Town of New Baltimore
Proposed Solar Energy Local Law
Proposed Local Law # 3

1. Authority

This Solar Energy Local Law is adopted pursuant to New York State Town Law, and Municipal Home Rule Law of the State of New York, which authorize the Town of New Baltimore to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Town of New Baltimore 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."

2. Statement of Purpose

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

1) To take advantage of a safe, abundant, renewable, and non-polluting energy resource.

2) To increase employment and business development in the Town of New Baltimore, to the extent reasonably practical, by furthering the installation of Solar Energy Systems.

3) To mitigate the impacts of Solar Energy Systems on environmental resources.

4) To ensure solar projects are consistent with the Town of New Baltimore Comprehensive Plan.

3. Definitions

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.

ENERGY STORAGE SYSTEM: ESS is a device that stores energy and makes it available in electric form, typically associated with residential applications.

ENERGY STORAGE POWER STATIONS: For use in commercial applications is a system that stores energy and makes it available in electric form.

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

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to the ground via poles, racks, or other mounting system, detached from any other structure that generates electricity for onsite or offsite consumption.

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 New York State Department of Environmental Conservation.

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

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System located on the roof of any legally permitted building or structure 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, storage devices, or other electrical and photovoltaic equipment associated with the production 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. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include Roof-Mounted / Building-integrated solar energy systems with a system capacity of up to 25 KW DC

B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with system capacity up to 25 kW.

C. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

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

4. Applicability

A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in Town of New Baltimore 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 Solar Energy System area by more than 5% of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Local Law.

D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards.

5. General Requirements

A. A Building permit shall be required for installation of all Solar Energy Systems. The Town Code Enforcement Officer will be notified by the Town Supervisor that all requirements of the decommissioning plan and the PILOT and/or CHA have been satisfied and the project is eligible for a building permit.

B. Issuance of permits and approvals by the Town of New Baltimore Planning Board shall include review pursuant to the State Environmental Quality Review Act.

C. All solar energy systems (regardless of Tier) shall be designed, constructed and installed in accordance with all applicable codes, regulations and industry standards as referenced in the NYS Building Codes.

6. Permitting Requirements for Tier 1 Solar Energy Systems

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts in the Town of New Baltimore through the issuance of a Building Permit. Any Energy Storage System must be included in the permit.

A. Roof-Mounted Solar Energy Systems

1) Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:

    a. Energy Storage Systems shall be installed in accordance with the most current state electrical and fire protection codes.

    b. Solar Panels on pitched roofs shall be installed to the roof surface on which they are mounted or attached.

c. Solar Panels on pitched roofs shall not extend higher than 3 feet above highest point of the roof surface on which they are mounted or attached.

d. Solar panels installed along the edge of the roof and also near the ridge need to comply with section 1204 of the 2020 NYS Fire Code.

2) Glare: All Solar Panels shall have anti-reflective coating(s).

3) Height: All Roof-Mounted Solar Energy Systems shall comply with the height limitations of 35' per zoning Dimensional table.

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

7. **Permitting Requirements for Tier 2 Solar Energy Systems**

All Tier 2 Solar Energy Systems shall be permitted in the Rural/Agricultural, Commercial, Industrial, Developmental, and Developmental/Multifamily Residential zoning districts in the Town of New Baltimore through the issuance of a Special Use Permit, as accessory structures and any Energy Storage System must be included in the permit and are subject to the following conditions:

A. Energy Storage Systems shall be installed in accordance with the most current state electrical and fire protection codes.

B. Glare: All Solar Panels shall have anti-reflective coating(s).

C. Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. Solar collectors may be installed in any front yard but shall not be less than 75 feet from any property line adjacent to a public road.

D. Height: Tier 2 Solar Energy Systems shall be subject to the height limitations of 12 feet

E. Screening and Visibility.

1) All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.

2) 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.

3) Section 1204 of the 2020 Fire Code also addresses ground mounted installations.

F. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirements specified for accessory structures within the underlying zoning district.

8. Permitting requirements for Tier 3 Solar Energy Systems

All Tier 3 Solar Energy Systems are permitted through the issuance of a special use permit within the Residential/Agricultural, Commercial, Industrial zoning districts, and subject to site plan application and review requirements set forth in this Section.

A. Applications for the installation of Tier 3 Solar Energy System shall be:

1) reviewed by the Code Enforcement Officer for completeness and include a completed environmental impact form (SEQRA), referred, with comments, to the Planning Board for its review, which review may include approval, approval with conditions, or denial.
2) In order for the town of New Baltimore planning board to approve your application the board requires that you place in escrow sufficient funds to be used to reimburse costs incurred by the town for all consultant reviews, legal fees in the sum of five thousand ($5,000) Legal and ten thousand ($10,000) engineering, required throughout the entire Planning Board process and throughout all construction phases to the issuance of the projects Certificate of Occupancy. Should the balance of these accounts fall below 40% of the required amount you'll be notified and requested to replenish the account to the required amount by the Planning Board Clerk.
3) Proof of insurance. The applicant and/or the owner of the property where the Tier 3 scale solar collector system is to be located shall file with the building department proof of insurance in a sufficient dollar amount to cover the potential personal and property damage associated with construction and operation thereof before work has begun.
4) Subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town of New Baltimore shall have a notice printed in a newspaper of general circulation in the Town of New Baltimore at least 10 days in advance of such a hearing. The Developer/Owner shall send by certified mail a notice to adjoining landowners or landowners within 750 feet of the property at least 10 days prior to such a hearing.
5) Referred to the Greene County Planning Board pursuant to General Municipal Law § 239-m if required.
6) Upon closing of the public hearing, the Planning Board shall act on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Planning Board and applicant.

