Town of Lowville Solar Energy Systems Licensing Ordinance

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

Section 1. Title

The title of this Chapter is Solar Energy Systems Licensing.

Section 2. Purpose and Application

(1) Purpose:

(a) The Town of Lowville finds that while solar energy is a semi-renewable energy resource of electricity generation, and under some circumstances it may reduce the use of nonrenewable energy sources, the possible benefits must be balanced against potential negative impacts to local citizens, local economy, and local ecosystems.

(b) Therefore, it is important that installation of Solar Energy Systems is accomplished in a safe, clean, and orderly manner that will minimize potential adverse biological, agricultural, visual, and other environmental impacts. Pursuant to the authority granted by Wis. Stats. § 66.0401, this ordinance is enacted to provide for Town review of proposed Solar Energy Systems and to ensure such systems are properly installed and are sited in a manner that will minimize any adverse impacts without significantly increasing the cost or efficiency of the proposed system or which permits an alternate system of comparable cost or efficiency.

(2) Application: This Chapter shall apply to all Solar Energy Systems.

Section 3. General Procedures

Where applicable, zoning permits and conditional use permits shall be applied for and reviewed under the procedures established following Columbia County Zoning Ordinance as well as standards required for in the Town of Lowville Code of Ordinances including Building Permit and Electrical Permit issuance.

All elements of the Solar Energy System are to comply with all applicable State, County and Town regulations.

Section 4. Permits Required

In addition to a building permit and electrical permit, a separate permit is required for a Solar Energy System installation as follows:

(1) Roof-mounted Solar Energy Systems meeting the requirements of Section 7.(2) shall be administratively reviewed/permitted by the Building Inspector.

(2) Ground-mounted and pole-mounted Solar Energy Systems meeting the requirements of Section 7.(3) covering between 20 and 300 square feet shall be administratively reviewed/permitted by the Building Inspector. Systems over 300 square feet shall require Plan Commission review and Town Board approval.

(3) Wall-mounted Solar Energy Systems meeting the requirements of Section 7.(4) greater than 20 square feet shall be administratively reviewed/permitted by the Building Inspector.

(4) Large Solar Energy Systems as identified in Section 7.(7) exceeding 300 square feet of ground cover shall require Plan Commission review and Town Board approval.

(5) The requirement for a permit may not be avoided by successive installations each of which are smaller than the thresholds established herein. If a successive installation is presented (two or more installations within a 3-year period), such applications will require Plan Commission review/approval.

(6) All permits shall be subject to the fee schedule approved by the Town Board.

(7) Approval process flow chart:

BUILDING PERMIT REQUIRED FOR ALL INSTALLATIONS

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	NO PERMIT	PERMIT	PLAN COMMISSION APPROVAL & PERMIT
GROUND	< 20 SF	≥ 20 SF ≤ 300SF	> 300 SF
ROOF	ANY	---	---
WALL	< 20 SF	≥ 20 SF	---

Section 5. Exempt Installations

The following installations are exempt from a Solar Energy System Permit:

(1) If solar panels and any accompanying equipment are mounted upon the roof of a principal structure or accessory structure and the accessory structure is erected primarily for purposes other than for the mounting of solar energy equipment.

(2) Solar installations less than 20 square feet (hereinafter "small panels") not to exceed 3 small panels on a given parcel.

(3) Installations oriented for public purposes, such as small panel installations for signage and lighting & related equipment within the right-of-way. One panel, or larger, installations within the right-of-way require a permit and Town Board approval.

(4) Installations for Municipality owned public buildings or facilities, such as wastewater treatment plants, water treatment plans, water well houses, lift stations, municipal buildings, fire & emergency management facilities, and water towers.

Section 6. Application

An application for a permit under this Chapter shall be submitted to the Town Clerk, in accordance with the Town's current policy and procedures and shall contain the following information:

(1) A description of the Solar Energy System including size, method of installation, amount of power to be generated and whether the facility is for private residential or business use or for commercial energy production. The description shall also include technical specifications and supporting calculations necessary to demonstrate the structural integrity of the installation including, but not limited to the ability to withstand wind.

(2) Site Plan. The site plan shall include the following information:

(a) Existing Conditions:

1. Property lines
2. Buildings
3. Proposed installation location and details
4. Existing land use and features (woods, cropland, slopes exceeding 12%, wetlands, etc.).

5. For Large Solar Energy Systems, existing sound, and vibration measurement, following the Wisconsin Dept. of Natural Resources Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants (2008, or current version).

