

Local Law Filing

New York State Department of State  
162 Washington Avenue, Albany, New York 12231

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Village of Black River

Local Law No. 2 of the year 2024

A local law Providing for a One (1) Year Moratorium on Battery Energy Storage Systems Within the Village of Black River.

Be it enacted by the Village Board of the  
(Name of Legislative Body)

Village of Black River as follows:

Article 1. Authority. The Board of Trustees of the Village of Black River, pursuant to the authority granted under Article 4 of the Village Law, as well as Section 20 of the Municipal Home Rule Law of the State of New York, hereby enacts the following:

Article 2. State of Purpose and Findings.

WHEREAS, the Village of Black River periodically reviews its Planning, Zoning and Building Code, as well as the remainder of the Village of Black River Code, to ensure proper land use plan and land use regulation, business licensing and development; and

WHEREAS, a review of the complete Code of the Village of Black River demonstrates that there is no specific and/or inadequate regulation of Battery Energy Storage Systems; and

WHEREAS, more specific regulation controlling the establishment, location and operation of Battery Energy Storage Systems within the Village of Black River is desired so as to preserve the character and quality of life in the Village's neighborhoods and business areas and to maintain the general welfare and safety for the Village and its residents and further to avoid potential negative secondary impacts to the community; and

WHEREAS, a moratorium on the acceptance by the Village of Black River of applications for the establishment, location and operation of Battery Energy Storage Systems for a minimal period of time, being one (1) year from the enactment of this law, will allow the Village to properly review, investigate and if necessary, adopt said regulations.

Article 3. Enactment. There is hereby enacted a one (1) year moratorium on the acceptance by the Village of Black River of applications for the establishment, location and operation of Battery Energy Storage Systems.

Article 4. Effective Date. This Local Law shall take effect upon filing with the Secretary of State pursuant to the provisions of the Municipal Home Rule Law of the State of New York.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as Local Law No. 2 of 2024 of the Village of Black River was duly passed by the Village Board on \_\_\_\_\_, 2024, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20\_\_\_\_ Of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_, and was (approved)(not  
(Name of Legislative Body)  
disapproved)(repassed after disapproval) by the \_\_\_\_\_ and  
(Elective Chief Executive Officer\*)  
was deemed duly adopted on \_\_\_\_\_, 20\_\_\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_, and was (approved)(not  
(Name of Legislative Body)  
disapproved)(repassed after disapproval) by the \_\_\_\_\_ on  
(Elective Chief Executive Officer\*)  
\_\_\_\_\_, 20\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_, 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_, and was (approved)(not  
(Name of Legislative Body)  
disapproved)(repassed after disapproval) by the \_\_\_\_\_ on  
(Elective Chief Executive Officer\*)  
\_\_\_\_\_, 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_, 20\_\_\_\_, in accordance with the applicable provisions of law.

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Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20\_\_, of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of Section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_, 20\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20\_\_, of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_, 20\_\_, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_ 1 \_\_ above.

(Seal)

\_\_\_\_\_  
Clerk of the County legislative body, City, Town or Village  
Clerk or officer designated by local legislative body.  
Kristin Williams, Village Clerk  
Date: \_\_\_\_\_, 2024

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)**

STATE OF NEW YORK     )  
  ).ss  
COUNTY OF ST. LAWRENCE)

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

\_\_\_\_\_  
Henry J. Leader, Esq.  
Village Attorney  
Village of \_\_\_\_\_ Black River  
Date: \_\_\_\_\_, 2024

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Village of Black River

Local Law No. 3 of the year 2024

A local law Providing for a Solar Energy Law.

Be it enacted by the Board of Trustees of the  
(Name of Legislative Body)

Village of Black River as follows:

Chapter 175 of the Code of the Village of Black River is hereby amended to add the following:

**Section 175-81. Authority**

This Solar Energy Local Law is adopted pursuant to Chapter 175 of the Village Law and Section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Village to adopt zoning provisions that advance and protect the health, safety, and welfare of the community and in accordance with the Village Law of New York State, “to make provision for, so far as conditions may permit, the accommodation of Solar Energy Systems and equipment and access to sunlight necessary therefor.”