B. Underground Requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, except for the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

C. Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

D. Signage.

1) No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet. To the extent required by safety, signs can be larger, subject to the review and approval of the Planning Board.
2) As required by 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.

E. Glare. All Solar Panels shall have anti-reflective coating(s).

F. Lighting. 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.

G. Thin film solar panels will require initial soil testing and at decommissioning. The cost of sampling and any needed remediation shall be at the expense of the operator/property owner.

H. Tree-cutting. Removal of existing trees larger than 12 inches in diameter should be minimized to the extent possible but in no case should removal of existing trees exceed 50% of current forested coverage.

I. Decommissioning.

1) Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 6 months shall be removed at the Owner and/or Operators expense, which at the Owner's option may come from any security made with the Town of New Baltimore as set forth in Section 10(b) herein.

2) A decommissioning plan (see Appendix 4 1) signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant to the Town Board, addressing the following:

a. The cost of removing the Solar Energy System.

b. The time required to decommission and remove the Solar Energy System any ancillary structures.

c. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.

3) Security.

a. The deposit, executions, or filing with the Town of New Baltimore Town Clerk a bond, or other form of security reasonably acceptable to the Town of New Baltimore Town attorney, Town Engineer and Town Supervisor 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.

b. The amount of the bond or security (minimum amount based on NYSERDA estimates unless a higher cost is deemed necessary by the town's project consultants) shall be 125% of the estimated cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System. The decommissioning amount shall be reduced by 50% of the estimated salvage value of the Solar Energy System.

c. That bond or security must be reviewed or replaced at any time necessary to account for any major changes in the total decommissioning cost otherwise it shall be reviewed on the following schedule:
    a. Every 5 years for the 1st 15 years
    b. Every 3 years thereafter.

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

e. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in Section 10(b) and 10(c) herein.

J. Site plan application. For any Solar Energy system requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:

1) Property lines and physical features, including roads, for the project site

2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures

3) An electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.

4) A preliminary equipment specification sheet documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

5) Name, address, and contact information of 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 building permit. If the property of the proposed project is to be leased a copy of the lease and if applicable other documents relating to legal consent between the parties specifying the use and uses of the land for the duration of the project easements and other relevant agreements shall be submitted.

6) Provide approved interconnection agreement from Central Hudson for the proposed project.

7) Provide written approval from Central Hudson that the POINT OF INTERCONNECTION shown on the site plan is accurate and will not be altered beyond the scope of the project without prior approval from the Town of New Baltimore Code Enforcement Officer.

8) Property Operation and Maintenance Plan. Such a plan shall describe continuing photovoltaic maintenance and property upkeep.

9) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards.

10) Prior to the issuance of the building permit or final approval by the Planning Board as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect., K. Special Use Permit Standards.

1) Setbacks

Setbacks all utility-scale solar collection systems and associated buildings, accessory structures, and equipment shall have a minimum setback from any property line of 100 feet.

2) Height

All solar collectors will have a maximum height of 20 feet from ground elevation. All buildings and accessory structures associated with the utility-scale solar collector system shall have a maximum height of 35 feet, excluding solar collectors.

3) Lot coverage

a. The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:

I. The surface area covered by solar panels and all area located between rows of panels shall be included in the determination of lot coverage.

II. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.

III. Paved access roads servicing the Solar Energy System.

b. Lot coverage as defined above shall be calculated on the aggregate of all solar energy systems within the plot and not to exceed the maximum percentage coverage of the zoning. Dimensional table 112-10 Article V.

4) Fencing Requirements. All mechanical equipment, including any structure for storage batteries, shall be enclosed by a fence that is 7 to 8 foot tall, as required by NEC, with a self-locking gate to prevent unauthorized access.

5) Screening and Visibility.

a. Solar Energy Systems shall be required to:

I. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, shall be required to be submitted by the applicant.

II. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.

III. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Planning Board

IV. If the proposed screening and landscaping plans prove to be inadequate and not to be consistent with the Town of New Baltimore's Comprehensive Plan it may result in the suspension or denial of the special use permit by the Town of New Baltimore Code Enforcement Officer.

L. 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 of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the Town Supervisor in writing of such change in ownership or operator within 30 days of the ownership change. **Failure to notify the Town Supervisor and Town Building Department in the appropriate time frame may result in suspension of the special use permit.**

9. 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 3 Solar Energy System is located in an ambulance district, the local ambulance corps.

C. If Energy Storage Power Stations are included as part of the Solar Energy System, they shall, meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town of New Baltimore and any applicable federal, state, or county laws or regulations.

10. Permit Time Frame and Abandonment

A. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 18 months, provided that a building permit is issued for construction. 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 18 months after approval, or the Town of New Baltimore may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 24 months as evaluated by the Town of New Baltimore Code Enforcement Officer, the approvals shall expire, and applicant/owner will need to reapply.

B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 6 months, the Town of New Baltimore may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 360 days of notification.

C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of New Baltimore may, at its discretion, utilize the bond and/or security and impose a lien on the property to cover these costs to the Town of New Baltimore for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

11. 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 Town of New Baltimore.

12. Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the 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

Decommissioning Plan for [_____], located at:
_____
_____

Prepared and Submitted by _____ the owner of _____]

As required by the Town of New Baltimore, _____presents this decommissioning plan for _____.

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends
2. The system does not produce power for 6 months
3. The system is damaged and will not be repaired or replaced

The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 36 inches below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

All said removal and decommissioning shall occur within 12 months of the Facility ceasing to produce power for sale.

The owner of the Facility, currently _____, is responsible for this decommissioning.

Facility Owner Signature: _____ Date: _____