6. Robotic inspection of every foot of drainage tile, repair of any inoperable drainage tile in advance of any SEF construction and re-inspection every three years. All video footage to be placed with Town.

(b) Proposed Plan

1. Proposed location and spacing of solar collectors.

2. Proposed location of access roads for ground-mounted installations greater than 300 square feet.

3. Proposed planned location of underground or overhead electric lines connecting the system to the building, substation, or other electric load.

4. Location of proposed new electrical equipment other than at the existing building or substation that is the connection point for the system.

5. Proposed erosion and sediment control measures, as required by the Town Code.

6. Proposed stormwater management measures as required by the Town Code.

7. Sketch or schematic elevation of the premises accurately depicting the proposed Solar Energy System and its relationship to any buildings or structures on adjacent lots.

8. A description of the proposed method of connecting the system to a building or substation.

9. Proposed maintenance plan for grounds surrounding the system.

10. Proposed plan outlining the use, storage, and disposal of chemicals used in the cleaning of the collectors and/or reflectors.

11. Proposed plan for the storage, operation, maintenance and possible disposal of any batteries serving the system.

12. Scaled elevation drawings covering the proposed facilities on the property.

13. A description and drawing showing the screening/landscaping plan being proposed.

14. Proposed safety and security plan.

15. Health, safety, endangered species, and environmental sustainability plan.

16. For a Primary Use Solar Energy System, a geotechnical report for the site from a qualified geotechnical engineer.

17. For a Primary Use Solar Energy System, a proposed sound and vibration level study, following the Wisconsin Dept. of Natural Resources Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants (2008, or current version).

18. For Primary Use Solar Energy Systems, a decommissioning plan outlining the anticipated means and cost of removing the system at the end of its serviceable life or upon its becoming a discontinued use. The plan shall also identify the financial resources to be set aside to pay for the decommissioning and removal of the system.

(c) Miscellaneous.

1. The name, address, and telephone number of the owner of the property upon which the system is to be installed. If the applicant is different than the property owner, then this information shall be provided for the applicant as well. Also, the name and address of the party responsible for maintaining the system.

2. An explanation of the factors considered in siting the facility at its proposed location.

Section 7. Solar System Regulations.

(1) General Standards. The following standards shall be applicable to all Solar Energy Systems:

(a) Systems shall be designed and operated in a manner that protects public safety.

(b) Systems shall be compliant with any applicable local, state, and federal regulatory standards, including, but not limited to, the State of Wisconsin Uniform Building Code, as amended, and the National Electric Code, as amended.

(c) At the discretion of the Building Inspector, systems proposed for attachment to a building or structure shall include a structural certification prepared by a registered professional engineer licensed in the state of Wisconsin.

(d) Systems that result in the creation of one (1) or more acres of land disturbance, must provide plans that comply with the WDNR NR 216 and NR 151 Construction Stormwater Permit Requirements prior to final stormwater and erosion control permitting at the Town.

(e) Systems shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners, or similar materials. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the Solar Energy System provided they comply with the prevailing sign regulations.

(f) Tree removal shall be minimized and mitigated in accordance with proper site design.

(g) Screening and/or sound reducing mechanisms are required for all Large Solar Energy Systems, and any installation where noise producing infrastructure is located outdoors.

(h) The applicant shall submit a decommissioning plan, per the standards of this Ordinance, with the permit application.

(i) Systems shall be designed to integrate into the architecture of the building or site, to the extent such provisions do not diminish solar production or increase energy costs.

(j) Systems shall be designed and operated to prevent the misdirection of reflected solar radiation onto adjacent or nearby property, public roads, or other areas open to the public. Measures to minimize misdirection of reflected solar radiation may be required, including modifying the surface material, placement or orientation of the system and, if necessary, adding screening to block glare.

(k) Power inverters and any sound-producing equipment shall be at least 500 feet from any residential dwelling(s) adjacent to the Parcel covered by the application. If that 500-foot distance is not reasonably available and this requirement cannot be met, then a Large Solar Energy System application submitted shall include a plan for screening or another sound barrier to reduce the sound emanating onto an adjacent residential parcel, to a level no more than 35 dB with no pure tone noise (at boundary line), which plan shall be subject to the review and approval of the Town Engineer.

(l) Two or more written complaints regarding noise from a Solar Energy System within a 12-month period, or failure to upkeep/maintain necessary screening for same, may be deemed a nuisance or a violation of this ordinance.

(2) Roof-mounted Solar Energy Systems. The following standards shall apply to roof-mounted Solar Energy Systems:

(a) Roof-mounted Solar Energy Systems shall not exceed by more than four (4) feet the existing maximum roofline at the point of installation.

