) Avoid Prime Farmland Soils to the maximum extent practicable.
- 3) Not be located in front yards.
- 4) Be sited to preserve existing hedgerows, tree lines, and natural screening where feasible.

### **F. Setbacks**

Minimum setbacks for Tier 2 systems shall be:

- 1) 100 feet from any residence on an adjoining parcel;
- 2) 50 feet from property lines;
- 3) 75 feet from any public road right-of-way.

### **G. Screening and Fencing**

- 1) Tier 2 systems shall be enclosed by fencing not less than seven (7) feet in height per NEC standards.
- 2) Evergreen vegetative screening shall be required where the system is visible from adjoining properties or public roads, unless waived by the Planning Board due to topography or existing vegetation.
- 3) Screening shall be maintained for the life of the system.

#### H. Safety and Signage

- 1) Clearly visible signage shall identify the system owner and emergency contact information.
- 2) Warning signs shall be posted at all access points.
- 3) Emergency access routes shall be maintained at all times.

#### I. Decommissioning and Financial Security

- 1) A decommissioning plan shall be submitted with the application.
- 2) The plan shall include removal of all equipment, restoration of soils, and reseeded.
- 3) Financial security equal to 125 percent of the estimated decommissioning cost shall be posted prior to construction.
- 4) Security shall be reviewed every five years and adjusted as necessary.

### **§9. Tier 3 Solar Energy Systems**

#### A. Permitted Use

- 1) Tier 3 Solar Energy Systems are not permitted as-of-right in any zoning district within the Town of Mount Morris. Tier 3 Solar Energy Systems may be considered only via special use permit, and only where the applicant affirmatively demonstrates that:
  - i. The proposed facility will be located entirely on previously disturbed, non-agricultural land;
  - ii. No portion of the facility area includes Prime Farmland Soils, Soils of Statewide Importance, or Active Agricultural Land;
  - iii. The project will not result in the permanent or long-term conversion of agricultural land; and
  - iv. No reasonable alternative location exists that would result in less environmental, agricultural, visual, or community impact.
- 2) Community solar projects and other commercial solar facilities classified as Tier 3 are expressly included within the scope of this section and shall be subject to all requirements herein.

#### B. Required Approvals

- 1) Tier 3 Solar Energy Systems shall require all of the following approvals:
  - i. A Special Use Permit issued by the Town Zoning Board of Appeals;

- ii. Site plan approval by the Town Planning Board;
- 2) The Zoning Board of Appeals and/or Planning Board may deny an application where it finds that the proposed system:
  - i. Is inconsistent with the Town of Mount Morris Comprehensive Plan;
  - ii. Would adversely affect agricultural viability, soil resources, drainage patterns, or rural character;
  - iii. Would contribute to cumulative land-use impacts within the Town; or
  - iv. Fails to meet any standard set forth in this Local Law.

### C. Design and Installation Requirements

#### 1) Facility Area and Scale

- i. The total facility area of a Tier 3 Solar Energy System shall not exceed thirty (30) acres.
- ii. Nameplate generating capacity shall be less than twenty-five (25) megawatts (MW) AC.

#### 2) Setbacks

- i. A minimum setback of 300 feet from any residential dwelling on an adjoining parcel;
- ii. A minimum setback of 200 feet from any property line;
- iii. A minimum setback of 250 feet from any public road right-of-way.

#### 3) Height

Solar panels and support structures shall not exceed 20 feet in height above grade at any point.

