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☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
*(Select one:)*

**of Nelson**

**Local Law No. 5 of the year 2022**

**A Local Law Amending the 2011 Town of Nelson Land Use and Development Law to Regulate Solar Power and Energy Systems in the Town of Nelson**

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

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
*(Select one:)*

**of Nelson as follows:**

## TOWN OF NELSON
## LOCAL LAW NO. 5 OF 2022

## A LOCAL LAW AMENDING THE 2011 TOWN OF NELSON LAND USE AND DEVELOPMENT LAW TO REGULATE SOLAR POWER AND ENERGY SYSTEMS IN THE TOWN OF NELSON

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

### SECTION 1. LEGISLATIVE PURPOSE AND INTENT.

The purpose of this Local Law is to amend and supplement the 2011 Town of Nelson Land Use and Development Law to permit and regulate the construction of solar energy systems in the Town of Nelson in a manner that preserves the rural character, environment, health, safety and welfare of the Town while also facilitating the production of renewable energy.

### SECTION 2. AUTHORITY.

This Local Law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law Section 10.

### SECTION 3. DEFINITIONS.

Article II ("Word Usage and Definitions") of the 2011 Town of Nelson Land Use and Development Law is hereby amended to add the following definitions at Section 201 ("Land Use and Development Definitions") thereof:

**ATTERBERG LIMITS AND FIELD TESTS** - A basic measure of the critical water contents of a fine-grained soil and its shrinkage limit, plastic limit, and liquid limit. Establishes the moisture contents at which fine-grained clay and silt soils transition between solid, semi-solid, plastic, and liquid states.

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

**ENVIRONMENTAL MANAGER (EM)** - An individual possessing the skills and knowledge to effectively develop a site for use as a solar PV system and then reclaim the site restoring it, to the greatest extent practical, to its original use. The individual shall be or work under the direction of a New York State Registered Engineer, Geologist, or Landscape Architect.

**FARMLAND OF STATEWIDE IMPORTANCE** - Land, designated as "Farmland of Statewide Importance" in the U. S. Department of Agriculture Natural Resources Conservation Service's (NRCS) Soil Survey Geographic (SSURGO) Database on Web Soil Survey, and/or pursuant to the New York State classification system for Madison County, that is of statewide importance for the production of food, feed, fiber, forage, and oil seed. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by New York State.

**FLUSH-MOUNTED SOLAR ENERGY SYSTEM** - A Rooftop-Mounted Solar Energy System with Solar Panels which, unless otherwise provided, are installed flush to the surface of a roof.

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

**HOST COMMUNITY AGREEMENT** - A contract between a developer and a local governing body, whereby the developer agrees to provide the community with certain benefits and mitigate specified impacts of the solar project.

**KILOWATT (kW)** - A unit of electrical power equal to 1,000 watts, which constitutes the basic unit of electrical demand. A watt is a metric measurement of power (not energy) and is the rate (not the duration) at which electricity is used; 1,000 kW is equal to one megawatt (MW).

**MEGAWATT (MW)** – A unit of electrical power equal to 1,000 kilowatts, which constitutes a unit of electrical demand.

**NATIVE PERENNIAL VEGETATION** - Native wildflowers and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

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

**POLLINATOR** - Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

**PRIME FARMLAND, PRIME SOILS, AND PRIME SOIL LANDS** - Soils and land that are best suited for producing food, feed, forage, fiber, and oilseed crops, and must be available for this use. Such soils have the soil quality, growing season, and moisture supply needed to economically produce a sustained high yield of crop when it is treated and managed according to acceptable farming methods. Prime Farmland may now be in crops, pasture, woodland, or other land, but not in urban and built-up land or water areas. (As referenced by the 2019 Madison County Agriculture and Farmland Protection Plan; lands

designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service's (NRCS) Soil Survey Geographic (SSURGO) Database on Web Soil Survey; and Class I and Class II soil classifications found in the Madison County Planning Department Soil Classification Map of Madison County (September 2007))."

**QUALIFIED SOLAR INSTALLER** - A person who has skills and knowledge related to the construction, installation and operation of Solar Energy Systems (and the components thereof) and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition.