(b) In addition to the structure setback, the collector surface, and mounting devices for roof- mounted solar systems shall not extend beyond the exterior perimeter of the structure on which the system is mounted or built.

(c) The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least two (2) feet.

(d) Exterior piping for roof-mounted solar hot water systems may extend beyond the perimeter of the structure on side and rear yard exposures.

(e) Roof-mounted solar systems, excluding building-integrated systems, shall not cover more than eighty percent (80%) of the surface upon which the collectors are mounted.

(3) Ground-mounted and pole-mounted Solar Energy Systems. The following standards shall apply to ground and pole-mounted Solar Energy Systems:

(a) Ground and pole-mounted systems shall not exceed ten (10) feet in height measured from the top of the panel frame when oriented at maximum design tilt.

(b) Ground and pole-mounted systems shall not extend into the side-yard, rear, or road right- of-way setback when oriented at minimum design tilt.

(c) Ground and pole-mounted systems shall have natural ground cover under and between the collectors and surrounding the system's foundations or mounting device(s).

(d) The total collector surface area of pole or ground mount systems shall not exceed fifty percent (50%) of the building footprint of the principal structure for systems located in all residential and commercial zoning districts.

(4) Wall-mounted Solar Energy Systems. The following standard shall apply to wall-mounted Solar Energy Systems:

(a) In residential zoning districts, wall-mounted Solar Energy Systems shall cover no more than twenty-five percent (25%) of any exterior wall facing a front yard.

(5) Accessory-mounted Solar Energy Systems. The following standards shall apply to accessory Solar Energy Systems:

(a) Accessory Solar Energy Systems must meet all setback requirements pertinent to accessory structures for the zoning district in which the structure is situated.

(b) Accessory Solar Energy Systems shall not be located nearer the front lot line than the principal building on the lot.

(6) Photovoltaic Solar Energy Systems. The following standards shall apply to Photovoltaic Solar Energy Systems:

(a) For Photovoltaic Solar Energy Systems, the electrical disconnect switch shall be clearly identified and unobstructed.

(b) No grid-intertie Photovoltaic Solar Energy System shall be installed until documentation has been given to the Town that the owner has notified the utility company of the customer's intent to install an interconnected customer-owned generator. Documentation may consist of an interconnection agreement or a written explanation from the utility provider or contractor outlining why an interconnection agreement is not necessary. Off-grid systems are exempt from this requirement.

(c) Photovoltaic Solar Energy System components must have an Underwriters Laboratory (UL) listing and solar hot water systems must have a Solar Rating & Certification Corporation (SRCC) rating.

(7) Large Solar Energy Systems. For purposes of this Ordinance, all Large Solar Energy Systems shall be considered as commercial structures for the purposes of compliance with other provisions of the Town Code of Ordinances. All applications for a Primary Use Energy System shall be conditioned upon entering into a Memorandum of Understanding with the Town that addresses how the applicant will comply with the requirements of this Section. The following standards shall apply to Large Solar Energy Systems, to be reviewed and subject to approval by the Plan Commission under Conditional Use Review:

(a) All elements of the system shall meet or exceed all district regulations based on the applicable zoning district.

(b) The area utilized for a Large Solar Energy System shall not interfere with normal development trends anticipated by current development, road extension or other aspect of orderly and efficient planned development.

(c) Systems that result in the creation of one (1) or more acres of land disturbance, must provide plans that comply with the WDNR NR 216 and NR 151 Construction Stormwater Permit Requirements prior to final stormwater and erosion control permitting by the Town pursuant to the Town Code.

(d) The manufacturer's engineer or another qualified engineer shall certify that the soils/foundation and design of the Solar Energy System is within accepted professional standards licensed in the State of Wisconsin.

(e) Power and communication lines running between banks of solar collectors and to electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.

(f) Vegetative screening of the system may be required as a part of Site Plan Review and/or the conditions of approval and it shall be based on the proximity of the system to residential buildings and to abutting public rights-of-way. If screening is required, the vegetation shall consist of canopy and conifer trees at a minimum.

(g) The applicant shall complete a sound and vibration level study, following the Wisconsin Dept. of Natural Resources Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants (2008, or current version).

(h) The applicant shall document existing sound and vibration by measurement, following the Wisconsin Dept. of Natural Resources Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants (2008, or current version).

(i) The proposed plan outlining the use, storage, and disposal of chemicals used in the cleaning of the collectors and/or reflectors shall be provided.

(j) The proposed plan for the storage, operation, maintenance and possible disposal of any batteries serving the project shall be provided.

