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DEPARTMENT OF STATE

of LaFayette

Local Law No. 1 of the year 2018

A Local Law to Amend the 1970 Zoning Ordinance of the Town of LaFayette to Add a New Article Regulating Solar Energy Systems in the Town

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

County City Town Village
(Select one:)

of LaFayette as follows:

TOWN OF LAFAYETTE LOCAL LAW NO. 1-2018

A LOCAL LAW TO AMEND THE 1970 ZONING ORDINANCE OF THE TOWN OF LAFAYETTE TO ADD A NEW ARTICLE REGULATING SOLAR ENERGY SYSTEMS IN THE TOWN

Be it enacted by the Town Board of the Town of LaFayette as follows:

SECTION 1. LEGISLATIVE PURPOSE AND INTENT

The purpose of this Local Law is to permit and regulate the construction of solar energy systems in the Town of LaFayette in a manner that preserves the health, safety and welfare of the Town while also facilitating the production of renewable energy.

SECTION 2. AUTHORITY

This local law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law §10.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

SECTION 3. DEFINITIONS.

Article VIII, Section B (“Particular Definition”) of the 1970 Zoning Ordinance of the Town of LaFayette is hereby amended to add the following definitions:

“CODE ENFORCEMENT OFFICER – The Code Enforcement Officer appointed or hired by the Town Board of the Town of LaFayette. The Code Enforcement Officer is responsible for, among other things, enforcing the Zoning Ordinance of the Town of LaFayette. This person may also be referred to as the building inspector and/or zoning officer or their designees.

NET-METERING - A billing arrangement that allows solar customers to receive credit for excess electricity which is generated from the customer’s Solar Energy System and delivered back to the grid so that customers only pay for their net electricity usage for the applicable billing period.

QUALIFIED SOLAR INSTALLER - A person who has skills and knowledge related to the construction and operation of Solar Energy Systems (and the components thereof) and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSEDA’s list of eligible installers or NABCEP’s list of certified installers may be deemed to be qualified solar installers if the Town Code Enforcement Officer or such other Town officer or employee as the Town Board designates determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

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

SOLAR COLLECTOR - A solar photovoltaic cell, panel, or array or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR ENERGY SYSTEM - A complete system of Solar Collectors, Panels, controls, energy devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected and converted into another form of energy including but not limited to thermal and electrical, stored and protected from dissipation and distributed. For purposes of this Article, a Solar Energy System does not include any Solar Energy System of four square feet in size or less.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM - A Solar Energy System incorporated into and becoming part of the overall architecture, design and structure of a building in manner that the Solar Energy System is a permanent and integral part of the building structure.

FLUSH MOUNTED SOLAR ENERGY SYSTEM - A Rooftop-Mounted Solar Energy System with Solar Panels which are installed flush to the surface of a roof and which cannot be angled or raised.

GROUND MOUNTED SOLAR ENERGY SYSTEM - A Solar Energy System that is affixed to the ground either directly or by mounting devices and which is not attached or affixed to a building or structure.

ROOFTOP-MOUNTED SOLAR ENERGY SYSTEM - A Solar Energy System in which Solar Collectors/Panels are mounted on the roof of a building or structure either as a flush-mounted system or as panels fixed to frames which can be tilted to maximize solar collection. Rooftop-Mounted Solar Energy Systems shall be wholly contained within the limits of the building's or structure's roof surface.

SOLAR FARMS - A Solar Energy System or collection of Solar Energy Systems or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of supplying electricity to a utility grid for wholesale or retail sales of electricity to the general public or utility provider.

SOLAR PANEL - A device which converts solar energy into electricity.

SOLAR SKYSPACE - The space between a Solar Energy System and the sun through which solar radiation passes.

SOLAR STORAGE BATTERY - A device that stores energy from the sun and makes it available in an electrical form.”

SECTION 4. SOLAR ENERGY SYSTEM REGULATIONS

The 1970 Zoning Ordinance of the Town of LaFayette is hereby amended to add a new Article X-A titled, “Solar Energy Systems”, as follows:

“ARTICLE X-A

SOLAR ENERGY SYSTEMS

Section A. Purpose and Intent.

The Town of LaFayette recognizes that solar energy is a clean, readily available and renewable energy source. Development of solar energy systems offers an energy source that can prevent fossil fuel emissions, reduce the Town's energy demands and attract and promote green

business development within the Town. The Town of LaFayette has determined that comprehensive regulations regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents, and businesses. This Article is intended to promote the effective and efficient use of solar energy systems; establish provisions for the placement, design, construction, operation and removal of such systems in order to uphold the public health, safety and welfare; and to ensure that such systems will not have a significant adverse impact on the aesthetic qualities and character of the Town.