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

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

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

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

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

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

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

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

## SECTION 4. SOLAR ENERGY SYSTEM REGULATIONS.

Article V of the 2011 Town of Nelson Land Use and Development Law ("Supplemental Regulations Applicable to Particular Uses") is hereby amended to include a new Section 513 entitled "Solar Energy System Regulations" to read in its entirety as follows:

**"Section 513 Solar Energy System Regulations**

**513.1 Purpose and Intent.**

The Town of Nelson recognizes that solar energy is a clean, readily available and renewable energy source. Development of solar energy systems offers an energy source that can prevent fossil fuel emissions, reduce the Town's energy demands and attract and promote green business development within the Town. The Town of Nelson has determined that comprehensive regulations regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents, and businesses. This Section is intended to promote the effective and efficient use of solar energy systems; establish provisions for the placement, design, construction, operation and removal of such systems in order to uphold the public health, safety and welfare; to ensure that such systems will not have a significant adverse impact on the aesthetic qualities and maintain the rural character of the Town. Further, the Town of Nelson wishes to enhance agricultural viability within the Town and preserve productive agricultural land resources, mitigate the impacts of solar energy systems on environmental resources such as prime farmlands, prime soils (including USDA Prime Soils), prime soil lands, Farmland of Statewide Importance, other important agricultural lands, forests, wildlife, and other protected resources. This Section further promotes the dual use and colocation of solar energy systems to preserve and protect active farming and agricultural land in the Town of Nelson. This Section also recognizes that such uses in the Town may, in some instances, represent large disturbances of lands, the hosting of complex equipment and the need to assure that such projects and property are removed or disposed of at the time of the discontinuance, while minimizing impacts to local roads and nearby property values and avoiding financial burdens on taxpayers.

**513.2 Applicability.**

This Section shall apply to all solar energy systems in the Town of Nelson which are installed or modified after the effective date of this Local Law. All solar energy systems which are installed or modified after the effective date of this Section hall be in compliance with all of the provisions hereof. Any proposed solar energy system subject to review by the New York State Board on Electric Generation Siting and the Environment pursuant to Article 10 of the New York State Public Service Law, or the Office of Renewable Energy Siting pursuant to Article 94-c of the New York State Executive Law or any subsequent law, shall be subject to all substantive provisions of this Section and any other applicable provisions of the Town of Nelson's local laws and regulations.

**513.3 Building-Integrated Solar Energy Systems.**

A. Building-Integrated Solar Energy Systems shall be permitted in all areas of the Town subject to the submission of, application for and review and issuance of an applicable building permit. Details of any proposed Building Integrated Solar Energy System shall be shown on the plans submitted for the building permit.

B. Building-Integrated Solar Energy Systems shall be subject to the general requirements set forth at 513.6.

**513.4 Rooftop-Mounted Solar Energy Systems.**

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

[1] The Unified Solar Permit Process was adopted by the Town of Nelson Town Board in and around February 12, 2015. *See* §513.6(R) for installations qualifying for the Unified Solar Permit Process.

(1) A building permit shall be required for installation of all Rooftop-Mounted Solar Energy Systems.

(2) Rooftop-Mounted Solar Energy Systems shall not exceed the maximum allowed height of the principal use in the zoning district in which the system is located and shall specifically prohibit solar racking systems extending from the roof surface more than 12 inches when measured from average grade of roof surface at maximum height.

(3) Rooftop-Mounted Solar Energy Systems should be mounted parallel to the roof plane on which they are mounted when possible.

(4) In order to ensure firefighter and other emergency responder safety, except in the case of accessory buildings under 1,000 square feet in area, there shall be a perimeter area around the edge of the roof and structurally supported pathways to provide space on the roof for walking around all Rooftop-Mounted Solar Energy Systems. Additionally, installations shall provide for adequate access and spacing in order to:

(a) Ensure access to the roof.

(b) Provide pathways to specific areas of the roof.

(c) Provide for smoke ventilation opportunity areas.

(d) Provide for emergency egress from the roof.

