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County
City of Portage
Town
Village

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DEPARTMENT OF STATE

Local Law No. 1 of the year 2020

A local law entitled, "Licensing Solar Energy Systems."

Be it enacted by the Town Board of the

County
City of Portage as follows:
Town
Village

As set forth in the attached page(s).

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

**TOWN OF PORTAGE
LOCAL LAW NO. 1 OF THE YEAR 2020
A PROPOSED LOCAL LAW ENTITLED
“LICENSING SOLAR ENERGY SYSTEMS”**

BE IT ENACTED by the Town Board of the Town of Portage to adopt Local Law No. 1 of 2020 as follows:

SECTION I. AUTHORITY

The Town Board of the Town of Portage enacts this local law under the authority granted by:

1. Article IX of the New York State Constitution, §2 (c) (6) and (10).
2. New York Statute of Local Government, §10 (1)
3. New York Municipal Home Rule Law, §10 (1) (i) and (ii) and §10 (1) (a) (6), (11), (12), and (14).
4. New York Town Law §130 (1) (Building Code), (3) (Electrical Code), (5) (Fire Prevention), (7) (Use of Streets and Highways), (7-a) (Location of Driveways), (11) (Peace, Good Order and Safety), (15) (Promotion of Public Welfare), (15-a) (Excavated Lands), (16) (Unsafe Buildings), (19) (Trespass), and (25) (Building Lines).
5. New York Town Law §64 (17-a) (Protection of Aesthetic Interest), (23) (General Powers).

SECTION II. TITLE

This local law shall be known as "Licensing Solar Energy Systems."

SECTION III. INTENT AND PURPOSE

The purpose of this local law is to provide the discretionary licensing, siting and design regulations and requirement framework for the approved establishment of Solar Energy Systems to protect the health, welfare, safety, peace and tranquility of the residents of the Town of Portage; furthermore, to address the visual, aesthetic and land use compatibility aspects of Solar Energy Systems. This local law establishes a permissive and discretionary framework for the establishment of Solar Energy Systems in the Town of Portage.

SECTION IV. APPLICABILITY

Any utility-scale solar energy system erected, constructed, modified, or operated in the Town of Portage after the effective date of this article shall be in compliance with this article.

SECTION V. DEFINITIONS

Applicant – The person or entity submitting an application and seeking an approval under this Section; the owner of a Solar Energy System or a proposed Solar Energy System project; the operator of Solar Energy Systems or a proposed Solar Energy System project; any person acting on behalf of an Applicant, Solar Energy System or proposed Solar

Energy System. Whenever the term “applicant” or “owner” or “operator” are used in this Section, said term shall include any person acting as an applicant, owner or operator.

Building-Integrated Solar/Photovoltaic (BIPV) System – A solar energy system incorporated into and becoming part of the overall architecture and design of a building or structure in a manner that the solar energy system is a permanent and integral part of the building envelope or structure. *(Not Regulated)*

Building-Mounted Solar Energy System – A solar energy system that is affixed to the side(s) of a building or other structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building. Solar energy systems constructed over a parking lot are considered building-mounted solar energy systems. *(Not Regulated)*

Glare – The effect be reflection 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 affixed to the ground either directly or by support structures or other mounting devices.

Large-Scale Solar Energy System – Any solar energy system that cumulatively on a lot meets all of the following criteria:

1. An accessory or secondary use or structure, designed and intended to generate energy primarily for use on site, potentially by multiple tenants, through a distribution system or electrical grid that is not available to the general public. If excess energy is produced, it can be sold to a utility under a net metering agreement. *(Not Regulated)*
2. Consists of an overall footprint of not less than 5,000 and not exceeding 100,000 square feet. Overall footprint shall be determined by the outline created on the ground, building/structure surface, or combination thereof, excluding all rooftop-mounted solar energy systems that meet the requirements of a small-scale or large-scale solar energy system, by wholly enclosing all components/structures of a solar energy system on a lot. *(Not Regulated)*

Prime Farmland – Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (“NCRS”)’s Soil Survey Geographic (“SSURGO”) Database that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses.