Section B. Applicability.

This Article shall apply to all solar energy systems in the Town of LaFayette which are installed or modified after the effective date of this Article. All solar energy systems which are installed or modified after the effective date of this Article shall be in compliance with all of the provisions hereof.

Section C. Building-Integrated Solar Energy Systems.

1. Districts where allowed. Building-Integrated Solar Energy Systems shall be permitted in all zoning districts within the Town subject to the submission of, application for and review and issuance of an applicable building permit.
2. Building-Integrated Solar Energy Systems shall be subject to the general requirements set forth at Article X-A, Section F.

Section D. Rooftop-Mounted Solar Energy Systems.

1. Districts where allowed. Rooftop-Mounted Solar Energy Systems shall be permitted in all zoning districts within the Town subject to the following requirements:

(a) A building permit shall be required for installation of all Rooftop-Mounted Solar Energy Systems. An applicant shall submit the following application materials to the Code Enforcement Officer:

[1] A site plan showing location of major components of the Solar Energy System and other equipment on the roof or legal accessory structure. This plan should represent relative locations of components at the site, including, but not limited to, location of arrays, existing electrical service locations, utility meters, inverter locations, system orientation and tilt angles. This plan should show access and pathways that are compliant with New York State Uniform Fire Prevention and Building Code and the National Fire Protection Association codes, if applicable.

[2] One-Line or 3-Line Electrical Diagram. The electrical diagram required by NYSERDA for an incentive application and/or utilities for an interconnection agreement may also be provided here.

- [3] Specification Sheets for all manufactured components. If these sheets are available electronically, a web address will be accepted in place of an attachment, at the discretion of the Town.
- [4] All diagrams and plans must be prepared by a professional engineer or registered architect and contain the applicable professional's stamp, mark, and/or signature as required by New York State law and include the following:
 - [a] Project address, section, block and lot number of the property;
 - [b] Owner's name, address and phone number;
 - [c] Name, address and phone number of the person preparing the plans; and
 - [d] System capacity in kW-DC.
- (b) Rooftop-Mounted Solar Energy Systems shall not exceed the maximum allowed height of the principal use in the zoning district in which the System is located.
- (c) Rooftop-Mounted Solar Energy Systems shall be mounted parallel to the roof plane on which they are mounted. However, in the case of commercial buildings which have a flat roof, a titled mount may be allowed provided the panels are not visibly objectionably from the property line.
- (d) In order to ensure firefighter and other emergency responder safety, except in the case of accessory buildings under 1,000 square feet in area, there shall be a minimum perimeter area around the edge of the roof and structurally supported pathways to provide space on the roof for walking around all Rooftop-Mounted Solar Energy Systems. Additionally, installations shall provide for adequate access and spacing in order to:
 - [1] Ensure access to the roof.
 - [2] Provide pathways to specific areas of the roof.
 - [3] Provide for smoke ventilation opportunity areas.
 - [4] Provide for emergency egress from the roof.
 - [5] Exceptions to these requirements may be requested where access, pathway or ventilation requirements are reduced due to:

- [a] Unique site specific limitations;
 - [b] Alternative access opportunities (such as from adjoining roofs);
 - [c] Ground level access to the roof area in question;
 - [d] Other adequate ventilation opportunities when approved by the Codes Office;
 - [e] Adequate ventilation opportunities afforded by panels setback from other rooftop equipment (for example: shading or structural constraints may leave significant areas open for ventilation near HVAC equipment);
 - [f] Automatic ventilation devices; or
 - [g] New technology, methods or other innovations that ensure adequate emergency responder access, pathways and ventilation opportunities.
2. In addition to the requirements set forth in this Section, Rooftop-Mounted Solar Energy Systems shall be subject to the general requirements set forth at Section F herein.
 3. Permit Review and Inspection Timeline. Permit determinations will be issued within fourteen (14) days upon receipt of complete and accurate applications.

Section E. Ground-Mounted Solar Energy Systems.

1. Districts where allowed. Ground-Mounted Solar Energy Systems are permitted as accessory uses in the Agricultural Residential (AR) District, Residential Planned Cluster (RPC) District, Residential Multi-Family (RM) District, Business (B) District, Industrial (I) District, Commercial Planned Development (CPD) District, and the Hamlet (H) District of the Town, subject to the granting of a specific permit approval by the Zoning Board of Appeals and further subject to the following requirements:
 - (a) A building permit and specific permit approval shall be required for installation of all Ground-Mounted Solar Energy Systems.
 - (b) Ground-Mounted Solar Energy Systems shall be permitted in front yards provided said systems are properly screened from neighboring properties and streets.
 - (c) Ground-Mounted Solar Energy Systems shall not be placed or installed on a septic field.