#### 4) Visual Screening

- i. Tier 3 facilities shall be fully screened from public roads and adjoining residential properties through a combination of existing vegetation, topography, fencing, and planted vegetative buffers.
- ii. Vegetative screening shall consist of native species and be designed to achieve year-round opacity within three (3) growing seasons.
- iii. Screening shall be maintained for the life of the facility.
- iv. Escrow for Screening Replacement Surety (Five Growing Seasons). Prior to issuance of any building permit, site plan approval endorsement, or commencement of any land disturbance for a Tier 3 Solar Energy System requiring vegetative screening, the applicant/owner shall establish an escrow agreement with the Town to guarantee the replacement and successful establishment of required screening trees, shrubs, and plantings for a period of five (5) growing seasons following installation ("Screening Establishment Period").
- v. Escrow Amount. The escrow shall be funded in an amount equal to one hundred percent (100%) of the original screening installation cost, including all plant

materials, delivery, soil preparation, amendments, staking/guying, mulch, initial watering, and installation-related equipment, plus the fair market value of labor necessary to remove and replace failed plantings and re-establish required screening during the Screening Establishment Period, as determined by the Town based on itemized contractor estimates and invoices and at least two (2) independent written quotes from qualified landscape contractors. The additional ten percent (10%) shall account for anticipated inflation, administrative costs, and potential cost increases during the Screening Establishment Period. No annual escalation factor shall be required.

- vi. Inspections and Replacement Standard. Screening plantings shall be inspected by the Code Enforcement Officer and/or a Town-retained qualified professional at least once per growing season during the Screening Establishment Period, and additionally upon receipt of a written complaint or observed failure. Failed Plantings shall be replaced within sixty (60) days of written notice, or by the next available planting season but in no case later than May 31 of the following year.
- vii. Release of Escrow. Escrow may be released only after completion of the fifth (5th) growing season following installation and the Town determines, based on inspection, that screening plantings meet the approved plan requirements and are healthy and established. Any draw on escrow shall be replenished by the owner/operator within thirty (30) days of written notice.

#### 5) Soil and Land Disturbance

- i. Grading, compaction, and soil disturbance shall be minimized to the greatest extent practicable.
- ii. Topsoil shall be stripped, stockpiled, and replaced in accordance with NYS DAM agricultural mitigation guidance.
- iii. Permanent access roads shall be minimized in width and length.

#### 6) Lighting

Lighting shall be limited to that required for safety and security and shall be downward-directed and shielded.

#### 7) Glare

- i. Solar Energy Systems shall be designed, sited, installed, and operated so as to avoid, minimize, and mitigate glare and moonlight reflection impacts to the maximum extent practicable. No Solar Energy System shall be permitted or operated in a manner that results in glare or moonlight reflection that:
  - (1) Impairs the reasonable use or enjoyment of any neighboring residential or agricultural property;
  - (2) Interferes with agricultural practices or farm operations protected under Agriculture and Markets Law §301 and §305-a;
  - (3) Creates a traffic hazard or visual distraction on any public roadway; or
  - (4) Produces persistent or recurring nighttime light intrusion visible from any Sensitive Receptor.

ii. Applications for Tier 3 and Tier 4 Solar Energy Systems shall include a Glare and Reflectivity Impact Analysis prepared by a qualified professional. At a minimum, the analysis shall:

- (1) Evaluate potential daytime glare and nighttime moonlight reflection from all panel orientations and tilt angles throughout the year;
- (2) Include a line-of-sight profile analysis from public roads and all Sensitive Receptors;
- (3) Identify the duration, intensity, seasonal variation, and frequency of any predicted glare or moonlight reflection;
- (4) Demonstrate the effectiveness of proposed mitigation measures; and
- (5) Certify that panel coatings, finishes, and materials are anti-reflective and non-specular to the greatest extent practicable.

iii. Mitigation Requirements.

Where glare or moonlight reflection is predicted or observed, the applicant or operator shall implement mitigation measures, which may include but are not limited to:

- (1) Adjustment of panel tilt, height, orientation, or tracking limits;
- (2) Installation of vegetative screening, berms, or opaque barriers designed specifically to block reflected light;
- (3) Use of enhanced anti-reflective coatings or alternative panel technology;
- (4) Relocation or removal of panels causing documented impacts; or
- (5) Operational restrictions during periods of known glare or moonlight reflection.

iv. Enforcement and Corrective Action.