(e) Exceptions to these requirements may be requested where access, pathway or ventilation requirements are reduced due to:

[1] Unique site specific limitations;

[2] Alternative access opportunities (such as from adjoining roofs);

[3] Ground level access to the roof area in question;

[4] Other adequate ventilation opportunities when approved by the Codes Office;

[5] Adequate ventilation opportunities afforded by panels setback from other rooftop equipment (for example: shading or structural constraints may leave significant areas open for ventilation near HVAC equipment);

[6] Automatic ventilation devices; or

[7] New technology, methods or other innovations that ensure adequate emergency responder access, pathways and ventilation opportunities.

(f) In the event any of the standards in this Subsection (A)(4) are more stringent than the New York State Uniform Fire Prevention and Building Code, they shall be deemed to be installation guidelines only and the standards of the Code shall apply.

B. Rooftop-Mounted Solar Energy Systems shall be subject to the general requirements set forth at 513.6.

C. Rooftop-mounted solar energy systems which are not eligible for the unified solar permit provisions set forth in these regulations shall otherwise be subject to and comply with the requirements set forth therein in addition to the requirements specified in 513.4(A) and (B).

**513.5 Ground-Mounted Solar Energy Systems.**

A. Ground-Mounted Solar Energy Systems are permitted in all areas of the Town, unless noted otherwise in these regulations, subject to the application for and issuance of a building permit by the Code Enforcement Officer, the granting of a site plan by the Town Planning Board and further subject to the following requirements:

(1) A building permit and site plan approval shall be required for installation of all Ground-Mounted Solar Energy Systems.

(2) Ground-Mounted Solar Energy Systems are prohibited in front yards. For purposes of this Section, a corner lot shall be considered to have a front yard on each street frontage.

(3) Ground-Mounted Solar Energy Systems are prohibited on lake abutting yards (front or rear yards with physically adjacent lake frontage but not including side yards).

(4) Ground-Mounted Solar Energy Systems shall comply with the Town's most restrictive area, yard and total area/lot coverage restrictions as adopted by the Town as applicable.

(5) Further setbacks, area and yard requirements and total area/lot coverage restrictions may be required by the Town Planning Board in order to protect the public's safety, health and welfare.

(6) The height of the solar collector/panel and any mounts shall not exceed 12 feet in height when oriented at maximum tilt measured from the ground and including any base.

(7) A Ground-Mounted Solar Energy System shall be screened when possible and practicable from adjoining lots and street rights-of-way through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and the surrounding area. The proposed screening shall not interfere with the normal operation of the solar collectors/panels.

(8) The Ground-Mounted Solar Energy System shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for the Solar Energy System.

(9) Neither the Ground-Mounted Solar Energy System nor any component thereof shall be sited within any required buffer area, easement, right-of-way or setback.

(10) The area beneath the ground-mounted solar energy system shall not be included as impervious surface coverage in calculating whether the lot meets the maximum permitted lot coverage requirements for the applicable zoning district.

B. Districts where prohibited. None.

C. Districts where allowed subject to the granting of a special use permit. Irrespective of the size of the system, Ground-mounted solar energy systems shall only be allowed, subject to the issuance of a special use permit by the Town Planning Board, in the following district and further subject to the provision for appropriate screening for such uses, as determined in the sound discretion of the Town Planning Board: Waterfront Zone (WF) Districts.

(1) In addition to the criteria required under this Article, the following additional criteria shall be applicable to the granting of a special use permit for a ground-mounted solar energy system pursuant to this Subsection C:

(a) For all lots, such location shall be in the side yard or rear yard of such lot unless otherwise prohibited.

(b) To determine the appropriateness of the approval for any such use, the Town Planning Board shall have access to the property, and the discretion to require visual/photo simulations of the proposed ground-mounted solar energy system facility for projects visible from the lake viewscape. Such viewpoint(s) shall be determined in the reasonable discretion of the Town Planning Board.

(c) The Town Planning Board shall determine appropriate screening of such specially permitted use.

(2) Notwithstanding anything to the contrary in this Article, ground-mounted solar energy systems shall not be installed within the Waterfront Zone on lots which physically front on or abut a lake when such structures are visible from the lake.