- (d) Ground-Mounted Solar Energy Systems shall comply with the most restrictive area, yard and bulk regulations in each applicable zoning district in which the Ground-Mounted Solar Energy System is constructed. However, Ground-Mounted Solar Energy Systems shall only be permitted in the Residential Planned Cluster (RPC) District and the Hamlet (H) District on lots which are 20,000 sq.ft. or larger and only in rear yards.
- (e) Setbacks. Further setbacks, area and yard requirements and bulk restrictions may be required by the Zoning Board of Appeals in addition to those set forth in Section E1.(d) above in order to protect the public's safety, health and welfare.
- (f) The height of the Solar Collector/Panel and any mounts shall not exceed 15 feet in height when oriented at maximum tilt measured from the ground and including any base.
- (g) As part of the specific permit review process, a Ground-Mounted Solar Energy Systems shall be screened when possible and practicable from adjoining lots and street rights of way through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and the surrounding area. The proposed screening shall not interfere with the normal operation of the Solar Collectors/Panels.
- (h) The Ground-Mounted Solar Energy System shall be located in a manner to reasonably minimize view blockage for surrounding properties.
- (i) Neither the Ground-Mounted Solar Energy System, nor any component thereof, shall be sited within any required buffer area.
- (j) The total surface area of all Ground-Mounted Solar Energy System components shall not exceed the area of the ground covered by the building structure of the largest building on the lot measured from the exterior walls, excluding patios, decks, balconies, screened and open porches, and attached garages.
- (k) The area beneath the Ground-Mounted Solar Energy System shall not be included as impervious surface coverage in calculating whether the lot meets any maximum permitted lot coverage requirements for the applicable zoning district. Such uses shall also not be counted toward the limitation on the number of accessory buildings or uses permitted on a parcel.
- (l) The criteria for specific permit approval as set forth in Article IV shall also be demonstrated for each application.
- (m) Fees. Fees for applications and permits under this section shall be established by resolution of the Town Board of the Town of LaFayette. In accordance with the requirements of the Town of LaFayette Local Law No. 3-2000 (Fees), it shall be the applicant's responsibility to reimburse the Town for any and all reasonable and necessary legal, engineering and other

professional fees incurred by the Town in reviewing and administering an application for a specific permit under this section.

2. Districts where prohibited. Ground-Mounted Solar Energy Systems shall not be permitted in the Flood Plain (F) District.

Section F. General Requirements Applicable to Building-Integrated, Rooftop-Mounted and Ground-Mounted Solar Energy Systems.

1. All Solar Energy System installations must be performed by a Qualified Solar Installer.
2. Solar Energy Systems, unless part of a Solar Farm, shall be permitted only to provide power for use by owners, lessees, tenants, residents or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through a net-metering arrangement in accordance with New York Public Service Law §66-j or similar state or federal statute. However, Solar Energy System applications in a residential setting and serving a residential use on a single parcel or lot shall be limited to 15 kW or less. Solar Energy System applications in non-residential settings, including active farm operations, may be permitted up to 25 kW or less.
3. Prior to operation, electrical connections must be inspected by a Town Code Enforcement Officer and/or by an appropriate electrical inspection person or agency, as determined by the Town.
4. Any connection to the public utility grid must be inspected by the appropriate public utility and proof of inspection shall be provided to the Town.
5. Solar Energy Systems shall be maintained in good working order.
6. Solar Energy Systems shall be permitted only if they are determined by the Town to be consistent in size and use with the character of surrounding neighborhood.
7. Solar Energy Systems shall be permitted only if they are determined by the Town not to present any unreasonable safety risks, including but not limited to:
 - (a) Weight load;
 - (b) Wind resistance; and
 - (c) Ingress or egress in the event of fire or other emergency.
8. All Solar Energy Systems described in this Article shall meet and comply with all relevant and applicable provisions of the New York State Uniform Fire Prevention and Building Code Standards, the National Electric Code and National Fire Protection Association codes. To the extent the provisions of the New York State Uniform Fire Prevention, National Electric Code and Building Code and the National Fire Protection Association codes are more restrictive than the provisions set forth in this Section, the provisions of the New York State Uniform Fire

Prevention and Building Code, National Electric Code and the National Fire Protection Association codes shall control.