**Section 175-82. Statement of Purpose**

This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of the Village of Black River by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:

- A. To take advantage of a safe, abundant, 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, by furthering the installation of on-site Solar Energy Systems;
- C. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources;
- D. Tier 1 and 2 Solar Energy Systems are permitted in the Village of Black River to create synergy between solar and other Village goals, including downtown revitalization, vacant

land management, creating a walkable, healthy community, and the advancement of the Village's comprehensive plan; and

- E. Tier 3 and 4 Solar Energy Systems are not permitted in the Village of Black River because they are not in accordance with the Community Visioning and Strategic Development Plan. There is limited vacant land within the Village for development. The Village would prefer this land to be available to expand residential opportunities and small commercial operations to serve the residents of the Village of Black River.

### **Section 175-83. Definitions**

**ACTIVE AGRICULTURAL LAND:** Land used for 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:** 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).

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEM:** A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

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

**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]).

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

**GLINT AND GLARE ANALYSIS:** An assessment used to identify any potential glint/glare impacts on nearby residences and roads and the need for any necessary mitigation. The analysis shall be conducted using tools similar to the National Sandia Lab's Solar Glare Hazard Analysis Tool or ForgeSolar Tools. The results of the analysis shall conform to the FAA's policy for Solar

Energy System Projects on Airports as well as equivalent standards appropriate to the surrounding landscape for the proposed project.

**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.

**KILOWATT (Kw):** A unit of power equal to 1,000 watts. The nameplate capacity of residential and commercial solar energy systems may be described in terms of kW.

**MEGAWATT (MW):** A unit of power equal to 1,000 kW. The nameplate capacity of larger solar energy systems may be described in terms of MW.

**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 Agriculture 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.

**ON-FARM SOLAR ENERGY SYSTEM:** A Solar Energy System located on a farm which is a "farm operation" (as defined by Article 25-AA of the Agriculture and Markets Law, which may include one or multiple contiguous or non-contiguous parcels) in a NYS Certified Agriculture District, which is designed, installed, and operated so that the anticipated annual total amounts of electrical energy generated do not exceed more than 110 percent of the anticipated annual total electrical energy consumed by the farm operation.

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

**ROOF-MOUNTED ENERGY SYSTEM:** A Solar Energy System located on the roof of any legally permitted building or structure that 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:** 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. A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy System as follows:

- A. Tier 1 Solar Energy Systems include the following:
  - 1) Roof-Mounted Solar Energy Systems.
  - 2) Building-Integrated Solar Energy Systems.
  - 3) Ground-Mounted Solar Energy Systems with Nameplate Capacity of up to 25 kW AC and which generate no more than 110% of the electricity consumed on the site over the previous 12 months.
  - 4) On-Farm Solar Energy Systems.
- B. Tier 2 Solar Energy Systems include the following:
  - 1) Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Nameplate Capacity of up to 1 MW AC and which generate no more than 110% of the electricity consumed on the site over the previous 12 months.
- C. Tier 3 Solar Energy Systems include the following:
  - 1) Ground-Mounted Solar Energy Systems not included in Tier 1 or Tier 2 Solar Energy Systems with a Nameplate Capacity of up to 5 MW AC.
- D. Tier 4 Solar Energy Systems are Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems.

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

**Section 175-84: Applicability**

- A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Village of Black River after the effective date of this Local Law, excluding general maintenance and repair.
- B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
- C. Modifications to an existing Solar Energy System that increase the Facility Area by more than 5% of the original Facility Area (exclusive of moving any fencing) shall be subject to this Local Law.

**Section 175-85: General Requirements:**

- A. A building permit shall be required for installation of all Solar Energy Systems.
- B. Prior to the issuance of the building permit or final approval by the Code Enforcement Officer, construction and/or site plan documents must be signed and stamped by a NYS Licensed Professional Engineer or NYS Registered Architect.
- C. Local land use boards are encouraged to condition their approval of proposed developments on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain economically feasible over time.
- D. Issuance of permits and approvals by the Code Enforcement Officer or Planning Board shall include review pursuant to the State Environmental Quality Review Act.
- E. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Uniform Code”), the NYS Energy Conservation Code Energy (“Energy Code”), and Chapter 153 of the Village Code.
- F. For Solar Energy Systems subject to site plan review, the Village of Black River shall impose, and may update as appropriate, a schedule of fees to recover expenses associated with engineering, environmental, or legal services determined to be reasonably necessary in the processing of an application under this law.