**513.6 General requirements applicable to all solar energy systems.**

A. All Solar Energy System installations must be performed by a qualified solar installer.

B. Solar Energy Systems, unless part of a solar farm, shall be permitted only to provide power for use by owners, lessees, tenants, residents or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through a net-metering arrangement in accordance with New York Public Service Law §66-j or similar state or federal statute. However, solar energy system applications in a residential setting and serving a residential use on a single parcel or lot shall be limited to 125% of energy consumed on the site in the prior 12 months. Solar energy system applications serving a commercial, agricultural or industrial use shall also be limited to no more than 125% of the energy consumed on the site in the prior 12 months.

C. Prior to operation, electrical connections must be inspected by a Town Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town Planning Board. An electrical inspector must supply written verification that all electrical connections have passed inspection.

D. Any connection to the public utility grid must be inspected by the appropriate public utility and proof of inspection shall be provided to the Town Code Enforcement Officer.

E. Solar Energy Systems shall be maintained in good working order in the opinion of the Town Code Enforcement Officer.

F. Solar Energy Systems shall be permitted only if they are determined by the Town Planning Board to be consistent in size and use with the character of surrounding neighborhood.

G. All installations shall include an "as-built drawing" to be submitted to the Town's Code Enforcement Office.

H. Solar Energy Systems shall be permitted only if they are determined by the Town Planning Board not to present any unreasonable safety risks, including but not limited to:

(1) Weight load;

(2) Wind resistance; and

(3) Ingress or egress in the event of fire or other emergency.

I. All Solar Energy Systems described in this Article shall meet and comply with all relevant and applicable provisions of the New York State Uniform Fire Prevention and Building Code Standards. To the extent the provisions of the New York State Uniform Fire Prevention and Building Code are more restrictive than the provisions set forth in this Local Law, the provisions of the New York State Uniform Fire Prevention and Building Code shall control.

J. The application for any Solar Energy System shall specifically recite the use or nonuse of solar storage batteries, their placement, capacity, and compliance with all existing New York State and Federal rules and regulations. If solar storage batteries are included as part of the Solar Energy System, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations.

K. All utility services and electrical wiring/lines shall be placed underground and otherwise be placed within the walls or unobtrusive conduit. Conduits or feeds which are laid on the roof shall be camouflaged to blend in with the roof and reduce aesthetically objectionable impacts. Where applicable, the Town Planning Board may, for example, instruct that the conduit match the building color, to the extent practical.

L. If a Solar Energy System ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall completely remove the System, mount and all other associated equipment and components by no later than 180 days after written notice from the Town. The Building Inspector, Code Enforcement Officer and/or Town Engineer shall have the right at any reasonable time to enter, in the company of the owner or his agent, to ensure that the Solar Energy System remains operational.

M. To the extent practicable, Solar Energy Systems shall have neutral paint colors, materials and textures to achieve visual harmony with the surrounding area. Solar Energy Systems shall be composed of panels which are the same or similar in composition and color.

N. The design, construction, operation and maintenance of the Solar Energy System shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties, public roads, public parks and public buildings. All panels and supporting structures shall utilize materials and colors that are non-reflective in nature.

O. Prior to the time of the issuance of a solar/building permit, the applicant/owner shall demonstrate to the Code Enforcement Officer a reliable and safe method for de-energizing the Solar Energy System in the event of an emergency. The de-energizing devise shall be immediately adjacent to a field of solar panels in a prominent location at the nearest point of the access road. The method and location to de-energize and disconnect the Solar Energy System, once approved by the Code Enforcement Officer, shall be provided by the applicant to all applicable emergency services and first responders.

P. Marking of equipment. Solar Energy Systems and components shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather-resistant. For residential applications, the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover.

Q. Fees. Fees for applications and permits under this Article shall be established by resolution of the Town Board of the Town of Nelson. It shall be the applicant's responsibility to reimburse the Town for any and all reasonable and necessary legal, engineering and other professional fees incurred by the Town in reviewing and administering an application and operation of a solar energy system under this Article. An estimated escrow deposit shall be identified by the Town upon filing of an application.