A map showing Prime Farmland within the Town of Portage is available at the Town Clerk’s office and is made a part of these regulations as Exhibit A which is styled “Town of Portage – Prime Farmland Soils.”

Reflector, Solar – A device for which the sole purpose is to increase the solar radiation received by a solar collector.

Rooftop-Mounted Solar Energy System – Any solar energy system that is affixed to the roof of a building and wholly contained within the limits of the roof surface. *(Not Regulated)*

Small-Scale Solar Energy System – Any solar energy system that cumulatively on a lot meets all of the following provisions: *(Not Regulated)*

1. An accessory use or structure, designed and intended to generate energy primarily for a principal use located on site. If excess energy is produced, it can be sold to a utility under a net metering agreement.
2. Consists of an overall footprint of less than 5,000 square feet. Overall footprint shall be determined by the outline created on the building/structure surface.

Solar Collector – A solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure affixed to the ground, a building, or other structure that harnesses solar radiation to directly or indirectly generate thermal, chemical, electrical, or other usable energy, or that reflects or concentrates solar radiation to a solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure that directly or indirectly generates thermal, chemical, electrical, or other usable energy.

Solar Energy System – A complete system intended for the collection, inversion, and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical, or other usable energy. A solar energy system consists of, but is not limited to, solar collectors, mounting devices or structures, generators/turbines, water and energy distribution systems, maintenance and/or other accessory buildings, inverters, combiner boxes, meters, transformers, and all other mechanical, electrical, and plumbing components.

Solar Panel – A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Solar Skyspace – The space between a solar collector and the sun through which solar radiation passes.

Utility-Scale Solar Energy System – Any solar energy system that cumulatively on a lot meets at least one of the following: *(Regulated)*

1. Is a principal use or structure, designed and intended to supply energy solely into a utility grid for sale to the general public; or

2. Consists of an overall footprint of greater than 100,000 square feet. Overall footprint shall be determined by the outline created on the ground, building/structure surface, or combination thereof, excluding all rooftop-mounted solar energy systems that meet the requirements of small-scale or large-scale solar energy systems, by wholly enclosing all components/structures of a solar energy system on a lot.

SECTION VI. UTILITY SCALE BUILDING-MOUNTED AND / OR UTILITY SCALE GROUND-MOUNTED SOLAR ENERGY SYSTEMS

Utility Scale Solar Energy Systems are permitted in the Town of Portage subject to the requirements set forth in this Section, including Site Plan review and are allowed only after the issuance of a license pursuant to these provisions. Applications for the installation of a Utility Scale Solar Energy System shall be reviewed by the Town Board for their approval, approval with conditions, or denial.

- A. If the property of the proposed project is to be leased, proof of legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements.
- B. Plans and drawings for the Utility Scale Solar Energy System signed by a Professional Engineer showing the proposed layout of the Utility Scale Solar Energy System along with providing a description of all components, existing vegetation, any proposed clearing and grading of the lot(s) involved, any anticipated or possible storm water or erosion disturbances, and utility lines (both above and below ground) on the site and adjacent to the site.
- C. Submitted plans and drawings shall show all property lot lines and the location and dimensions of all existing buildings or structures and uses on any parcel within 500 feet of the outer perimeter of the Solar Energy System.
- D. Equipment specification sheets shall be provided for all Solar Panels, significant components, mounting systems, and inverters that are to be installed.
- E. A Property Operation and Maintenance Plan which describes all ongoing or periodic maintenance of the Solar Energy System and property upkeep, such as mowing and trimming.
- F. Applicant shall submit an engineered Storm Water and Erosion Control Plan to the Town of Portage Engineer for review and approval which shall demonstrate that post development runoff, storm drainage and erosion will not be negatively impacted by placement of the Solar Energy System on the site.
- G. Any such additional information as may be required by the Town's professional engineer or consultant, Town Attorney, or Code Enforcement Officer.