**Section 175-86: Tier 1 Solar Energy Systems**

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning code or other land use regulation, subject to the following conditions for each type of Solar Energy Systems:

- A. Roof-Mounted Solar Energy Systems
  - 1) Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements (exceptions may be approved by the Code Enforcement Officer).
    - a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface and the highest edge of the system.
    - b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
    - c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.



d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

- 2) Glare. All Solar Panels shall have anti-reflective coating(s).
- 3) Height. All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

**B. Building-Integrated Solar Energy Systems**

- 1) Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

**C. Ground-Mounted Solar Energy Systems**

- 1) Glare. All Solar Panels shall have anti-reflective coating(s).
- 2) Setbacks. Tier 1 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts.
- 3) Height. Tier 1 Solar Energy Systems shall be subject to the height limitations specified for accessory structures within the underlying zoning district.
- 4) Lot Size. Tier 1 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.
- 5) Screening and Visibility.
  - a) All Tier 1 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.
  - b) Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate Solar Access.

**Section 175-87: Tier 2 Solar Energy Systems**

All Tier 2 Ground-Mounted Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be subject to site plan approval. Tier 2 Solar Energy Systems shall

adhere to the standards and requirements established for Tier 1 Ground-Mounted Systems in Section 175-86(c), in addition to (or in some cases amended by) the following requirements.

A. Application & Site Plan Review Requirements. Application for Tier 2 Solar Energy Systems, including materials for site plan review, shall include the following:

- 1) Name, address, and contact information of the proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of a building permit.
  - 2) Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their 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 Facility Area.
  - 5) Property lines and physical features, including road, for the project site.
  - 6) Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
  - 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-line 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 of all Battery Energy Storage System components if applicable setbacks 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.
- B. Standards. Tier 2 Systems shall adhere to the following standards:
- 1) Lot coverage. Tier 2 Solar Energy Systems are exempt from the lot coverage requirements in the underlying zoning district.

- 2) Screening/Visibility. Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
- 3) Environmental Resources
  - a) Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
  - b) To the extent practicable, Tier 2 Solar Energy System Owners shall utilize and maintain native perennial vegetation to provide foraging habitat for pollinators in all appropriate areas within the Facility Area.
  - c) Use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.

**Section 175-88: Tier 3 Solar Energy Systems**

All Tier 3 Solar Energy Systems are not permitted in the Village of Black River. The limited vacant land that is available in the Village of Black River should be given priority to residential and small business development.

**Section 175-89: Tier 4 Solar Energy Systems**

All Tier 4 Solar Energy Systems are not permitted in the Village of Black River. The limited vacant land that is available in the Village of Black River should be given priority to residential and small business development. In the event that an application, which is deemed a Tier 4 Solar Energy System, proceeds toward state review, these are the following requirements set forth in this Section.

- A. Applications for the installation of Tier 4 Solar Energy System shall be:
- 1) Subject to a public hearing to hear all comments for and against the application. This hearing shall be in compliance with all existing public hearing requirements established under law by the Village of Black River.
  - 2) Reviewed by the Planning Board for completeness. Applicants shall be advised within thirty (30) days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
  - 3) Referred to the County Planning Department pursuant to General Municipal Law § 239-m if required.

- 4) Upon closing of the public hearing, the Planning Board shall take action on the application within sixty (60) days of the public hearing, which can include approval, approval with conditions, or denial. The sixty (60) day period may be extended upon consent by both the Planning Board and the applicant.

B. Pre-Application Meeting.

At least sixty (60) days prior to the submission of an application, the Applicant shall conduct a pre-application meeting with the Planning Board to ensure all parties have clear expectations regarding any Village requirements applicable to the proposed Solar Energy System. A written request for this purpose shall be sent to the Planning Board and the Village Code Enforcement Officer. Submission and review of the application shall not be delayed based on the failure of the Planning Board or the Village Code Enforcement Officer to respond in a timely manner to a properly filed meeting request. At the pre-application meeting, the Applicant must provide (1) a brief description of the proposed facility and its environmental setting, (2) a map of the proposed facility showing project components, (3) the proposed facility's anticipated impacts, (4) a designated contact person with telephone number, email address, and mailing address from whom information will be available on a going-forward basis, and (5) an anticipated application submission date.

C. Community engagement plan.

Application for a Tier 4 Solar Energy System shall include a Community Engagement Plan detailing the applicant's proposed plans and strategies for ensuring adequate public awareness and encouraging community participation. Applicants are highly encouraged to discuss the contents and details proposed in this plan with the Planning Board and the Village Code Enforcement Officer prior to the submission of a format application.