R. Unified Solar Permits for eligible solar energy systems. The Town of Nelson has adopted the New York State Unified Solar Permit model process for streamlining the issuance of permits for the installation of certain solar energy systems of 25 kW or less. The following shall be observed:

(1) Except for Ground-Mounted Solar Energy Systems located in the Waterfront Zone (WF) District (which are subject to the granting of a special use permit regardless of size), provided any 25 kW or less solar energy system meets the requirements for a Unified Solar Permit, an applicant shall only be subject to and comply with the requirements specified in this 513.6(R). An applicant must submit the unified solar permit application to the Code Enforcement Officer as follows:

(a) Unified Solar Permit eligibility checklist.

(b) A site plan drawing showing location of major components of the solar energy system and other equipment on the site, primary structure or legal accessory structure. This plan should represent relative locations of components at the site, including, but not limited to, location of arrays, existing electrical service locations, utility meters, inverter locations, system orientation and tilt angles. This plan should show access and pathways that are compliant with New York State Uniform Fire Prevention and Building Code, if applicable.

(c) One-line or three-line electrical diagram. The electrical diagram required by NYSERDA for an incentive application and/or utilities for an interconnection agreement may also be provided here.

(d) Specification sheets for all manufactured components. If these sheets are available electronically, a web address will be accepted in place of an attachment, at the discretion of the Town.

(e) All diagrams and plans must be prepared by a professional engineer or registered architect as required by New York State law and include the following:

[1] Project address, section, block and lot number of the property;

[2] Owner's name, address and phone number;

[3] Name, address and phone number of the person preparing the plans; and

[4] System capacity in kW-DC.

(2) Permit review and inspection timeline. Unified Solar Permit determinations will be issued within 14 days upon receipt of complete and accurate applications. The municipality will provide feedback within seven days of receiving incomplete or inaccurate applications. If an inspection is required, a single inspection should be sufficient and will be provided within seven days of inspection request.

(3) Systems permitted and issued under the Unified Solar Permit Process shall comply with required setbacks and yard requirements.

**513.7 Solar Farms (Commercial Solar Farms).**

A. Districts where allowed. Subject to the issuance of site plan approval and a special use permit and other requirements as set forth herein, solar farms (commercial solar projects) shall not be a permitted use in any Zoning District other than the Rural (R) and the Business Commercial (BC) Districts within the Town.

B. Districts where prohibited. Commercial solar projects shall be prohibited in the following Zoning Districts: Neighborhood (N), Nelson Corridor (NC), Erieville Hamlet (EH), and Waterfront Zone (WF) Districts.

C. Lot area and yard regulations. The following lot area and yard regulations shall apply to solar farms:

(1) Minimum street frontage: 300 feet.

(2) Minimum lot area: 25 contiguous acres.

(3) Minimum front yard setback to fence: 500 feet.

(4) Minimum rear yard setback to fence: 500 feet.

(5) Minimum side yard setback to fence: 500 feet.

(6) With the exception of screening, landscaping and/or plantings, no structures shall be permitted within the setback area. Also, additional setbacks may be required by the Planning Board in order to provide for the public's safety, health and welfare.

(7) Commercial solar farm projects shall be set back at least 1,000 feet from any Important Bird Area as identified by the New York Audubon, and from Federal or State-listed wetlands.

(8) Each commercial solar project application shall demonstrate that the facility operator owns or controls sufficient land area to properly operate and maintain the facility.

(9) To prevent the oversaturation of commercial solar projects in one (1) area of the Town of Nelson, no commercial solar project shall be approved if it is within one (1) mile of an already approved commercial solar project unless the Town Planning Board makes specific findings that it will not have a significant impact on the community character of the area.

(10) In siting consideration of commercial solar projects the applicant shall avoid areas that substantially contribute to and are important to the scenic quality of the landscape.

(11) When applicant is unable to meet siting and/or mitigation requirements, each application shall formally address and assess the availability and feasible use of alternative sites if less objectionable.

D. Permits required. No person, firm or corporation, or other entity being the owner, occupant, or lessee of any land or premises within the Town of Nelson shall use or permit the use of land or premises for the construction or installation of a solar farm without obtaining a building permit, a special use permit and a site plan approval issued by the Town Planning

Board as hereinafter provided. A completed permit application, along with legal and engineering escrow deposits, shall be submitted to the Town Clerk.