(k) The proposed plan for safety and security shall be submitted.

(l) A decommissioning plan shall be completed and shall outline the anticipated means and cost of removing the system at the end of its serviceable life or upon its becoming a discontinued use. The plan shall also identify the financial resources to be set aside to pay for the decommissioning and removal of the system

(m) Confirmation of the site's health, safety, retention or avoidance of endangered species and environmental sustainability.

(n) All areas on the Property within any fenced in area shall be kept free of weeds and the grass shall be cut to a height of 12 inches or less.

(o) The applicant shall obtain the approval of the Town Engineer for erosion and runoff control measures as required by the Town and County Ordinances prior to grading, utility installation, or any other land disturbance activity. Separate approvals shall be obtained for each activity. The applicant shall adhere to conditions of the approval and shall grant the right of re-entry to the property to designated personnel of the Town to inspect and monitor compliance with this requirement. Erosion control measures shall comply with the Wisconsin Construction Site Best Management Practice Handbook.

(p) The primary roads to be used by applicant shall be determined by the Town as part of the permit issuing process. Within a reasonable time after determining the

primary roads, the Town and applicant shall document the condition of the primary roads. Documentation shall consist of, among other things, taking a video inventory of the primary roads to establish existing conditions and rating the primary roads according to the PASER Road Inventory System. Except as otherwise noted below, the primary roads described above, which shall be used for all trucks, loaded and unloaded, entering or leaving the project shall be the only roads used by applicant during the construction of the project. Once the primary roads are determined, applicant and the Town shall discuss and mutually agree upon a Project specific road agreement. The terms of the road agreement shall include but not be limited to the extent and frequency of when applicant shall make repairs to the primary roads. Monthly, applicant and the Town engineer shall conduct an inspection of the primary roads and, if necessary, applicant shall be required to make repairs and/or improvements to restore the primary roads to the condition documented at the commencement of the Project. Upon the conclusion of the Project, a final inspection and review shall be conducted by the Town and applicant and final repairs and/or improvements made by applicant as required by this paragraph (p) shall be made prior to the release of applicant's financial guarantee as required by section (q).

(q) The applicant shall obtain and deposit with the Town of Lowville Clerk a financial guaranty consisting of a Surety Bond or an Irrevocable Letter of Credit in the amount to be determined by the Town Engineer to guaranty the performance of all of its obligations for the project, including maintenance and reconstruction of all primary roads identified for the installation of the Large Solar Energy System. The financial guaranty shall run in favor of the Town and shall be in a form acceptable to the Town Attorney. The financial guaranty shall guaranty the applicant's obligations for the project and that, in the event the parties are unable to agree on the maintenance or reconstruction of any primary road at any time, the bond will be available to the Town for that purpose.

(r) Other than the fencing directly surrounding the project substation, O&M and BESS the Project's perimeter fencing shall consist of "deer fencing" (wire mesh), which is six- to ten-foot-tall woven wire partition with wooden posts. Where commercially reasonable, fences will be set within/inside property lines or rights-of-way edges unless otherwise requested from the landowner.

Installed fencing shall be adequately maintained at all times during the Project's operation. The depths of the fence posts shall be installed per prudent engineering practice based on the height of the fence and the type and slope of the terrain. Impairments to either the woven wire or wooden posts that are aesthetically unpleasing shall be remedied within two weeks of written notification. "Leaning" of the fence shall not be allowed to exceed plus or minus 10 degrees of perpendicular. In the event leaning or tilting of the fence does occur, it will be corrected back to perpendicular within two weeks of receiving written notice on the issue.

For purposes of this Agreement, the term "commercially reasonable" shall mean done in good faith and corresponding to accepted commercial practices in the solar energy industry.

(s) Applicant shall contract with an experienced and qualified regional drain tile contractor to gather information concerning participating landowner drain tile, avoid said tile where commercially reasonable, and mitigate the landowner and non-participating landowners' drainage issues where significant impact is expected as a result of drain tile alteration. The applicant shall identify drain tile concerns at the pre-construction and post-construction meetings to finalize remedies to known drainage issues on either participating or non-participating property. Applicant shall receive, investigate, and remedy drain tile issues due to the Project that arise subsequent to the post-construction meeting pursuant to the Drain Tile Management Plan filed by applicant and approved by the Town Engineer.