D. Application & Site Plan Review Requirements. Applications for Tier 4 Solar Energy Systems, including materials for site plan review, shall include the following:

- 1) Name, address, and contact information of the proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of a building permit.
- 2) Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their 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 MW).
- 4) Zoning district designation for the parcel(s) of land comprising the Facility Area.
- 5) Property lines and physical features, including roads, for the project site.

- 6) Map(s) of MSG 1-4 soils and Active Agriculture Lands on the parcel(s) comprising the Facility Area and adjacent parcels.
- 7) Adjacent land uses on contiguous parcels within a certain radius of the site boundary.
- 8) 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.
- 9) Erosion and sediment control and stormwater management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- 10) A one-line 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 setbacks and other bulk and area standards.
- 11) 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.
- 12) A Property Operation and Maintenance Plan that describes continuing site maintenance, anticipated dual-use, and property upkeep, such as mowing and trimming.
- 13) A Decommissioning Plan (See Appendix) signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant. The decommissioning plan shall address the following:
  - a) The time required to decommission and remove the Solar Energy System and any ancillary structures.
  - b) The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
  - c) The cost of decommissioning and removing the Solar Energy System, as well as all necessary site remediation or restoration.
  - d) The provision of a decommissioning security which shall adhere to the following requirements:

1. The deposit, executions, or filing with the Village of Black River Clerk of cash, bond, or other form of security reasonably acceptable to the Village of Black River attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal.

The amount of the bond or security shall be 115% of the cost of removal and site restoration for the Tier 4 Solar Energy System and shall be revisited every 5 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 the estimated salvage value of the Solar Energy System.

2. In the event of default upon the performance of such conditions, after proper notice an expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Village of Black River, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until the restoration of the property as set forth in the decommissioning plan is completed.

E. Special Use Permit Standards. The Planning Board may issue a special use permit for a Tier 4 Solar Energy System only after it has found that all the following standards and conditions have been satisfied:

- 1) Underground Requirements. All utility lines located outside of the 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 rights-of-way.
- 2) Vehicular Paths. Vehicular paths within the 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.
- 3) Signage
  - a) 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 of not more than 8 square feet.
  - b) As required by the National Electric Code (NEC), disconnect and other emergency shutoff information shall 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.

- 4) Glare. All Solar Panels shall have anti-reflective coating(s). Tier 4 Solar Energy Systems shall undergo a Glint and Glare Analysis that identifies the potential glare impacts on nearby properties, roadways, and aircraft. Furthermore, Solar Panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties, or roadways. Exterior surfaces of all collectors and related equipment shall have non-reflective finish (no glare). Particular attention shall be paid to panel orientation with regard to airport runway locations, airplane flyover/approach patterns, and emergency helicopter landing areas to minimize potential impacts on pilots. A glare hazard analysis report shall be completed to gauge potential impacts on aircraft pilots (where airplane flyovers, approaches, and takeoffs occur) and for nearby drivers along public roads.
  - A. Fort Drum. The applicant shall notify Fort Drum personnel in the Plans, Analysis, and Integration Office upon application submission to determine potential impacts on the Wheeler-Sack Army Airfield. The applicant shall provide a letter response from the Airport Manager.
  - B. Watertown International Airport or any private airfield. The applicant shall notify the Director of Aviation upon application submission to determine potential impacts on the airport. The applicant shall provide a letter response from the Director of Aviation.
- 5) Lighting. The lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
- 6) Multiple lots. At the discretion of the Planning Board, where a Tier 4 Solar Energy System's Facility Area comprises multiple lots (regardless of ownership by an individual or multiple participating landowners), the combined lots may be treated as a single lot for the purposes of applying specific standards and requirements, including but not limited to lot size and setback requirements.
- 7) Lot size. The property on which the Tier 4 Solar Energy System is placed shall meet the lot size requirements of the underlying zoning district.
- 8) Setbacks. The Tier 4 Solar Energy Systems shall comply with the setback requirements of the underlying zoning district for principal structures. Fencing, collection lines, access roads, and landscaping may occur within the setback. In addition to the above, side yard setbacks for interconnection poles shall be greater than or equal to the height of the respective poles.