E. Special Use Permit Criteria.

(1) No Solar Farm shall be granted a special use permit unless the Town Planning Board make the following determinations:

(a) The proposed Solar Farm is in the best interest of the Town, the convenience of the community, the public welfare, and shall be an acceptable addition to the neighborhood or area.

(b) The proposed Solar Farm is suitable for the property in question and designed, constructed, operated and maintained so as to be in harmony with and appropriate in appearance with the existing intended character of the general vicinity.

(c) The proposed Solar Farm is suitable in terms of effect on street or highway traffic safety with adequate access arrangements.

(d) The proposed Solar Farm will comply with all provisions and requirements of all other Town of Nelson local laws and regulations and will be consistent with any applicable comprehensive plan or master plan documents.

(e) The proposed Solar Farm will not result in the release of harmful substances, nor cause excessive noise, dust, odors, or glare.

(f) The proposed Solar Farm will not cause undue traffic congestion, unduly impair pedestrian safety or overload existing roads, considering their current width, surfacing and condition.

(g) The proposed Solar Farm will have appropriate parking and be accessible to fire, police and other emergency vehicles.

(h) The proposed Solar Farm will not overload any public water, drainage or sewer system or any other municipal facility or service, including schools.

(i) The proposed Solar Farm will not significantly degrade any natural resource, ecosystem, historic resource or significantly impact endangered or threatened species.

(j) The proposed Solar Farm will be suitable to such conditions on operation, design and layout of structures and provision of screening, buffer areas and off-site improvements as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic and scenic resources of the Town of Nelson.

(k) Scenic viewsheds. A solar farm shall not be installed in any location that would substantially detract from or block the view(s) of all or a portion of a recognized scenic viewshed (including the "Scenic Vista - Scenic Highway Overlay District" and "Scenic Route 20" designated by the State of New York), as viewed from any public road, right-of-way or publicly owned land within the Town of Nelson or that extends beyond the border of the Town of Nelson. For purposes of this subsection, consideration shall be given to any relevant portions of the current, amended and/or future Town of Nelson Comprehensive Plan and/or any other prior, current,

amended and/or future officially recognized Town planning document or resource.

(l) Emergency shutdown/safety. The applicant shall demonstrate the existence of adequate emergency/safety measures. The applicant shall post an emergency telephone number so that the appropriate entities may be contacted should any solar panel or other component of the solar farm need immediate repair or attention. This emergency telephone number should be clearly visible and in a location which is convenient and readily noticeable to someone likely to detect a problem and/or at the location of the de-energizing devise.

(m) The applicant shall be required to provide training to the Town's Code Enforcement Officer, Fire Department and Ambulance Service on Emergency shutdown/safety measures, at no cost to Town or Fire Department and Ambulance Service.

(n) No Solar Farm shall be installed on or within 1,000 feet of wetlands as identified/defined by the New York State Department of Environmental Conservation, the U.S. Army Corps of Engineers or local governing body.

(o) Security. All solar farms shall be secured to the extent practicable to restrict unauthorized access.

(p) Access road. To the greatest extent possible, existing roadways shall be used for access to the site and its improvements. In the case of constructing any roadways necessary to access the solar farm, they shall be constructed in a way that allows for the passage of emergency vehicles in the event of an emergency. Each application shall be accompanied by correspondence from the responding fire department and emergency care provider as to the acceptability of the proposed ingress to and egress from the solar farm site. Access roads shall be at least 26 feet in width or as elsewhere noted, but upon good cause shown may be a minimum of 20 feet in width.

(q) The development and operation of the solar farm shall not have a significant impact on fish, wildlife, animal or plant species or their critical habitats, or other significant habitats identified by the Town of Nelson or federal or state regulatory agencies.

(r) Setbacks. Additional setbacks may be required from those set forth in this Article by the Town Planning Board in order to provide for the public's safety, health and welfare.

(s) In the granting of a special use permit and site plan approval, the Town Planning Board will strive to permit the location of solar farms in such a manner so that no one area in the Town shall be over-burdened by the placement of any proposed solar farm(s). Screening, including plantings, berms, and other screening methods may be required to mitigate any impacts. Such plantings and screening shall be of sufficient density to block the sight of equipment and be continuously maintained and replaced if dead, dying, or falling into disrepair.

