

Town of Middlefield

Local Law No. 3 of the year 2023

Be it enacted by the Town Board of the Town of Middlefield, County of Otsego, State of New York on February 14, 2023, as follows:

1. Title

This Local Law shall be referred to as “The Solar Energy Systems Law.”

2. Authority

This Solar Energy Local Law is adopted pursuant to sections 261-263 of the Town Law of the State of New York, which authorize the Town of Middlefield to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with Town 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 therefore.”

3. Statement of Purpose

This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of the Town of Middlefield 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;
- C) To increase employment and business development in the Town of Middlefield, to the extent reasonably practical, by furthering the installation of Solar Energy Systems;
- D) To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources; and
- E) To create synergy between solar energy systems and the Town of Middlefield Master Plan and Town zoning law, and to work toward creating a healthy, sustainable, and energy resilient community.

4. Definitions

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

BATTERY ENERGY STORAGE SYSTEM: 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, semi transparent 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 intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System which is secured to the ground via a pole, ballast system, or other mounting system; is detached from any other structure; and which generates energy 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 Agricultural Assessment Program.

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

NATIVE PERENNIAL VEGETATION: Native wildflowers, herbs, 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 an agricultural 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 both wild and managed insects.

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

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

SETBACK: Horizontal distance measured at right angles, from a lot line to the closest point of any structure.

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: Material, hardware, inverters, conduit, plumbing and ducting equipment, energy storage devices, and/or other electrical, mechanical and photovoltaic equipment associated with the production and storage of energy.

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into 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:

- Roof-Mounted Solar Energy Systems.
- Building-Integrated Solar Energy Systems-
- Ground-Mounted Solar Energy Systems with a total solar panel surface area no greater than the area of the footprint of the parcel’s largest building structure measured exterior wall to exterior wall not including patios and decks and not exceeding an area of 1500 square feet.

- On-Farm Solar Energy Systems

B. Tier 2 Solar Energy Systems include the following:

- Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Facility Area of up to 8 acres in size and which are 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 on the site.

C. Tier 3 Solar Energy Systems include the following:

- Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Facility Area of up to 40 acres in size.

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 panel designed to absorb the sun's rays as a source of energy for generating electricity or heating.

5. Applicability

- The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town of Middlefield after the effective date of this Local Law. General maintenance and repair of systems are not regulated by this law.
- Solar Energy Systems installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
- 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.

6. General Requirements

- A zoning permit shall be required for installation of all Solar Energy Systems.
- Prior to the issuance of the zoning permit by the Zoning Officer, and for solar installations subject to site plan review, initial review by the Planning Board, and final approval by the Town Board, construction and/or site plan documents must be signed and stamped by a NYS Licensed Professional Engineer or NYS Registered Architect.
- Site Plan review by the Planning Board and approval by the Town Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].
- 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 Code"). Electrical inspections shall be required on all solar energy systems.
- For Solar Energy Systems subject to site plan review, the Town of Middlefield may 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.

7. Permitting Requirements for 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 law or other land use regulation, subject to the following conditions for each type of Solar Energy Systems:

A. Roof-Mounted Solar Energy Systems

- Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements (exceptions may be approved by the Zoning Board of Appeals):
 - Solar Panels on pitched roofs shall be mounted with a maximum distance of 16 inches between the roof surface and the highest edge of the system.
 - 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.
- Glare. All Solar Panels shall have anti-reflective coating(s).
- 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.
- Building-Integrated Solar Energy Systems
 - Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the zoning permit application for the building containing the system.
- Ground-Mounted Solar Energy Systems
 - Glare. All Solar Panels shall have anti-reflective coating(s).
 - Setback. Tier 1 Solar Energy Systems shall be subject to the setback regulations specified for structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall be installed in the side or rear yards in residential districts, or may be installed in the front yard subject to a special permit issued by the Zoning Board of Appeals.
 - Special Permits: The Board of Appeals shall have the authority to issue special permits, as provided in the district regulations of this Local Law, upon finding the following:
 - a. That the proposed use is authorized under this Local Law as a permitted use subject to issuance of a special permit therefor.
 - b. That the proposed use will not have an adverse impact upon the area in which it is to be Located.
 - c. That the proposed use complies with all applicable provisions of this Local Law.
 - d. That the proposed use is consistent with the comprehensive plan of the Town.
 - e. That the proposed use will not cause excessive traffic, will not substantially detract from the property value of any adjacent property, and can be adequately served by existing or proposed public facilities or utilities.
- Height. Tier 1 Solar Energy Systems shall comply with the height limitations in Appendix 1.
- All Tier 1 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.
 - 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.
 - Screening/Visibility. Tier 1 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.