Upon receipt of a written complaint or observed glare or moonlight reflection impact, the Town Code Enforcement Officer or a Town-retained qualified professional may conduct site inspections and require additional analysis at the owner or operator's expense.

v. If glare or moonlight reflection is determined to violate this section, the owner or operator shall, within thirty (30) days of written notice, implement corrective measures approved by the Town. Failure to do so shall constitute a violation of this Local Law and may result in fines, enforcement action, escrow draws, suspension or revocation of approvals, or other remedies permitted by law.

vi. Agricultural Protections.

Nothing in this section shall be construed to limit or impair the protections afforded to farm operations under Agriculture and Markets Law §305-a. Glare or moonlight reflection that interferes with a lawful farm operation shall be deemed a significant adverse impact and grounds for enforcement or modification of approvals.

vii. Rebuttable Presumption of Impact

Upon receipt of a written and substantiated complaint from an owner or occupant of a Sensitive Receptor alleging glare, reflectivity, or moonlight reflection impacts, there shall be a rebuttable presumption that the Solar Energy System is operating in violation of this section. The burden shall be on the owner or operator of the Solar Energy System to affirmatively demonstrate, through independent third-party analysis acceptable to the Town and conducted at the owner's or operator's sole expense, that:

- (1) The alleged glare or moonlight reflection does not exist; or
- (2) The glare or moonlight reflection exists but does not materially interfere with the reasonable use and enjoyment of the affected property, public roadway safety, or agricultural operations protected under Agriculture and Markets Law §301 and §305-a.

Pending resolution of the complaint, the Town may impose temporary operational restrictions or require interim mitigation measures to prevent ongoing impacts.

viii. Financial Security for Glare and Reflectivity Mitigation.

Any escrow, bond, or other financial security required or approved in connection with a Tier 3 or Tier 4 Solar Energy System—including but not limited to screening, landscaping, road use, or decommissioning surety—may be drawn upon by the Town to address glare, reflectivity, or moonlight reflection impacts.

Authorized uses of such financial security shall include, but not be limited to:

- (1) Independent glare, reflectivity, or nighttime light studies;
- (2) Design, installation, or enhancement of vegetative screening, berms, fencing, or opaque barriers specifically intended to mitigate reflected light;
- (3) Adjustment, relocation, or removal of panels or equipment causing documented impacts; and
- (4) Town administrative, professional, and inspection costs incurred in responding to glare or moonlight reflection complaints.

Any amounts drawn from escrow or other financial security shall be replenished by the owner or operator within thirty (30) days of written notice. Failure to replenish such security shall constitute a violation of this Local Law and grounds for suspension or revocation of approvals.

8) Road Use, Dust Control, and Restoration Surety.

Applications shall include a heavy vehicle/haul route plan, a pre-construction road condition survey (video and/or photographic documentation and, where appropriate, subsurface/base sampling), a dust control plan for construction traffic (including watering and/or approved dust suppressants such as calcium chloride where appropriate), and a road maintenance and restoration plan. Prior to commencement of construction, the applicant shall provide financial security (bond and/or escrow agreement approved by the Town Attorney) sufficient to fund road maintenance and full restoration of any Town roads used by the project during and after construction.

- i. Solar Energy Systems shall be constructed, operated, and maintained in a manner that prevents the generation and migration of dust or airborne particulate matter beyond the project site in quantities that unreasonably interfere with the use or enjoyment of neighboring properties; impair visibility or safety on any public or private roadway; adversely affect crops, livestock, farm dwellings, or farm operations protected under Agriculture and Markets Law §§301 and 305-a; or result in visible dust deposition on structures, vehicles, vegetation, or outdoor areas of neighboring properties.
- ii. Dust and Particulate Control Plan Required

Applications for Tier 3 and Tier 4 Solar Energy Systems shall include a Dust and Particulate Control Plan prepared by a qualified professional. The plan shall, at a minimum:

- (1) Identify all dust-generating activities, including grading, excavation, pile driving, material handling, and vehicle traffic;
- (2) Identify all haul routes, access roads, staging areas, and construction entrances;
- (3) Specify dust suppression measures to be implemented before, during, and after construction and during ongoing operation and maintenance;
- (4) Establish trigger conditions requiring intensified dust control measures, including dry weather, high winds, increased truck traffic, or documented complaints; and
- (5) Identify an on-site contact with authority to immediately implement additional dust control measures.