- 9) Height. The Tier 4 Solar Energy Systems shall comply with the building height limitation for principal structures of the underlying zoning district.
  - a) This height requirement can be waived by the Code Enforcement Officer if the panels are being raised to accommodate continued or new agricultural purposes.
- 10) Lot coverage. Tier 4 Solar Energy Systems are exempt from the lot coverage requirements in the underlying zoning district.
- 11) Fencing Requirements. All mechanical equipment, including any structure for Battery Energy Storage System components, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.
- 12) Screening and Visibility.
  - a) Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
  - b) Solar Energy Systems larger than 10 acres shall be required to:
    1. Conduct a visual assessment of the visual impact 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, may be required to be submitted by the applicant.
    2. Submit a screening and 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 as reasonably practical from public roadways and adjacent properties to the extent feasible.
      - i. The screening & landscaping plan shall specify the locations, elevations, heights, 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 the applicable rules and standards established by the Village of Black River. This plan shall provide for the replacement of landscape trees or shrubs planted for buffering that may die in order to maintain the visual screening for the life of the project.



- ii. The Planning Board may elect to waive certain screening and landscaping requirements in select locations based on an applicant's demonstration of nonimpact or impact mitigation on adjacent parcels.

13) Environmental Resources

- a) Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
- b) Tier 4 Solar Energy System owners 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 Facility Area. Any project which is designed to incorporate agriculture or farm-related activities or uses within the Facility Area may be excluded from this requirement based on the amount of space occupied by the agriculture use(s). This exclusion will only be allowed based on the Planning Board's determination that these lands are being used for actual agriculture uses.
- c) Use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.

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

- a) Tier 4 Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 50% of the area of MSG 104 within the Facility Area.
  - 1. A Tier 4 Solar Energy System may exceed the 50% MSG 1-4 coverage threshold if 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 only be allowed based on the Planning Board's determination that the land is being used for a Farm Operation.
  - 2. Subject to the discretion of the Planning Board, if the landowner demonstrates that – notwithstanding the classification as MSG 1-4 – the land cannot be profitably employed due to excessive wetness, rocky conditions or slopes, the land may be excluded from the calculation required by this section.

- b) To maximum extent practicable, Tier 4 Solar Energy Systems located on MSG 1-4 shall be constructed, monitored, and decommissioned in accordance with the NYS Department of Agriculture and Markets' "Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands".
- 15) Emergency response. Tier 4 Solar Energy Systems shall be required to submit an emergency response and fire safety plan as part of the project application which shall describe the actions to be taken to ensure the safety of employees, emergency service members serving the System, and the surrounding community in the event of a fire or other emergency.

F. Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all the obligations of the decommissioning plan. A new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership within thirty (30) days of the ownership change.

**Section 175-90: Safety**

- A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
- B. Solar Energy 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 and, if the Tier 4 Solar Energy System is located in the Village of Black River.
- C. If a Battery Energy Storage System is included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and the Village of Black River's building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Village of Black River and any applicable National Fire Protection Association (NFPA) standards, federal, state, or county laws or regulations.
- D. Where deemed necessary by the Code Enforcement Officer, the Applicant shall ensure emergency access to the Facility Area for local fire responders by installing an emergency lock box or similar device, in a location subject to approval by the Code Enforcement Officer.
- E. Liability Insurance Coverage – Liability Insurance coverage shall be assessed by a third party and required for any application in regard to Tier 4 Solar Energy Systems and Tier 4 Solar Energy Equipment.

### **Section 175-91: Emergency Operations Plan**

A copy of the approved emergency operations plan shall be given to the system owner, the local fire department, and the local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:

- Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electrical shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
- Procedures for inspection and testing of associated alarms, interlocks and controls.
- Procedures to be followed in response to notifications from the battery energy storage management system, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service, and repair personnel, and providing agreed-upon notification to Fire Department personnel for potentially hazardous conditions in the event of a system failure.
- Emergency procedures are to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the Fire Department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
- Response considerations similar to a Safety Data Sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
- Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
- Other procedures as determined necessary by the Village Code Enforcement Officer or Planning Board to provide for the safety of occupants, neighboring properties, and emergency responders.

Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

### **Section 175-92: Fire Safety Compliance Plan**

Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.

- For battery storage: they shall meet NFPA 855 requirements.
- Include that multiple surrounding fire departments receive annual training in firefighting.

**Section 175-93: Road Maintenance Agreement**

For all Tier 4 Solar Energy Systems and Tier 4 Solar Energy Equipment, a road maintenance agreement will be required to be completed in conjunction with the Village Department of Public Works for the Village streets where the solar equipment, battery energy storage equipment, or construction materials using heavy vehicles will be transported during project construction.