- D. On-Farm ground mounted solar energy systems greater than 1 acre in size shall require a decommissioning plan approved by the authority issuing the zoning permit.

8. Permitting Requirements for 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. Site plan review shall be conducted by the Planning Board with final project approval by the Town Board [Middlefield Zoning Law, Article IV, Sections D and E]. Tier 2 Solar Energy Systems shall adhere to the standards and requirements established for Tier 1 Ground-Mounted Systems in Section [7(C)], in addition to (or in some cases amended by) the following requirements:

- A. Application & Site Plan Review Requirements. Applications for Tier 2 Solar Energy Systems, including materials for site plan review, shall include the following:
- 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.
 - 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.
 - Nameplate Capacity of the Solar Energy System (as expressed in kW or MW).
 - Zoning district designation for the parcel(s) of land comprising the Facility Area.
 - Property lines and physical features, including roads, for the project site.
 - Adjacent land uses on contiguous parcels.
 - 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.
 - 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 building permit.
- B. Standards. Tier 2 Systems shall adhere to the following standards.
- Tier 2 setback, height and system placement: As allowed by Town Zoning Law.
 - 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.
 - Environmental Resources
 - Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.
 - 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.
 - Use integrated pest management practices to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.
- C. A Decommissioning Plan. [see Appendix 2] A decommissioning plan signed by the owner and/or operator of the Solar Energy System shall be required and shall be submitted by the applicant. The

decommissioning plan shall address the following:

- The time required to decommission and remove the Solar Energy System and any ancillary structures.
 - The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
 - The cost of decommissioning and removing the Solar Energy System, as well as all necessary site remediation or restoration.

9. Permitting Requirements for Tier 3 Solar Energy Systems

All Tier 3 Solar Energy Systems are permitted through the issuance of a special use permit by the Zoning Board of Appeals within the R-80 and PDD zoning districts, and subject to site plan requirements set forth in this Section.

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

- Reviewed by the Zoning Officer for completeness. Applicants shall be advised within 30 days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
- Once complete, application must be presented to the Planning Board for site plan review [Middlefield Zoning Law, Article IV, Sections D and E]. The Planning Board shall review the site plan and make a recommendation to the Town Board for approval, disapproval, or approval with conditions or changes. Town Board shall be the lead agency on both the site plan and State Environmental Quality Review process (SEQR) as it is the entity granting approval or disapproval for both of these actions.
- 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 Town of Middlefield.
- Referred to the County Planning Department pursuant to General Municipal Law § 239-m, if required.
- Upon closing of the public hearing, the Town Board shall take action on the application within 60-days of the public hearing, which can include approval, approval with conditions, or denial. The 60-day period may be extended upon consent by both the Town Board and applicant.

B. Application & Site Plan Review Requirements. Applications for Tier 3 Solar Energy Systems, including materials for site plan review, shall include the following:

- 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.
- 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.
- Nameplate Capacity of the Solar Energy System (as expressed in MW).