- iii. Roadway-Specific Dust and Haul Route Protections

All haul routes and access roads shall be expressly identified in the application and approved by the Town prior to commencement of construction. Use of any road not expressly approved shall constitute a violation of this Local Law.

- (1) Unpaved and Dirt Roads.

Where project traffic utilizes unpaved, dirt, or gravel roads, the owner or operator shall:

- a) Implement continuous dust suppression measures, including watering and/or approved dust suppressants sufficient to prevent visible dust migration beyond the roadway;
- b) Restrict vehicle speeds as directed by the Town;
- c) Maintain road surfaces in a safe and passable condition at all times; and
- d) Immediately address rutting, potholes, washboarding, or surface degradation caused by project traffic.

- (2) Temporary Road Treatment.

Where watering and dust suppressants are insufficient, the Town may require temporary stabilization measures, including oil-and-stone or equivalent treatment, prior to or during construction.

(3) Post-Construction Restoration.

All roads used by the project shall be restored to equal or better condition than existed prior to project activity, as documented by pre-construction road condition surveys.

(4) Rebuttable Presumption of Dust Impact

Upon receipt of a written and substantiated complaint from an owner or occupant of a neighboring property or farm operation, or upon observation by the Town, there shall be a rebuttable presumption that the project is operating in violation of this section. The burden shall be on the owner or operator to demonstrate, at its sole expense and through inspection or third-party evaluation acceptable to the Town, that adequate dust control measures are being implemented and that no violation exists. Pending resolution, the Town may require immediate corrective action, including modification or suspension of dust-generating activities or project traffic.

(5) Monitoring, Enforcement, and Financial Security

The Town Code Enforcement Officer or a Town-retained qualified professional may conduct inspections upon receipt of a complaint, observation of dust impacts, or as part of routine monitoring. Any escrow, bond, or other financial security required or approved in connection with the project—including road use, screening, or decommissioning surety—may be drawn upon immediately to:

- a) Implement emergency dust suppression measures;
- b) Repair or clean affected roadways or neighboring properties;
- c) Retain third-party professionals to evaluate dust impacts; and
- d) Reimburse the Town for administrative, inspection, and enforcement costs.

Any funds drawn shall be replenished by the owner or operator within thirty (30) days of written notice. Failure to replenish shall constitute a violation of this Local Law.

(6) Penalties

Each day a violation of this section continues shall constitute a separate offense and may result in civil penalties, appearance tickets, injunctive relief, suspension or revocation of permits, or other remedies authorized by law.

(7) Minimum Required Mitigation Measures

At a minimum, dust control measures shall include, as applicable:

- a) Regular watering of disturbed areas, access roads, and haul routes, including weekends and non-working days as necessary;

- b) Use of approved dust suppressants (including calcium chloride or equivalent) where watering alone is insufficient, subject to environmental best practices;
- c) Stabilization of exposed soils through seeding, mulching, matting, or temporary cover;
- d) Limitation of vehicle speeds on unpaved surfaces;
- e) Prompt cleanup of material tracked onto public roads;
- f) Restriction of construction activities during high-wind conditions when dust cannot be adequately controlled; and
- g) Maintenance or temporary improvement (e.g., oil and stone or equivalent treatment) of dirt roads used for project access where required by the Town.