**Section 175-94: Permit Timeframe and Abandonment**

- A. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 36 months, provided that construction is commenced. In the event construction is not completed in accordance with the final site plan – as may have been amended and approved – as required by the Planning Board, within 36 months, the applicant may request to extend the time to complete construction for 12 months. Approval of a request to extend the time to complete construction shall not be unreasonably withheld by the Village of Black River. If the owner and/or operator fails to perform substantial construction within 48 months, the approvals shall expire.
- B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Village of Black River may notify and instruct the owner and/or operator of the Solar Energy Systems to implement the decommissioning plan. The decommissioning plan must be completed within 12 months of notification.
- C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Village of Black River may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

**Section 175-95: 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 the zoning or land use regulations of the Village of Black River.

**Section 175-96: Severability**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

## **Appendix: Example Decommissioning Plan**

Date: [ **Date** ]

Decommissioning Plan for [**Solar Project Name**], located at: [**Solar Project Address**]

Prepared and submitted by [**Solar Developer Name**], the owner of [**Solar Farm's Name**]

As required by the Village of Black River, [**Solar Developer Name**] presents this decommissioning plan for [**Solar Project Name**] (the "Facility").

System decommissioning shall be required as a result of any of the following conditions:

1. The land lease – if any – ends, unless the project owner has acquired the land.
2. The Solar Energy System ceases to generate electricity on a continuous basis for [12] months.
3. The Solar Energy System is damaged and will not be repaired or replaced by [**Solar Developer Owner**].

If any of the above conditions are met, and upon notification or instruction by the Village of Black River [**Solar Developer Name**] shall implement this decommissioning plan. System decommissioning and removal, as well as all necessary site restoration or remediation activities, shall be completed within 12 months.

The owner of the Facility, as provided for in this lease with the landowner, and in accordance with the requirements of the Village of Black River Zoning Law, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which shall include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations located less than 36-inches below the soil surface, and/or less than 48-inches below the soil surface in areas consisting of Active Agricultural Lands.
2. For projects located on areas consisting of Active Agricultural Lands, removal of all operator owner equipment, concrete, conduits, structures, fencing, and foundations in accordance with the decommissioning requirements contained in the NYS Department of Agriculture and Markets' "Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands".
3. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state, or federal waste disposal regulations.
4. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

An appendix is included in this plan to provide a project schedule detailing a breakdown of tasks required for the decommissioning removal of the system, including:

1. Time required to decommission and remove the system and any ancillary structures.
2. Time required to repair any damage caused to the property by the installation and removal of the system.

The cost of system decommissioning and removal, as well as all necessary site remediation and restoration activities, is estimated to be [XXXX] as of the date and time this application is filed. A decommissioning security will be executed in the amount of 115% of the cost of system decommissioning, removal, and site restoration.

This cost estimate and decommissioning surety will be revised every 5 years and updated as needed to account for inflation or other cost changes.

The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

**Facility Owner Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

*(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)*

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as Local Law No. 3 of 2024 of the Village of Black River was duly passed by the Village Board on July, 2024, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20\_\_\_\_ Of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_, and was (approved)(not  
(Name of Legislative Body)  
disapproved)(repassed after disapproval) by the \_\_\_\_\_ and  
(Elective Chief Executive Officer\*)  
was deemed duly adopted on \_\_\_\_\_, 20\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_, and was (approved)(not  
(Name of Legislative Body)  
disapproved)(repassed after disapproval) by the \_\_\_\_\_ on  
(Elective Chief Executive Officer\*)  
\_\_\_\_\_, 20\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_, 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_, and was (approved)(not  
(Name of Legislative Body)  
disapproved)(repassed after disapproval) by the \_\_\_\_\_ on  
(Elective Chief Executive Officer\*)  
\_\_\_\_\_, 20\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_, 20\_\_, in accordance with the applicable provisions of law.

Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_ of 20\_\_, of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of Section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_, 20\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_ of 20\_\_, of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_, 20\_\_, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

*(Seal)*

\_\_\_\_\_  
Clerk of the County legislative body, City, Town or Village  
Clerk or officer designated by local legislative body.  
Kristin Williams, Village Clerk  
Date: July, 2024

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)**

STATE OF NEW YORK    )  
  ).ss  
COUNTY OF ST. LAWRENCE)

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

\_\_\_\_\_  
Henry J. Leader, Esq.  
Village Attorney  
Village of Black River  
Date: July, 2024