If drainage infrastructure or systems are damaged by the Project and the result is reduced drainage performance that adversely affects non-participating landowners, applicant shall restore the drainage infrastructure or system to pre-existing condition or better in accordance with the Drain Tile Management Plan. Preexisting condition shall mean the flow capacity existing immediately prior to the Project commencing construction. If previous flow capacity cannot be determined, applicant and landowners agree to negotiate an adequate solution in good faith. applicant is responsible for all expenses related to repairs, restoration, relocations, reconfigurations and replacements of drainage infrastructure and systems that are damaged by the Project as provided in the Drain Tile Management Plan. The intent of this Section is to make landowners whole where drainage infrastructure or systems are damaged by the Project. For example, and without limitation due to enumeration, if damage to drainage infrastructure or systems is caused by the Project on a participating property ("Project-related Damage"), and the Project related Damage causes damages to non-participating property owners upstream of the Project-related Damage, including crop loss and/or blowout damage to the drain tile system on the non-participating owner's property, Project Owner shall reasonably compensate the non-participating owner for crop loss and for repairs to the non-participating property owner's drain tile system.

Applicant agrees to cooperate with non-participating landowners as outlined in the Drain Tile Management Plan that desire to repair or replace drainage tile affecting their properties to the extent that such work does not interfere with the Project or its related facilities. Applicant will not unreasonably withhold approval for access to the Property that lies outside of any fenced array area, to the extent participating property owners also agree to such access.

(t) The applicant shall hire a regionally qualified consultant to create a ground cover and vegetation management plan for the construction and operation of the project. Consultation shall occur with the Town during the pre-construction meeting and post-construction meeting. Where commercially reasonable, the Project will utilize native plants and grasses across the project's developed area and incorporate pollinator habitat. During Project operation, the applicant will spray, mow, and otherwise maintain all developed acreage inside the fence.

(u) The Project shall not be used for any type of advertising. The Project may erect and maintain a single project identification sign. The Project shall be minimally lighted so as not to disturb neighboring properties. Necessary lighting to provide safety and security of facilities shall be approved by the Town Board. Applicant will provide the Town with a description of permanent Project lighting plans when available. Applicant shall contact every owner of residential property immediately adjacent to solar arrays and discuss in good faith a reasonable, strategically located visual buffer of plants that, upon mutual agreement, shall be installed at applicant's expense prior to the completion of construction of the Project. Where applicant and the adjacent property owner are unable to agree on the type of visual buffer and the adjacent property owner makes a request in writing to applicant to provide a visual buffer, the applicant shall install a vegetative buffer on the Project site equal to the length of the non-participating residence and designed to achieve at least 50% opacity at ground level within 5 years. Proposals and plans for vegetative buffers will be finalized by the post-construction meeting. Applicant shall be required to replace any vegetative buffer that dies within two years of its original planting.

(v) Applicant agrees to install the solar arrays with a minimum setback of (i) sixty-five (65) feet from the edge of the right of way of public roads, (ii) two hundred (200) feet from the property boundary lines of non-participating landowners, unless a larger setback is necessary in order to preserve public health and safety based on a case by case analysis of a SES application. A smaller setback is permitted pursuant to an executed good neighbor agreement, in which case the setback shall be no less than fifty (50) feet, and (iii) one hundred and fifty (150) feet from any non-participating landowner dwelling unit. For adjoining participating landowners, the setback requirement may be established pursuant to mutual agreement between applicant and participating property owners.

(w) The applicant acknowledges that the Town has and will incur certain administrative and/or legal costs for, among other things, processing, drafting documents and reviewing the integrity of the primary roads serving as access to the property. As a condition of obtaining a permit, the applicant agrees to pay all of the necessary and reasonable administrative, engineering and legal costs incurred by the Town for, among other things, processing, studying, redrafting documents and to ensure the integrity of that portion of any primary road serving as an access to a facility site. Applicant understands the legal and/or engineering

consultants retained by the Town are acting exclusively on behalf of the Town and not the applicant. Applicant agrees to reimburse the Town for all administrative expenses within 30 of days billing. In the event applicant defaults in the payment of such expenses, in addition to any other remedies which the Town may be entitled, the Town may take funds from the financial guaranty set forth in (q) above and the Town shall recover from applicant all of its costs in enforcing this Ordinance including reasonable attorney fees.

(8) Miscellaneous.

(a) All Solar Energy Systems shall be installed following the Manufacturer's specifications and recommended installation methods for all major equipment, mounting systems, and foundations for poles or racks.

(b) All property owners shall provide the Town with a signed copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary.

(c) As a condition of approval for all Large Solar Energy Systems, the applicant and the Town shall enter into a local operating contract which specifically addresses the issues of maintenance and repair of primary roads, utilities to the system, the effect the system may have on first responders, specific vegetation required for screening the system and the specific terms of the decommission plan.