(8) SEQRA Consistency and Supplemental Review

Compliance with this section shall be deemed a material condition of any approval issued pursuant to the State Environmental Quality Review Act (SEQRA). Persistent, recurring, or unmitigated dust impacts, including those associated with haul routes or road degradation, shall be deemed a potentially significant adverse environmental impact not adequately mitigated by the original approval and may constitute grounds for:

- a) Supplemental environmental review;
- b) Modification of approval conditions;
- c) Suspension of construction or operation; or
- d) Revocation of approvals, as permitted by law.

9) Fencing and Security

- i. The facility shall be enclosed by fencing not less than seven (7) feet in height.
- ii. Access gates shall be secured and locked when unattended.

10) Noise

- i. Inverters, motors, cooling equipment, and all other operational components of a Tier 3 Solar Energy System shall not generate noise levels exceeding one hundred twenty-five percent (125%) of the pre-construction ambient noise level at any property line of the project site or at the property line of any abutting parcel.
- ii. Pre-construction ambient noise levels shall be established through field measurements conducted by a qualified professional using a calibrated sound level meter. Measurements shall be taken at the edge of the project parcel and at each abutting property line over a continuous one-hour daytime period prior to commencement of construction.
- iii. Post-construction operational noise levels shall be measured using the same methodology and locations. At no time shall operational noise levels exceed 125% of the documented pre-construction ambient noise level at any measured location.

iv. Enforcement, Monitoring, and Compliance.

- (1) The Town Code Enforcement Officer, or a Town-retained qualified professional, is authorized to conduct noise measurements upon receipt of a written complaint, observed noncompliance, or as part of routine or periodic compliance monitoring.
- (2) In addition to Town-conducted measurements, the Town may require independent third-party noise testing, performed by a qualified acoustical professional selected or approved by the Town. All costs associated with such testing, including follow-up testing, shall be borne entirely by the owner or operator of the Tier 4 Solar Energy System.
- (3) If measured noise levels exceed the limits established herein, the owner or operator shall, within thirty (30) days of written notice from the Town, submit and implement a corrective action plan acceptable to the Town. Corrective actions may include, but are not limited to, equipment modification or replacement, operational restrictions, installation of sound attenuation measures, construction of noise barriers, or relocation of noise-generating equipment.
- (4) The Town may draw upon any escrow, bond, or other financial security required or approved in connection with the Tier 4 Solar Energy System to fund independent testing, enforcement activities, or corrective measures if the owner or operator fails to timely comply with the requirements of this section or fails to reimburse the Town for incurred costs.
- (5) Failure to achieve compliance within the time period specified by the Town shall constitute a violation of this Local Law and may result in the issuance of appearance tickets, civil penalties, fines, or injunctive relief as permitted by law. Each day a violation continues shall constitute a separate offense.
- (6) Continued or repeated violations may result in the suspension or revocation of any special use permit or other approvals granted for the Tier 4 Solar Energy System, following notice and an opportunity to be heard, in addition to any other remedies available to the Town.

v. SEQRA Consistency and Findings.

Compliance with this section shall be deemed a material condition of any approval granted pursuant to the State Environmental Quality Review Act (SEQRA). Any exceedance of the noise limits established herein may be treated as a significant adverse environmental impact not previously mitigated and may constitute grounds for supplemental environmental review, modification of approvals, or denial of continued operation, as permitted by law.

D. Application Requirements

In addition to all materials required for site plan and special use permit review, an application for a Tier 3 Solar Energy System shall include, at minimum:

- (1) Agricultural Impact Statement, including:
  - i. Identification of all soils on the project site using USDA NRCS data;