- H. At its sole discretion, the Town of Portage Town Board may refer an application for a Utility Scale Solar Energy System to one or more private consultants for review to assist the Board in properly fulfilling its duties. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All reasonable expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, the Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Should such deposit be depleted prior to final approval, the Board may require that additional monies be deposited with the Town before further review of the application will continue. A reviewing Board may suspend indefinitely the review of any application as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town of New York State law, rule or regulation relating to the timing of issuance of decisions for such applications.
- I. Decommissioning Plan. To ensure the proper removal of Utility Scale Solar Energy Systems after such improvements are no longer reasonably operable or have been abandoned, a Decommissioning Plan shall be submitted as part of the application. The Decommissioning Plan must be drafted in accordance with the procedure for abandonment and decommissioning as noted in Section X herein. The Decommissioning Plan must specify that after the Utility Scale Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements and/or the subsequent owner of the property upon which the improvements are placed. The Plan shall include the following:
1. The Decommissioning Plan shall run to the benefit of the Town of Portage and be executed by the Applicant as well as the owners of the real property upon which the Solar Energy System is to be located and such signatures shall be notarized in a format that allows the plan to be recorded at the Office of the Livingston County Clerk. Such plan shall, prior to commencement of construction, be recorded at the office of the Livingston County Clerk as irrevocable deed restrictions indexed against the property upon which the Solar Energy System is to be constructed. The intent of the above provisions is so that all future owners of such properties will be obligated to comply with the Decommissioning Plan requirements if the Applicant or then owner of the Solar Energy System fails to do so.
 2. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction.
 3. An expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional

Engineer or reputable contractor. Cost estimations shall take into account inflation and shall be based on the operating life expectancy of the system.

4. Financial security bond.

- a. Prior to obtaining a building permit and as a condition to any license being issued, the Applicant must provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Portage at its discretion) for the removal of the Utility Scale Solar Energy System, with the Town of Portage as the designated assignee/beneficiary, in an amount approved by the Town Board which is equal to 110% of the estimated removal cost. The bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal.
- b. Each year after a Utility Scale Solar Energy System has been constructed, and no later than ten (10) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/license holder for the system shall provide the Town of Portage with written proof that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above.

J. If a Utility Scale Solar Energy System is proposed to be developed on land that is or could be in agricultural production, Applicant shall demonstrate how the proposed development complies with the then current guidelines as may be established by the New York State Department of Agriculture and Markets relating to Construction Mitigation for Agricultural Lands for Solar Energy Projects.

SECTION VII. LICENSING AND SITE PLAN APPROVAL STANDARDS

- A. Height. Utility Scale Solar Energy Systems shall adhere to the height requirement of fifteen (15) feet.
- B. Setbacks. Utility Scale Solar Energy Systems shall be sited to create a ~~front~~ setback of no less than 200 feet from the centerline of public roadways and setbacks of ~~400~~ 150 feet from all side and rear property lines. In addition, no Utility Scale Solar Energy System shall be located closer than 350 feet from any residential structure located on another parcel, unless the home owner signs a waiver to allow a distance less than 350 feet.
- C. Lot/Parcel Size. Utility Scale Solar Energy Systems shall be located on parcels with a minimum lot size of ~~25~~ 20 acres.
- D. Lot/Parcel Coverage. Utility Scale Solar Energy Systems are permitted to cover up to 80% of any lot or parcel that does not contain Prime Farmland. If a Utility Scale Solar Energy System is to be constructed on a parcel or parcels that contain Prime Farmland, in no instance shall more than 10% of the Prime Farmland on any given lot be permitted to be

used, developed or covered for purposes of Utility Scale Solar Energy Systems. However, a property owner of Prime Farmland may submit an Affidavit certifying that the land has not been used for agricultural activity in excess of fifteen (15) years and thereby request an exception from the Town. It is the intent of this restriction to protect the valuable resource and benefits of Prime Farmland and it is the express intention of the Town of Portage that no variance or hardship request be granted to permit increased coverage by Utility Scale Solar Energy Systems on Prime Farmland by any board or commission or other agency having legal authority to consider and grant such a variance or hardship request. The coverage area shall be determined by the area covered by the perimeter of the Solar Energy System at minimum tilt.