(d) In connection with construction, operation and maintenance of electric collection lines, communications cables and other equipment, Project facilities may cross road rights-of-way and/or drainage systems. Project Owner shall obtain all permits typically required of others, such as driveway permits and rights-of-way crossing permits. It is agreed that all road right-of- way crossings shall be by underground borings perpendicular to the right-of-way, plus or minus 30 degrees. All underground borings shall commence and terminate outside of the right-of-way.

(e) The applicant shall assure the Town that there will be no loss in real property value within two miles of the Solar Energy System. To legally support this claim, the applicant shall consent in writing to a Real Property Value Protection Agreement as a condition of approval for the Solar Energy System. This Agreement shall provide assurance to non-participating real property owners near the Solar Energy System that they have some protection from Solar Energy System-related real property value losses.

(f) Real Property Value Protection Plan. The Applicant guarantees that there will be no loss in real property value within two miles of the Solar Energy System, due to

the Solar Energy System. Any real property owner(s) included in that area who believe that their property may have been devalued due to the Solar Energy System may elect to exercise the following option:
All appraiser costs are paid by the applicant from the Escrow Account. Applicant and the property owner shall each select a licensed appraiser. Each appraiser shall provide a detailed written explanation of the reduction, if any, in value to the real property ("Diminution Value") caused by the proximity to the SEF. This shall be determined by calculating the difference between the current Fair Market Value (FMV) of the real property and what the FMV would have been at the time of exercising this option, assuming no SEF was proposed or constructed,
If the higher of the Diminution Valuations submitted is equal to or less than 25 percent more than the other, the two values shall be averaged ("Average Diminution Value" • ADV).
If the higher of the Diminution Valuations submitted is more than 25 percent higher than the other, then the two appraisers will select a third licensed appraiser, who shall present to the applicant and property owner a written appraisal report as to the Diminution Value for the real property. The parties agree that the resulting average of the two highest Diminution Valuations shall constitute the ADV.
In either case, the property owner may elect to receive payment from Applicant of the ADV. applicants are required to make this payment within 60 days of receiving said written election from the property owner.

Section 8. Decommissioning

The following provisions shall apply to decommissioning:

(1) Decommissioning of the system must occur within one (1) year from either the end of the system's serviceable life or from the time that the system becomes a discontinued use. A system shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and timely submitted to the Town outlining the steps and schedule for returning the system to service.

(2) Decommissioning shall consist of the following:

(a) The removal of the system's equipment and the removal of the system's foundation to a depth of at least 5 feet under the surface of the ground. An exemption from this requirement may be granted by the Town if it is determined that the removal of the foundation will significantly increase erosion and/or significantly disrupt vegetation on the site.

(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

(c) The stabilization of soils and/or re-vegetation of the site as necessary to minimize erosion and promote soil nutrient and soil carrying capacity.

(3) The decommissioning shall occur in accordance with the decommissioning plan approved by the Town, or any plan amendment approved by the Town.

(4) The applicant shall provide the Town with at least two years notice prior to the actual beginning of the decommissioning process. The security as required by (5) below shall be posted with the Town Clerk at least six months prior to the beginning of the decommission process.

(5) At the time decommissioning begins, all applicants shall obtain and deposit with the Town of Lowville Clerk a financial guaranty consisting of a Surety Bond or an Irrevocable Letter of Credit in an amount to be determined by the Town Engineer to guaranty the performance of all of its obligations concerning the decommissioning of the project. The surety shall run in favor of the Town and shall be in a form acceptable to the Town Attorney. The surety shall guaranty the applicant's obligations under this Agreement and that, in the event the parties are unable to agree on the on the steps required to complete decommissioning, the surety will be available to the Town for that purpose.

(6) The applicant acknowledges that the Town has and will incur certain administrative and/or legal costs for, among other things, processing, drafting documents and reviewing the decommissioning of the project. The applicant agrees to pay all of the necessary and reasonable administrative, engineering and legal costs incurred by the Town for, among other things, processing, studying, redrafting documents and to ensure the integrity of the decommissioning process Applicant understands the legal and/or engineering consultants retained by the Town are acting exclusively on behalf of the Town and not the applicant. Applicant agrees to reimburse the Town for all administrative expenses within 30 days billing. In the event applicant defaults in the payment of such expenses, in addition to any other remedies which the Town may be entitled, the Town may take funds for the financial guaranty as set forth in (5) above, the Town shall recover from applicant all of its costs in enforcing this Ordinance including reasonable attorney fees.