- ii. Analysis of impacts to agricultural operations within one (1) mile of the site;
  - iii. Proposed mitigation measures.
- (2) Alternatives Analysis, demonstrating that the proposed project site represents the most appropriate and feasible location among reasonably available alternatives, based on a comparative evaluation of impacts to agricultural land, agricultural soils, and the Town's rural character, and explaining the reasons the selected site was chosen over other potential locations.
  - (3) Cumulative Impact Analysis, evaluating existing and reasonably foreseeable solar development within the Town and surrounding municipalities.
  - (4) Visual Impact Assessment, including photo simulations from public roads and nearby residences, and a line-of-sight profile analysis identifying potential daytime and nighttime glare/reflectivity impacts to public roadways and adjacent properties.
  - (5) Stormwater and Drainage Report, prepared by a licensed professional engineer, demonstrating no increase in downstream flooding or drainage impacts.
  - (6) Emergency Response and Fire Safety Plan, prepared in consultation with local emergency services.
  - (7) Decommissioning and Site Restoration Plan, including:
    - i. Removal of all equipment and foundations;
    - ii. Restoration of soils and vegetation;
    - iii. Financial security equal to 125 percent of the estimated decommissioning cost, posted prior to construction.
  - (8) Proof of Site Control for the full facility area.
  - (9) Any additional studies or information deemed necessary by the Planning Board to evaluate compliance with this Local Law and the Comprehensive Plan.
  - (10) A mandatory pre-application conference with the Town Code Enforcement Officer shall be required for all Tier 3 Solar Energy Systems. Applications shall include all requirements set forth in §9 of this Local Law. Failure to meet any standard shall constitute sufficient grounds for denial. No vested rights shall attach to any application.

E. Burden of Proof

The burden of demonstrating full compliance with all provisions of this section shall rest entirely with the applicant. Failure to meet any requirement shall constitute sufficient grounds for denial.

**§10. Tier 4 Solar Energy Systems**

Tier 4 Solar Energy Systems are not permitted as-of-right in any zoning district. Nothing herein authorizes Solar Energy Systems subject to exclusive state siting jurisdiction; however, where state processes apply, applicants shall still be required to demonstrate consistency with the Town of Mount Morris Comprehensive Plan and compliance with all locally applicable standards not preempted by state law.

Applications for Tier 4 Solar Energy Systems (including any project subject to ORES or successor agencies) shall, at a minimum, meet all applicable requirements of §9 of this Local Law (Tier 3 Solar Energy Systems), excluding Facility Scale and Area requirements, as baseline local standards, plus additional requirements set forth in this section to address scale-related impacts.

1) Community Engagement Plan.

Applications shall include a community engagement plan detailing proposed plans and strategies for ensuring adequate public awareness and encouraging community participation, including a mailing (or other direct notice method approved by the Town) to all Town residents and property owners within the Town, and identification of a project liaison and methods for receiving and responding to public concerns.

2) Avoidance of Nonconforming Remnant Lots.

The facility layout, fencing, and any excluded areas along public roads (including barns, ponds, or wooded areas not leased by the applicant) shall not create a nonconforming remnant lot. Any remnant lot intended to remain separately usable shall meet minimum lot area and frontage requirements (including, where applicable, a minimum of three (3) acres for a conforming lot) and shall be capable of supporting lawful residential use including septic placement, as applicable.

3) Application, Review, and Approval Requirements.

A mandatory pre-application conference with the Town Code Enforcement Officer shall be required for all Tier 4 Solar Energy Systems. Applications shall include all requirements set forth in chapters §9 and §10 of this Local Law. Failure to meet any standard shall constitute sufficient grounds for denial. No vested rights shall attach to any application.

**§11. Existing Systems**

Solar Energy Systems lawfully in existence prior to adoption may continue as nonconforming uses but shall not be expanded, intensified, or modified except for safety-related repairs. Modifications that increase facility area by more than five percent (5%) of the original facility area (exclusive of relocating fencing) and/or increase nameplate generating capacity shall be deemed an expansion/intensification and shall be subject to this Local Law.

**§12. Enforcement**

Violations may be punishable by fines, injunctive relief, removal orders, and all remedies available under law. Each day a violation continues shall constitute a separate offense.

**§13. Severability**

If any provision of this Local Law is held invalid, such invalidity shall not affect the remaining provisions.

**§14. Effective Date**

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