- E. Fencing and Screening. All Utility Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. Warning signs with the owner's contact information shall be placed and maintained on the entrance and perimeter of the fencing. A sign not to exceed nine square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number, disconnect and other emergency shutoff information, 24-hour emergency contact information, and it will be clearly displayed on a light reflective surface. The fencing and the system may be required to be further screened by landscaping to avoid adverse aesthetic impacts. The Town Board shall provide for enhanced screening and buffering for Utility Scale Solar Energy Systems that are placed adjacent to residential parcels or abut a public road.
- F. Number of Utility Scale Solar Energy Systems allowed per lot. Only one Utility Scale Solar Energy System shall be allowed per lot or parcel, regardless of lot size.
- G. Vegetation and Habitat. Utility Scale Solar Energy System owners/developers 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, owners/developers shall use native plant species and seed mixes.
- H. Any Utility Scale Solar Energy System shall be accessible for all emergency service vehicles and personnel.
- I. After completion of a Utility Scale Solar Energy System, the Applicant shall provide a post- construction certificate from a Professional Engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
- J. Compliance with regulatory agencies. The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Utility Scale Solar Energy System.

- K. The Town Board shall be required to hold a public hearing relating to licensing for any Utility Scale Solar Energy System.
- L. Prior to determination or issuance of any license or permit, all Utility Scale Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (6 NYCRR 617). All applications for approval of a Utility Scale Solar Energy System shall be deemed to be a Type I Actions for purposes of compliance with the New York State Environmental Quality Review Act (6 NYCRR 617.4 (a) (1) and (2) specifically allow the Town to classify such actions in addition to the list established by such statute) with The Portage Town Board conducting a coordinated review.
- M. The development and operation of a Utility Scale Solar Energy System shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town of Portage or other federal or state regulatory agencies.
- N. Time limit on completion. After receiving License approval of a Utility Scale Solar Energy System, an Applicant shall obtain a Building Permit within twelve (12) months of such approval or the approval shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved Utility Scale Solar Energy System within twelve (12) months of obtaining a Building Permit as provided for above, or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law.
- O. General complaint process. During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a License. After construction is complete, the license holder of a Utility Scale Solar Energy System shall establish a contact person, including name and telephone number for receipt of any complaint concerning any permit, license, approval, maintenance, or operational requirements.
- P. Inspections. Upon reasonable notice, the Town of Portage Code Enforcement Officer, or his or her designee, may enter a lot or parcel upon which a Utility Scale Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Section or any approval given or license issued pursuant to this Section. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a Utility Scale Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of Portage at any time upon a determination by the Town's Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall be submitted to the Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the license holder, owner or operator and shall be reimbursed to the Town of Portage within thirty 30 days after delivery to the license holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any License granted. The Town of Portage reserves the right to levy all such un-reimbursed expenses

onto the real property tax bill associated with the real property upon which the Solar Energy System is located.

SECTION VIII. LICENSING REQUIREMENTS AND FEES

- A. Upon final Town Board approval of a solar energy systems site plan review, an applicant must apply for and obtain a license to operate a solar energy system. Under no circumstances will the number of licenses issued for the Town of Portage by the Town Board for solar energy systems exceed seven (7).
- B. The initial license issuance and each five (5) year renewal shall have a licensing fee assessed on each solar energy system based upon the megawatt capacity of each solar energy system. The assessed fee shall be \$2,500.00 per megawatt.
- C. The license issued by the Town of Portage pursuant to this section shall contain, among other things, provisions regarding the potential decommission of a solar energy system and further provide for the removal of solar energy systems that cease to be used for their intended purpose for a period of ninety (90) days and provide security for such removal.
- D. In considering whether to issue a license under this section, the Town Board of the Town of Portage shall consider the following:
 1. The approved site plan review and the aesthetic impact of the particular solar energy systems depicted in the site plan.
 2. The location of the solar energy system, the aesthetic and objective impact of the solar energy systems upon the Town of Portage.
 3. The satisfactory completion of and adherence to all requirements under the site plan review.
- E. No license shall be issued or renewed if it is found by the Town Board that the solar energy system is in violation of any provision, term or requirement of the approved site plan and /or this local law.
- F. Solar energy systems shall be inspected annually, on behalf of the owner, by a licensed professional engineer for structural integrity and continued compliance with these regulations and the owner shall bear all reasonable costs associated with such inspection (See Section VII (P)). A copy of such inspection report, including findings and conclusions, shall be submitted to the Town Clerk no later than December 31st of each calendar year and shall include but not be limited to the following information:
 1. An index record of all verbal or written complaints received by the owner from area property owners relative to the operation of solar energy systems which shall include the manner in which the complaint was resolved.