9. If solar storage batteries are included as part of the Solar Energy System, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code and/or the National Fire Protection Association codes when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations.
10. All utility services and electrical wiring/lines shall be placed underground and otherwise be placed within the walls or unobtrusive conduit. Conduits or feeds which are laid on the roof shall be camouflaged to blend in with the roof and reduce aesthetically objectionable impacts.
11. If a Solar Energy System or any part thereof ceases to perform its originally intended function or is in a state of malfunction for more than 12 consecutive months, the property owner shall completely remove or replace such System or part, mount and all other associated equipment and components by no later than 90 days after the end of the 12-month period or within 10 days of written notice from the Town. Failure to do so will result in the Town removing the Solar Energy System and assessing the cost of removal on the property which shall constitute a lien on said property and collected in the same manner as property taxes. The Building Inspector, Zoning Enforcement Officer, Code Enforcement Officer and/or Town Engineer shall have the right at any reasonable time to enter, in the company of the owner or his agent to ensure that the Solar Energy System remains operational.
12. To the extent practicable, Solar Energy Systems shall have neutral paint colors, materials and textures to achieve visual harmony with the surrounding area. Solar Energy Systems shall be composed of panels which are the same or similar in composition and color.
13. The design, construction, operation and maintenance of the Solar Energy System shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties, public roads, public parks and public buildings.
14. Marking of equipment.
 - (a) Solar Energy Systems and components shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. For residential applications, the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover.
 - (b) In the event any of the standards in this Subsection for markings are more stringent than applicable provisions of the New York State Uniform Fire

Prevention and Building Code or National Fire Protection Association codes they shall be deemed to be guidelines only and the standards of the New York State Uniform Fire Prevention and Building Code or National Fire Protection Association codes shall apply.

15. Prior to the time of the issuance of a building permit, the applicant/owner shall demonstrate to the Code Enforcement Officer a reliable and safe method for de-energizing the Solar Energy System in the event of an emergency. The method and location to de-energize the Solar Energy System, once approved by the Code Enforcement Officer, shall be provided by the applicant to all applicable emergency services and first responders.

Section G. Solar Farms.

1. Districts where allowed. Subject to the issuance of controlled site approval and a specific permit approval and other requirements as set forth herein, Solar Farms shall not be a permitted use in any zoning district other than the Agricultural Residential (AR) District and the Industrial (I) District within the Town.
2. Districts where prohibited. Solar Farms shall be prohibited in the Residential Planned Cluster (RPC) District, Residential Multi-Family (RM) District, Business (B) District, Commercial Planned Development (CPD) District, Hamlet (H) District, and Flood Plain (F) District.
3. Lot Area and Yard Regulations. The following lot area and yard regulations shall apply to Solar Farms located in the Agricultural Residential (AR) District and Industrial (I) District within the Town.
 - (a) Minimum Street Frontage: 60 feet
 - (b) Minimum Lot Area: 15 acres
 - (c) Minimum Front Yard Setback: 50 feet
 - (d) Minimum Rear Yard Setback: 30 feet
 - (e) Minimum Side Yard Setback: 25 feet
4. Permits required. No person, firm or corporation, or other entity being the owner, occupant, or lessee of any land or premises within the Town of LaFayette shall use or permit the use of land or premises for the construction or installation of a Solar Farm without obtaining a building permit, a specific permit approval issued by the Zoning Board of Appeals and a controlled site approval issued by the Planning Board as hereinafter provided.
5. Specific permit approval.
 - (a) In addition to the criteria established pursuant to Article IV of this Ordinance, the following criteria are hereby established for purposes of the granting of specific permit approval for a Solar Farm:

- [1] Scenic viewsheds. A Solar Farm shall not be installed in any location that would substantially detract from or block the view(s) of all or a portion of a recognized scenic viewshed, as viewed from any public road, right-of-way or publicly owned land within the Town of LaFayette or that extends beyond the border of the Town of LaFayette. For purposes of this subsection, consideration shall be given to any relevant portions of the current, amended and/or future Town of LaFayette Comprehensive Plan and/or any other prior, current, amended and/or future officially recognized Town planning document or resource.
 - [2] Emergency shutdown/safety. The applicant shall demonstrate the existence of adequate emergency/safety measures. The applicant shall post an emergency telephone number so that the appropriate entities may be contacted should any Solar Panel or other component of the Solar Farm need immediate repair or attention. This emergency telephone number should be clearly visible and in a location which is convenient and readily noticeable to someone likely to detect a problem. Further, the applicant shall arrange for the filing of site plans and any emergency shut down procedures with the Town Code Enforcement Officer and local first responders.
 - [3] Security. All Solar Farms shall be secured to the extent practicable to restrict unauthorized access. *See* Section G6.(a)[17] of this Article.
 - [4] Access road. To the greatest extent possible, existing roadways shall be used for access to the site and its improvements. In the case of constructing any roadways necessary to access the Solar Farm, they shall be constructed in a way that allows for the passage of any emergency vehicles in the event of an emergency. Each application shall be accompanied by correspondence from the responding fire department and emergency care provider as to the acceptability of the proposed ingress to and egress from the Solar Farm site.
 - [5] The development and operation of the Solar Farm shall not have a significant impact on fish, wildlife, animal or plant species or their critical habitats, or other significant habitats identified by the Town, or federal or state regulatory agencies.
 - [6] Setbacks. Additional setbacks may be required in addition to those set forth in Section G(3) by the Zoning Board of Appeals in order to provide for the public's safety, health and welfare.
- (b) Waiver. The Zoning Board of Appeals may, upon exercise of its reasonable discretion, waive one or more of the submission requirements imposed herein. Relief from all other requirements must be made by way of an area or use variance from the Zoning Board of Appeals.