- Zoning district designation for the parcel(s) of land comprising the Facility Area.
- Property lines and physical features, including roads, for the project site.
- Map(s) of MSG 1-4 soils and Active Agriculture Lands on the parcel(s) comprising the Facility Area and adjacent parcels.
- Adjacent land uses on contiguous parcels.
- 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.
- 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.
- 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 building permit.
- A Property Operation and Maintenance Plan that describes continuing site maintenance, anticipated dual-use, and property upkeep, such as mowing and trimming.
- A Decommissioning Plan [see Appendix 2] 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:
 - The time required to decommission and remove the Solar Energy System and any ancillary structures.
 - The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
 - The cost of decommissioning and removing the Solar Energy System, as well as all necessary site remediation or restoration.
 - The provision of a decommissioning security which shall adhere to the following requirements:
 - The deposit, executions, or filing with the Town of Middlefield Clerk of cash, bond, or other form of security reasonably acceptable to the Town of Middlefield Town Board, 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 3 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 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 Middlefield, 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.

C. Special Use Permit Standards. After site plan approval by the Town Board, the Zoning Board of

Appeals may issue a special use permit for a Tier 3 Solar Energy System only after it has found that all the following standards and conditions have been satisfied:

- **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 right-of-way.
- **Access Roads.** Access roads within the Facility Area shall be designed in compliance with *NYCRR Title 19, Chapter XXXIII, Subchapter A, Part 1219, Section 1219.1 - Uniform Fire Prevention and Building Code* requirements to ensure emergency access, while minimizing the extent of impervious materials and soil compaction.
- **Signage.**
 - 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 and shall be displayed at the entrance to the site.
 - 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.
- **Glare.** All Solar Panels shall have anti-reflective coating(s).
- **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.
- **Multiple lots.** At the discretion of the Zoning Board of Appeals, where a Tier 3 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 a single lot for the purposes of applying specific standards and requirements, including but not limited to lot size and setback requirements.
- **Lot size.** The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements of the underlying zoning district.
- **Setbacks.** The Tier 3 Solar Energy Systems shall be set back 100 feet from the center of any public road and 75 feet from any lot line. Fencing, collection lines, access roads and landscaping may occur within the setback.
- **Height.** The Tier 3 Solar Energy Systems shall comply with the height limitations in Appendix 1 depending on the underlying zoning district.
- This height requirement can be waived by the Zoning Board of Appeals if the panels are being raised to accommodate continued or new agricultural purposes.
- **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.
- **Screening and Visibility.**
 - 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.

- Solar Energy Systems larger than 10 acres shall be required to:
 - 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, may be required by the Town of Middlefield to be submitted by the applicant.
 - 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 practicable from public roadways and adjacent properties to the extent feasible.
 - 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 Town of Middlefield during site plan review and approval. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening.

10. Environmental Resources

- Tree-cutting. Removal of existing trees larger than 6 inches in diameter shall be minimized to the extent possible.
- Tier 3 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 agricultural or farm-related activities or uses within the Facility Area may be excluded from this requirement based on the amount of space actually occupied by the agricultural use(s). This exclusion will only be allowed based on the Zoning Board of Appeals determination that these lands are being used for actual agricultural uses.
- Integrated pest management practices shall be used to refrain from/limit pesticide use (including herbicides) for long-term operation and site maintenance.

11. Agricultural Resources.

Tier 3 Solar Energy Systems for which the Facility Area includes lands consisting of MSG 1-4 and/or active agriculture land shall adhere to the following requirements:

- Tier 3 Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 50% of the area of MSG 1-4 –or 25% of the area of active agricultural lands within the Facility Area.
- A Tier 3 Solar Energy System may exceed the above coverage thresholds if it incorporates an onsite activity or program which provides for the use of the land occupied by the solar energy system as a Farm Operation. Exceedance beyond these thresholds will only be allowed based on the Zoning Board of Appeal’s determination that this occupied land is being used for a Farm Operation.

- Subject to discretion of the Zoning Board of Appeals, 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.
- To the maximum extent practicable, Tier 3 Solar Energy Systems located on MSG 1-4 and/or active agriculture land 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.”
- 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 decommissioning plan. A new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator within 30 days of the ownership change.