- G. The applicant shall provide production records to the Town Clerk by March 1st of each calendar year for each and every solar energy system in a form approved by the Town Board.
 - H. No transfer of any solar energy system, nor sale of the entity owning such facility including the sale of more than thirty (30) percent of the stock of such entity (not counting sales of share on a public exchange), shall occur without prior approval of the Town, which approval shall be granted upon:
 - 1. The receipt of proof of the ability of the successor to meet all requirements of this Local Law; and
 - 2. The written acceptance of the transferee of the obligations of the transferor under this Local Law.
- No transfer shall eliminate the liability of an applicant nor of any other party under this Local Law.
- I. This law is not intended to establish or create a right to operate solar energy systems but rather permits the Town Board to issue such a license to operate should it be determined to do so under the terms and conditions of said law.
 - J. Before a license can be issued by the Town Board, a Community Benefit Agreement shall be entered into by the applicant and the Town of Portage.

SECTION IX. GENERAL REQUIREMENTS SOLAR ENERGY SYSTEMS

- A. All Solar Energy Systems existing on the effective date of this Section shall be “grandfathered” and allowed to continue as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance on pre-existing systems shall comply with the requirements of this Section so long as they immediately apply for a license.
- B. No Solar Energy System shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.
- C. Any applications pending for Solar Energy Systems on the effective date of this Section shall be subject to the provisions of this Section.
- D. For all Solar Energy Systems, no signage or graphic content may be displayed on the Solar Energy Equipment except the manufacturer’s badge, safety information and equipment specification information as stated in Section VII (E) above.
- E. Community Benefit Agreement. The owners or developers and landowners of the property upon which a Utility Scale Solar Energy System is to be developed shall be required to

enter into a community benefit agreement with the Town for payment by the owners, developers or landowners to the Town of an agreed upon monetary amount or provision of a specified public improvement or improvements that shall act to offset the potential negative impacts that may be associated with a Utility Scale Solar Energy System.

F. Road Use Agreement. Prior to issuance of any building permit for a Utility Scale Solar Energy System and as a condition to any license being issued, the Applicant and its general contractor shall enter into a written Road Use Agreement benefitting the Town and in a format acceptable to the Town at its sole discretion. Such Road Use Agreement will require Applicant and its General Contractor to indemnify and hold the Town harmless from any and all damage to the roadways within the Town that may result from the development of Applicant's Utility Scale Solar Energy System. As a part of such Road Use Agreement, Applicant shall provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Portage at its sole discretion), benefitting the Town, that shall ensure the indemnification and hold harmless provisions stated above.

1. In the event that any damage is done to any Town road as a result of the development of an Applicant's Utility Scale Solar Energy System, said Applicant and/or its General Contractor shall be responsible to perform repairs to such road that are acceptable to the Town Highway Superintendent in his/her reasonable discretion.
2. Such repairs shall be completed within sixty (60) days of when written notice of a demand to repair was personally served or sent via certified mail to Applicant or its General Contractor. Should Applicant or its General Contractor fail to effectuate such repairs within sixty (60) days, or within a different timeline at the discretion of the Highway Superintendent, the Town shall be permitted to execute on the irrevocable financial security bond (or other form of surety) with written notice to Applicant or its General Contractor.
3. The provisions of the Road Use Agreement required hereby and the requisite financial security bond (or other form of surety) shall remain in full force and effect for no less than one year after all construction has been completed and the project has been certified as complete by a professional engineer.
4. No building permit may be issued for any approved Utility Scale Solar Energy System until such time as a Road Use Agreement has been executed by all parties.