6. Controlled Site Approval.

(a) The following submission requirements must be observed regarding a controlled site approval application for a Solar Farm. The Planning Board may also require any of the requirements of Article III this Ordinance as part of the submission.

- [1] A completed application form as supplied by the Town for controlled site approval for a Solar Farm.
- [2] Proof of ownership of the premises involved or proof that the applicant has written permission of the owner to make such application.
- [3] Plans and drawings of the proposed Solar Farm installation signed, marked and/or stamped by a professional engineer registered in New York State showing the proposed layout of the entire Solar Farm along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of controlled site approval. The plans and development plan shall be drawn in sufficient detail and shall further describe:
 - [a] Property lines and physical dimensions of the proposed site, including contours at 5-foot intervals.
 - [b] Location, approximate dimensions and types of all existing structures and uses on the site.
 - [c] Location and elevation of the proposed Solar Farm and all components thereof.
 - [d] Location of all existing aboveground utility lines within 1,200 linear feet of the site.
 - [e] Where applicable, the location of all transmission facilities proposed for installation. All transmission lines and wiring associated with a Solar Farm shall be buried underground and include necessary encasements in accordance with the National Electric Code, National Fire Protection Association codes and Town requirements. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant demonstrating that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead electric utility/transmission lines (if permitted) and underground electric utility/transmission lines, including substations and junction boxes and other electrical components for the project on the site plan. All

transmission lines and electrical wiring shall be in compliance with the public utility company's requirements for interconnection. Any connection to the public utility grid must be inspected by the appropriate public utility.

- [f] Location of all service structures proposed as part of the installation.
 - [g] Landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material. The plan shall show any trees and/or vegetation which is proposed to be removed for purposes of providing greater Solar Access.
 - [h] A berm, landscape screen, or any other combination acceptable to the Town capable of screening the site, shall be provided along any property line.
 - [i] Soil type(s) at the proposed site.
- [4] Photographic simulations shall be included showing the proposed Solar Farm along with elevation views and dimensions and manufacturer's specifications and photos of the proposed Solar Energy Systems, Solar Collectors, Solar Panels and all other components comprising the Solar Farm or from other vantage points selected by the Planning Board.
 - [5] If applicable, certification from a professional engineer or architect registered in New York State indicating that the building or structure to which a Solar Panel or Solar Energy System is affixed, is capable of handling the loading requirements of the Solar Panel or Solar Energy System and various components.
 - [6] One or three-line electrical diagram detailing the Solar Energy System installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices.
 - [7] Documentation of access to the project site(s), including location of all access roads, gates, parking area etc.
 - [8] A plan for clearing and/or grading of the site and a Stormwater Pollution Prevention Plan (SWPPP) for the site.
 - [9] Documentation of utility notification, including an electric service order number.
 - [10] Sunchart. Where deemed appropriate, the Planning Board may require that the applicant submit a sunchart for the proposed site indicating the sun angle for the southern boundary of the site for a

minimum four-hour continuous period during the time of the highest sun angle on December 21, along with the potential for existing buildings, structures, and/or vegetation on the site or on adjacent sites to obstruct the Solar Skyspace of the proposed Solar Farm. The sunchart shall also indicate the potential for obstructions to the Solar Skyspace of the proposed Solar Farm under a scenario where an adjacent site is developed as otherwise permitted by applicable provisions of the 1970 Zoning Ordinance of the Town of LaFayette with a building/structure built to maximum bulk and height at the minimum setback. Where no standards for setback are established, this scenario shall assume a maximum setback of five feet from the property line. The sunchart shall be kept on file at the Town Code Enforcement Office and determine the minimum setback required for any solar collectors from the south property line as well as the Solar Skyspace that should be considered when development of neighboring properties occurs. This section in no way places responsibility on the Town for guaranteeing the Solar Skyspace of a Solar Energy System in the event setbacks are waived at the applicant's request.