12. Permitting Requirements for Tier 4 Solar Energy Systems

All Tier 4 Solar Energy Systems are permitted through the issuance of a special use permit within the R-80 and PDD zoning districts, and are subject to the site plan and special use permit application requirements established for Tier 3 Solar Energy Systems in Section 8, in addition to (or in some cases amended by) the following requirements:

- Applications for Tier 4 Solar Energy Systems shall:

Be reviewed by the Zoning Officer for completeness. Applicants shall be advised within 60 days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

- Pre-Application Meeting.

At least 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 Town of Middlefield requirements applicable to the proposed Solar Energy System. A written request for this purpose shall be sent to the Planning Board of the Town of Middlefield. Submission and review of the application shall not be delayed based on the failure of the Planning Board of Town of Middlefield 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 going-forward basis, and (5) an anticipated application submission date.

- Community Engagement Plan.

Applications 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 prior to the submission of a formal application.

- Setbacks: Tier 4 Solar Energy Systems shall meet all applicable parcel line and other setback requirements as outlined in Tier 3 systems. Fencing, collection lines, access roads and landscaping may occur within the setback.
- Agricultural Resources: Tier 4 Solar Energy Systems for which the Facility Area includes MSG 1-4 and/or active agricultural lands 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 MSG 1-4 or 25% of the area of active agricultural lands within the Facility Area. A Tier 4 Solar Energy System may exceed the above coverage thresholds if it incorporates an onsite activity or program which provides for the use of the land occupied by the solar energy system as a Farm Operation. Exceedance beyond these thresholds will only be allowed based on the Zoning Board of Appeals' determination that this occupied land is being used for a Farm Operation.
 - b. To the maximum extent practicable, Tier 4 Solar Energy Systems located on MSG 1-4 and/or active agricultural lands 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."

13. Safety

- Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
- 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 an ambulance district, the local ambulance corps.
- If a Battery Energy Storage System is included as part of the Solar Energy System, it shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town of Middlefield and any applicable federal, state, or county laws or regulations.
- Where deemed necessary by the Town Board, the Applicant shall ensure emergency access to the Facility Area for local first responders by installing an emergency lock box or similar device, in a location subject to approval by the Fire Chief of the district where the facility is located.

14. Permit Timeframe and Abandonment

- In the event construction of the facility is not substantially completed in accordance with the final site plan – as approved by the Town Board, within 36 months, the applicant may request to extend the time to complete construction by 12 months. Approval of a request to extend the time to complete construction shall not be unreasonably withheld. If the owner and/or operator fails to perform substantial completion within 48 months, the approvals shall expire.
- Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town of Middlefield 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 12 months of notification.
- If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of Middlefield 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.

15. 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 Town of Middlefield.

16. 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 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.

17. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

Appendix 1: Maximum Height Requirements

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

Zoning District	Tier 1 Roof-Mounted	Tier 1 & 2 Ground-Mounted	Tier 3 & 4 Ground-Mounted
Residential Hamlet District	2' above roof	10'	not allowed
PDD District	4' above roof	15'	20'
Agricultural / Residential	2' above roof	15'	20'

Appendix 2: Example Decommissioning Plan

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

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

As required by the Town of Middlefield, [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:

- The land lease – if any – ends, unless the project owner has acquired the land.
- The Solar Energy System ceases to generate electricity on a continuous basis for 12 months.
- 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, [Solar Developer Name] shall notify the Town and 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. Non-compliance will be in violation of Town zoning law.

The owner of the Facility, as provided for in its lease with the landowner, and in accordance with the requirements of the Town of Middlefield zoning law, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which shall include the following:

- 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 Mineral Soil Groups (MSG) 1-4 and/or Active Agricultural Lands.
- For projects located on areas consisting of MSG 1-4 and/or Active Agricultural Lands, removal of all operator owned 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.”
- Removal of any solid and hazardous waste caused by the Facility in accordance with local, state, and federal waste disposal regulations.
- 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:

- Time required to decommission and remove the system and any ancillary structures.
- 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 \$[XXX] 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 revisited 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: _____