SECTION X. ABANDONMENT AND DECOMMISSIONING

A. If the use of an approved Solar Energy System is discontinued or has been abandoned, the license holder, owner or operator, or the Applicant, shall provide written notice to the Code

Enforcement Officer within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative and abandoned after 90 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) or without production of energy and offsite sale to and consumption by one or more customers for Utility Scale Solar Energy Systems.

- B. Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a Solar Energy System shall be made by the Town Code Enforcement Officer, who shall provide the license holder, owner or operator and owner of the real property upon which the Solar Energy System is located with written notice by personal service or certified mail, return receipt requested. Any appeal by the license holder, owner or operator of the Code Enforcement Officer's determination of abandonment or inoperability shall be filed with the Town Board of the Town of Portage within thirty (30) days of the Code Enforcement Officer causing personal service or mailing certified mail his written determination upon the license holder, owner or operator and the Board shall hold a hearing regarding the same. The filing of an appeal does not stay the following time frame unless the Town Board or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of 91 days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals and/or licenses granted or issued for the Solar Energy System shall automatically expire.
- C. Refer to Decommissioning Plan. Upon receipt of the written notice from the Town Code Enforcement Officer by personal service or certified mail, return receipt requested, the license holder, owner or operator and owner of the real property upon which the Solar Energy System is located shall refer to the Decommissioning Plan (Section VI (I)) as submitted by the Applicant.
- D. Removal. All Solar Energy Systems (and related infrastructure) shall be dismantled and removed immediately from a Lot where the license approval has been revoked by the Town Board or if the Solar Energy System has been deemed by the Code Enforcement Officer to be inoperative or abandoned for a period of more than 90 days and the Lot shall be restored to its pre-development condition. The removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The responsibility to dismantle and remove and all such costs of removal shall be the responsibility of the license holder, system owner of the Solar Energy System and/or the owner of the property on which such Solar Energy System is located. If the license holder, system owner or owner of the property does not dismantle and remove said Solar Energy System as required, the Town Board may, after a hearing at which the license holder or system owner and property owner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the license holder is/was.

1. Removal of all Utility Scale Solar Energy Systems shall be in accordance with the Decommissioning Plan required by Section VI (I) above. In the event that license holder, the then owner of the Utility Scale Solar Energy System, or the property owner fails to remove all equipment, infrastructure or appurtenances thereto, and remediate the soil and vegetation to return the parcel to its original state prior to construction, the Town shall be permitted at its sole discretion to utilize the financial security bond (or other form of surety) provided for in the Decommissioning Plan (Section VI (I)) or to exercise its right after notice as provided for above, to dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the license holder is/was.

SECTION XI. REPEAL

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

EFFECTIVE DATE:

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

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

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

I hereby certify that the local law annexed hereto, designated as local law no. 1 of 2020 of the ~~(County)(City)(Town)(Village)~~ Portage was duly passed by the Town Board on August 11, 2020, in accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law no. ____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law no. ____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, as was (approved)(not approved)(repassed after disapproval) by the _____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____, in accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law no. ____ of ____ of the (County)(City)(Town)(Village) of _____, was duly passed by the _____, on _____, and was (approved)(not approved)(repassed after disapproval) by the _____, on _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, in accordance with the applicable provisions of law.

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

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

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

6. County local law concerning adoption of Charter.)

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

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

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

(SEAL) Clerk

Edward Howe
Clerk of the County legislative body, City, Town or Village

Date: 8-11-2020

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

STATE OF NEW YORK
COUNTY OF WYOMING

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

[Signature]
Signature

Attorney
County
City of Portage
Town
Village

Date: 8/14/2020