- [11] The manufacturer's or installer's identification and appropriate warning signage shall be posted at the site and be clearly visible.
- [12] Solar Energy Systems shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the electric systems. Materials used for marking shall be weather resistant. The marking shall be placed adjacent to the main service disconnect location clearly visible from the location where the lever is operated.
- [13] The average height of the solar panel array shall not exceed 20 feet measured from the ground and including any base or supporting materials.
- [14] Color. Neutral paint colors, materials and textures may be required for Solar Farm components, buildings and structures to achieve visual harmony with the surrounding area as approved by the Planning Board.
- [15] The design, construction, operation and maintenance of the solar energy system shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties, public roads, public parks and public buildings.
- [16] Artificial lighting of Solar Farms shall be limited to lighting required for safety and operational purposes, shall be shielded from all neighboring properties and public roads.

- [17] Solar Farms shall be enclosed by perimeter fencing to restrict unauthorized access as approved by the Planning Board. Style and type of fence shall be approved by the Planning Board as part of the controlled site approval process.
 - [18] The Planning Board may place reasonable hours restrictions during the construction phase of the Solar Farm. However, construction shall begin no earlier than 7:30 a.m. and shall cease no later than 8:30 p.m. Monday – Saturday.
 - [19] Only signage used to identify the location of the Solar Farm shall be allowed and such signage shall otherwise comply with the Town’s sign regulations and requirements.
 - [20] To the extent practicable, equipment that produces noise above ambient levels during normal operation shall be placed in the center of the solar array or at a minimum of 1,000 feet from the nearest property line.
 - [21] All applications shall be accompanied by a full environmental assessment form for purposes of environmental review under the New York State Environmental Quality Review Act (SEQRA), including a visual impact analysis/visual environmental assessment form. The following additional material may be required by the Planning Board:
 - [a] A digital-elevation-model-based project visibility map showing the impact of topography upon visibility of the project from other locations, to a distance radius of three miles from the center of the project. Scaled use shall depict a three-mile radius as not smaller than 2.7 inches, and the base map shall be a published topographic map showing cultural features.
 - [b] No fewer than four color photos taken from locations within a 3-mile radius from the proposed location, as selected by the Planning Board and computer-enhanced to simulate the appearance of the as-built aboveground Solar Farm components as they would appear from these locations.
- (b) Controlled site approval criteria. In addition to the above and subject to the criteria from Article III of this Ordinance, no controlled site approval shall be given unless the Planning Board determines that the proposed Solar Farm complies with the following additional requirements:
- [1] The use is oriented in its location upon the site as to layout, coverage, screening, means of access and aesthetics so that:
 - [a] The flow control and safety of traffic and human beings shall not be adversely affected to an unreasonable degree;

- [b] There is sufficient accessibility for any fire and other emergency vehicles and responders to the site; the Applicant shall provide down shielded lighting at the entrance points to the site and which shall be on file with the Town Codes Office and applicable Fire Department and first responders;
 - [c] There is reasonable compatibility in all respects with any structure or use in the surrounding area, actual or permitted, which may be directly substantially affected;
 - [d] There shall not be any unreasonable detriment to any structure or use, actual or permitted, in the surrounding area;
 - [e] There is a reasonable provision for open space and yard areas as appropriate to the surrounding area.
7. Public hearing. No action shall be taken by the Zoning Board of Appeals to issue a specific permit approval or by the Planning Board to issue controlled site approval, nor the Zoning Board of Appeals to grant a use or area variance in relation to an application for a Solar Farm until after public notice and a public hearing by each Board for each such approval. Proper notice of a hearing before a board shall be given by legal notice published in the official newspaper of the Town of LaFayette at least 5 days before the date set for such public hearing(s) and written notice mailed to the applicant or his agent at the address given in the application to be considered. The applicant shall be responsible for notifying, by certified mail, all property owners of record within 500 feet of the outside perimeter of the boundary line of the property involved in the application of the time, date and place of such public hearing at least 10 days prior to such hearing. Notice shall be deemed to have been given if mailed to the property owner at the tax billing address listed on the property tax records of the Town Assessor or at the property address. At least 7 days prior to such hearing, the applicant shall file with the board his/her affidavit verifying the mailing of such notices. Failure of the property owners to receive such notice shall not be deemed a jurisdictional defect.
8. Compliance with New York State Uniform Fire Prevention and Building Code and National Fire Protection Association codes.
- (a) Building permit applications shall be accompanied by standard drawings of structural components of the Solar Farm and all its components (including but not limited to Solar Panel, Solar Collector, Solar Energy System etc.). Drawings and any necessary calculations shall be certified, in writing, by a New York State registered professional engineer that the system complies with the New York State Uniform Fire Prevention and Building Code and any applicable National Fire Protection Association codes. This certification would normally be supplied by the manufacturer.
 - (b) Where the structure, components or installation vary from the standard design or specification, the proposed modification shall be certified by a New York State registered professional engineer for compliance with the

structural design provisions of the New York State Uniform Fire Prevention and Building Code and any applicable National Fire Protection Association codes.