Section 9. Review

(1) The Plan Commission shall review all required applications under this Chapter within forty-five (45) days of a complete submittal and make its recommendation to the Town Board. If the Plan Commission determines more information is necessary to evaluate the application, it may postpone its recommendation for an additional thirty (30) days, but no further postponements shall occur without the consent of the applicant. The Plan Commission may recommend approval, approval effective upon the satisfaction of conditions, or denial. The Plan Commission's recommendation shall be made to further the purposes of this Chapter.

(2) The Town Board shall begin its review of the application and Plan Commission's recommendation at its next meeting after receipt of the Plan Commission's recommendation. The Town Board may accept, reject, or modify the Plan Commission's recommendation under the same criteria as applied for the Plan Commission's review.

(3) Any person aggrieved by the action taken by the Board its application, may appeal as provided by Wisconsin statutes.

Section 10. Fees

(1) An application under this Chapter shall be accompanied by a fee and, if applicable, an escrow payment in accordance with the Town's fee schedule and escrow procedures. No action may be taken on the application until such fee is paid and the escrow is maintained current with a positive balance.

(2) If the application is for a Large Solar Energy System or a Primary Use Solar Energy System, the application shall be accompanied by an escrow fee, as provided under the Town's Fee Schedule, and a Reimbursable Services Agreement, signed by the applicant, and the property owner if different from the applicant, to reimburse the Town for all actual costs incurred reviewing the application, including but not limited to consultants' fees for attorneys, engineers, planners or other relevant specialists. Final approval may not be effective until all such costs are reimbursed according to the agreement. If such costs are not paid within sixty (60) days of final invoice, such costs may be placed on the tax roll for the subject property as a special charge pursuant to Wis. Stats. § 66.0627. Placement on the tax roll, however, shall not constitute payment for purposes of permit issuance.

Section 11. Definitions

For the purpose of this Ordinance, the following terms shall have the meaning given to them in this section. To the extent a term is used in this Ordinance is not defined in this section, the term shall have the meaning given in the Town of Lowville Code of Ordinances.

(1) Awning. A sheet of material stretched on a frame and used to keep the sun or rain off a storefront, window, doorway, patio, or deck.

(2) Decibel – A unit of measure of sound pressure.

(3) Pure Tone – A sound composed of a single frequency.

(4) dB(A), A-Weighted Sound Level – A measure of over-all sound pressure level in decibels, designed to reflect the response of the human ear.

(5) Generator Nameplate Capacity – The maximum rated output of electrical power production of a generator under specific conditions designated by the manufacturer with a nameplate physically attached to the generator.

(6) Maximum Design Tilt (Solar Energy System) – Maximum tilt, or angle, is vertical, or ninety (90) degrees for a Solar Energy System designed to track daily or seasonal sun position or capable of manual adjustment on a fixed rack.

(7) Minimum Design Tilt (Solar Energy System) – Minimum tilt, or angle, is horizontal, or zero (0) degrees for a Solar Energy System designed to track daily or seasonal sun position or capable of manual adjustment on a fixed rack.

(8) Nameplate Capacity – The total maximum rated output of a Solar Energy System.

(9) Panel. A solar collector of approximately 20 nominal square feet or 3-4 feet in width by 4-6 feet in height.

(10) Power Line – An overhead or underground conductor and associated facilities used for the transmission or distribution of electricity.

(11) Power Purchase Agreement – A legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.

(12) Qualified Independent Acoustical Consultant – A person with Full Membership in the Institute of Noise Control Engineers (INCE), or other demonstrated acoustical engineering certification. The Independent Qualified Acoustical Consultant can have no financial or other connection to an applicant.

(13) Receptor – Structures intended for human habitation, whether inhabited or not, including but not limited to churches, schools, hospitals, public parks, state and federal wildlife areas, the manicured areas of recreational establishments designed for public use, including but not limited to golf courses, and campgrounds.

(14) Renewable Energy – Energy from sources that are not easily depleted such as moving water (hydro, tidal and wave power), biomass, geothermal energy, solar energy, wind energy, and energy from solid waste treatment plants.

(15) Roof Pitch – The final exterior slope of a building roof calculated by the rise over the run, typically but not exclusively expressed in twelfths, such as 3/12, 9/12, or 12/12.

(16) Solar Collector – A device, structure, or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

(17) Solar Daylighting – A device specifically designed to capture and redirect the visible portion of the solar spectrum, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

(18) Solar Energy – Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

(19) Solar Energy Device – A system or series of mechanisms designed primarily to provide heating, cooling, electrical power, mechanical power, solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means. Said systems may also have the capacity to store energy for future utilization. Passive Solar Energy Systems shall clearly be designed as a solar energy device, such as a Trombe Wall, and not merely part of a normal structure, such as a window.