9. Compliance with state, local and national electric codes.
 - (a) Building permit applications shall be accompanied by a line drawing identifying the electrical components of the Solar Farm to be installed in sufficient detail to allow for a determination that the manner of installation conforms with the National Electric Code. The application shall include a statement from a New York State registered professional engineer indicating that the electrical system conforms with good engineering practices and complies with the National Electric Code, as well as applicable state and local electrical codes. This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.
 - (b) Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a New York State registered professional engineer for compliance with the requirements of the National Electric Code and good engineering practices.
10. Following construction/installation of the Solar Farm, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low level vegetation capable of preventing soil erosion and airborne dust.
11. Post Construction/Installation Certification. Following the construction/installation of the Solar Farm, the applicant shall provide a post-construction/installation certification from a professional engineer registered in New York State that the project complies with any and all applicable codes and industry practices and has been constructed and is operating according to the drawings and development plan(s) submitted to the Town and this Article.
12. Insurance. The applicant, owner, lessee or assignee shall maintain a current insurance policy which will cover installation and operation of the Solar Farm at all times. Said policy shall provide a minimum of \$2,000,000 property and personal liability coverage.
13. Inspections. The Building Inspector, Zoning Enforcement Officer, Code Enforcement Officer and/or Town Engineer shall have the right at any reasonable time to enter, in the company of the owner or his agent, the premises on which a Solar Farm is being or is constructed, to inspect all parts of said Solar Farm installation and require that repairs or alterations be made if, in his judgment, there exists a deficiency in the operation or the structural stability of the Solar Farm or any component thereof. If necessary, the Building Inspector or Town Engineer may order the system secured or to otherwise cease operation. It shall not be required that the owner or agent be present in the event of an emergency situation involving danger to life, limb or property.

14. Power to impose conditions. In granting any controlled site approval, specific permit approval or variance for a Solar Farm, the Zoning Board of Appeals or Planning Board, as the case may be, may impose reasonable conditions to the extent that such board finds that such conditions are necessary to minimize any adverse effect or impacts of the proposed use on neighboring properties and to protect the general health, safety and welfare of the Town.
15. Decommissioning and Removal of Solar Farm Facilities.
 - (a) The applicant shall agree, in writing, to remove the entirety of the Solar Farm and all accessory structures and components thereof if the Solar Farm ceases to be used for its intended purpose for 12 consecutive months. Removal of such obsolete and/or unused Solar Farm components shall take place within 90 days thereafter. Such agreement shall also include a commitment by the applicant to impose a similar obligation to remove any unused and/or obsolete Solar Panels upon any person subsequently securing rights to relocate the Solar Panels.
 - (b) Bond/Security. The applicant shall be required to execute and file with the Town Clerk a bond, or other form of security acceptable to the Town Attorney and Engineer, in an amount sufficient for the faithful performance of the terms and conditions of the permit issued under this Chapter, and to provide the decommissioning removal and restoration of the site subsequent to the removal of the Solar Farm. The amount of the bond or security shall be no less than 150% of the cost of the removal of the Solar Panels and restoration of the site, and shall be reviewed and adjusted at 5 year intervals. In the event of a default upon performance of such condition or any of them, the bond or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The bond or security shall remain in full force and effect until the complete removal of the Solar Panels and site restoration is finished.
 - (c) If the applicant fails to decommission and/or remove the Solar Farm as provided herein, the failure to do so will result in the Town removing the Solar Farm and assessing the cost of removal on the property which shall constitute a lien on said property and collected in the same manner as property taxes.
16. Fees. Fees for applications and permits under this section shall be established by resolution of the Town Board of the Town of LaFayette. In accordance with the requirements of the Town of LaFayette Local Law No. 3-2000 (Fees), it shall be the applicant's responsibility to reimburse the Town for any and all reasonable and necessary legal, engineering and other professional fees incurred by the Town in reviewing and administering an application for a Solar Farm under this section.
17. Waiver. The Planning Board or the Zoning Board of Appeals may, under appropriate circumstances, waive one or more of the submission requirements contained herein.

SECTION 5. AMENDMENT OF ARTICLE II (“DISTRICT REGULATIONS”), SECTION A (AGRICULTURAL RESIDENTIAL (AR) DISTRICT).

Article II, Section A, Agricultural Residential (AR) District is hereby amended to add a new section 1 i) as follows:

“i) Solar Farms. (Subject to the granting of controlled site approval and specific permit approval; *see* Article X-A).”