(20) Solar Energy System – A set of devices that the primary purpose is to collect solar energy and convert and store it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring, or converting solar energy. This definition also includes structural design features, the purpose of which is to provide daylight for interior lighting.

(21) Solar Energy System, Accessory Use – A Solar Energy System that is secondary to the primary use of the parcel on which it is located, and which is directly connected to or designed to serve the energy needs of the primary use. Excess power may be sold to a power company.

(22) Solar Energy System, Active – A Solar Energy System whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

(23) Solar Energy System, Building Integrated – An active Solar Energy System that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Such systems include, but are not limited to, Solar Energy Systems that function as roofing materials, windows, skylights, and awnings.

(24) Solar Energy System, Grid-intertie – A photovoltaic Solar Energy System that is connected to an electric circuit served by an electric utility company.

(25) Solar Energy System, Ground-mounted – A solar collector, or collectors, located on the surface of the ground. The collector or collectors may or may not be physically affixed or attached to the ground. Ground-mounted systems include pole-mounted systems.

(26) Solar Energy System, Large (Large scale) – A Solar Energy System with a nameplate capacity of five (5) kilowatts or more or a size greater than 300 square feet inclusive of panels and supporting equipment.

(27) Solar Energy System, Off-grid – A photovoltaic Solar Energy System in which the circuits energized by the Solar Energy System are not electrically connected in any way to electric circuits that are served by an electric utility company.

(28) Solar Energy System, Passive – A Solar Energy System that captures solar light or heat without transforming it to another form of energy or transferring the heat via a heat exchanger.

(29) Solar Energy System, Photovoltaic – An active Solar Energy System that converts solar energy directly into electricity.

(30) Solar Energy System, Primary Use – A Large Scale Solar Energy System which generates power for sale to a power company, or other off-premise consumer.

(31) Solar Energy System, Reflecting – A Solar Energy System that employs one or more devices designed to reflect solar radiation onto a solar collector. This definition includes systems of mirrors that track and focus sunlight onto collectors located at a focal point. The collectors may be thermal or photovoltaic.

(32) Solar Energy System, Roof-mounted – A solar collector, or collectors, located on the roof of a building or structure. The collector or collectors may or may not be physically affixed or attached to the roof.

(33) Solar Energy System, Small – A Solar Energy System with a nameplate capacity of less than five (5) kilowatts.

(34) Solar Heat Exchanger – A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

(35) Solar Hot Air System – Also referred to as solar air heat, or a solar furnace. An active Solar Energy System that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance typically means vertically mounted on a south-facing wall.

(36) Solar Hot Water System – Also referred to as a solar thermal. A system that includes a solar collector and heat exchanger that heats or preheats water for building heating systems or other hot water needs, including domestic hot water and hot water for commercial or industrial purposes.

(37) Solar Mounting Devices – Devices that allow the mounting of a solar collector onto a roof surface, wall, or the ground.

(38) Substation – Any electrical facility containing power conversion equipment designed for interconnection with power lines.

(39) Transmission line – See Power Line.

(40) Total Name Plate Capacity – The total of the maximum rated output of the electrical power production equipment for a combined solar project.

Section 12. Penalties and Enforcement

Strike BS TG 6-1-23

Enforcement of this Chapter shall be by means of revoking the permit for multiple violations of this Chapter following written notice from the Town and a failure of the applicant to cure the violations, impositions of forfeitures, and/or injunctive action. Forfeitures shall not be less than $250.00, nor more than $500.00 for each day of non-compliance, together with the costs of prosecution.

Enforcement may also be in the form of injunctive relief. If injunctive relief is sought and granted, the defaulting party shall pay all of the Town's costs and expenses, including reasonable attorney's fees, incurred in enforcing the provisions of this Ordinance, whether incurred prior to or after the commencement of any lawsuit. Unpaid amounts shall bear interest at the rate of twelve percent (12%) per annum if not paid within thirty (30) days of billing.

Section 13. Severability

If any provision of this Chapter or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions or applications of this Chapter, which can be given effect without the invalid provisions or application, and to this end, the provisions of this Section are severable.

Section 14. Effective Date

This Ordinance shall be effective upon publication and posting as provided by law.

Dated this 1st day of June, 2023

THE TOWN BOARD OF THE TOWN OF LOWVILLE,
COLUMBIA COUNTY, WISCONSIN

By: _____ Attest: _____
Brad Schack, Chairperson Tammy Gorman, Clerk