SECTION 6. AMENDMENT OF ARTICLE II (“DISTRICT REGULATIONS”), SECTION F (INDUSTRIAL (I) DISTRICT).

Article II, Section F Industrial (I) District is hereby amended to add a new Section 1 (f) as follows:

“f) Solar Farms. (subject to the granting of controlled site approval and specific permit approval; *see* Article X-A).”

SECTION 7. AMENDMENT OF ARTICLE II (“DISTRICT REGULATIONS”), SECTION A (AGRICULTURAL-RESIDENTIAL (AR) DISTRICT).

Article II, Section A Agricultural Residential (AR) District is hereby amended to add a new Section 1 i) as follows:

“j) Ground-Mounted Solar Energy Systems shall be permitted as an accessory use. (subject to the granting of specific permit approval; *see* Article X-A).”

SECTION 8. AMENDMENT OF ARTICLE II (“DISTRICT REGULATIONS”), SECTION C (RESIDENTIAL PLANNED CLUSTER (RPC) DISTRICT).

Article II, Section C Residential Planned Cluster (RPC) District is hereby amended to add a new Section 1 b) as follows:

“b) Ground-Mounted Solar Energy Systems shall be permitted as an accessory use. (subject to the granting of specific permit approval; *see* Article X-A).”

SECTION 9. AMENDMENT OF ARTICLE II (“DISTRICT REGULATIONS”), SECTION D (RESIDENTIAL MULTI-FAMILY (RM) DISTRICT).

Article II, Section D Residential Multi-Family (RM) District is hereby amended to add a new Section 1 d) as follows:

“d) Ground-Mounted Solar Energy Systems shall be permitted as an accessory use. (subject to the granting of specific permit approval; *see* Article X-A).”

SECTION 10. AMENDMENT OF ARTICLE II (“DISTRICT REGULATIONS”), SECTION E (BUSINESS (B) DISTRICT).

Article II, Section E Business (B) District is hereby amended to add a new Section 1 d) as follows:

“d) Ground-Mounted Solar Energy Systems shall be permitted as an accessory use. (subject to the granting of specific permit approval; *see* Article X-A).”

SECTION 11. AMENDMENT OF ARTICLE II (“DISTRICT REGULATIONS”), SECTION F (INDUSTRIAL (I) DISTRICT).

Article II, Section F Industrial (I) District is hereby amended to add a new Section 1 f) as follows:

“f) Ground-Mounted Solar Energy Systems shall be permitted as an accessory use. (subject to the granting of specific permit approval; *see* Article X-A).”

SECTION 12. AMENDMENT OF ARTICLE II (“DISTRICT REGULATIONS”), SECTION G (COMMERCIAL PLANNED DEVELOPMENT (CPD) DISTRICT).

Article II, Section G Commercial Planned Development (CPD) District is hereby amended to add a new Section 5. as follows:

“5. Ground-Mounted Solar Energy Systems shall be permitted as an accessory use as part of a Commercial Planned Development. (subject to the granting of specific permit approval; *see* Article X-A).”

SECTION 13. AMENDMENT OF ARTICLE II (“DISTRICT REGULATIONS”), SECTION H (HAMLET (H) DISTRICT).

Article II, Section H Hamlet (H) District is hereby amended to add a new Section 1 e) as follows:

“e) Ground-Mounted Solar Energy Systems shall be permitted as an accessory use. (subject to the granting of specific permit approval; *see* Article X-A).”

SECTION 14. SEVERABILITY.

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Local Law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law.

SECTION 15. EFFECTIVE DATE.

This Local Law shall be effective upon filing with the office of the Secretary of State.

(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. **1** of **2018** of the **Town of LaFayette** was duly passed by the **Town Board** on **April 10, 2018**, 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 **Town of Sullivan** was duly passed by the **Town Board** on _____, **20__**, and was (approved/not approved/repassed after disapproval) by the **Town Board** and 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 **Town of Sullivan** was duly passed by the **Town Board** on _____, **20__**, and was (approved/not approved/repassed after disapproval) by the **Town Board** on _____, **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 **Town of Sullivan** was duly passed by the **Town Board** on _____, **20__**, and was (approved/not approved/repassed after disapproval) by the **Town Board** on _____, **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.~~

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.~~

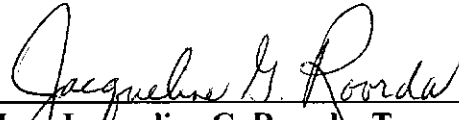
6. ~~**(County local law concerning adoption of Charter.)**~~

~~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 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.)

* 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 chairperson 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.

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.



**Hon. Jacqueline G. Roorda, Town Clerk
Town of LaFayette**

Dated: April 10, 2018