(t) Mitigation. When it is determined that an applicant's proposed mitigation of visual impacts to the site or area is insufficient, the Town Planning Board

may under such circumstances and in the exercise of its reasonable discretion require compensatory offsets to reduce the overall impacts to visual resources from such project. Such offsets may include but are not limited to financial or in-kind donations to a community project such as environmental conservation of a stream or site; restoration of a park, historic structure, or cultural resource; planting of trees along nearby streets; and other similar projects that enhance the community character and are of benefit to the Nelson community at large.

(u) Equipment specification sheets shall be documented and submitted to the Town Planning Board for all photovoltaic panels, significant components, mounting systems, batteries and inverters that are to be installed.

(v) Non-invasive, native ground cover, under and between the rows of solar panels shall be low-maintenance, drought-resistant, non-fertilizer-dependent and shall be pollinator-friendly to provide a habitat for bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

(w) For community solar projects, the Town Planning Board has the authority to require that the applicant open subscription services to Town residents before offering subscriptions to others.

F. Site plan submission requirements.

(1) The following submission requirements must be observed regarding a site plan application for a solar farm.

(a) A completed application form as supplied by the Town of Nelson for site plan approval for a solar farm.

(b) Proof of ownership of the premises involved or proof that the applicant has written permission of the owner to make such application.

(c) Plans and drawings of the proposed solar farm installation signed and stamped by a professional engineer registered in New York State showing the proposed layout of the entire solar farm along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved, along with proposed screening and fencing. Clearing and/or grading activities are subject to review by the Town Planning Board and shall not commence until the issuance of site plan approval and written authorization from the Town's Code Enforcement Officer. The plans and development plan shall be drawn in sufficient detail and shall further describe:

[1] Property lines and physical dimensions of the proposed site, including contours at five-foot intervals.

[2] Location, approximate dimensions and types of all existing structures and uses on the site.

[3] Location and elevation of the proposed solar farm and all components thereof.

[4] Location of all existing aboveground utility lines within 1,200 linear feet of the site.

[5] Where applicable, the location of all transmission facilities proposed for installation. All transmission lines and wiring associated with a solar farm shall be buried underground and include necessary encasements in accordance with the National Electric Code and Town requirements. The Town Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant demonstrating that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead electric utility/transmission lines (if permitted) and underground electric utility/transmission lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the public utility company's requirements for interconnection. Any connection to the public utility grid must be inspected by the appropriate public utility. The Applicant shall provide as part of the application a letter or other written confirmation from the appropriate utility provider that the solar farm is capable of meeting the requirements for interconnection.

[6] Location of all service structures proposed as part of the installation.

[7] Landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material, and for screening purposes. The plan shall show any trees and/or vegetation which is proposed to be removed for purposes of providing greater solar access.

[8] A berm, landscape screen, or any other combination acceptable to the Town capable of screening the site, shall be provided along any property line.

[9] A Geotechnical Report, which includes a soil analysis, as performed by New York State-registered professional engineer, and which provides measurements of soil samples for permeability, organic content, and nutrient content at the proposed installation site for use as a baseline for comparison at the end of the life of the project. The Zoning Board of Appeals and/or the Town Planning Board shall require the Geotech information and/or soil analysis at the commencement of the approval process and shall require an updated analysis upon decommissioning of the project, which analysis shall include a comparison of pre- and post-development soil conditions, concerning the chemical and physical properties of the soil.

[10] Submission of a written operation and maintenance plan for the proposed solar farm that include a contact person who can respond within an hour of the site, measures for maintaining safe access, operational maintenance of the solar farm, and general property upkeep, such as mowing and trimming and an agricultural soils preservation plan if applicable. The operation and maintenance plan shall be filed and recorded by the applicant in the Madison County

Clerk's Office (indexed to the property) following approval of the site plan by the Town Planning Board.

i. For installations on prime farmland, projects shall comply with the New York State Department of Agriculture and Markets Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands. Where an agricultural soils preservation plan has been approved as part of a project, it shall be a condition of any such approval that such agricultural component will be maintained as approved. (*See also* Schedule A "Solar Farm Guidelines" at the end of this Local Law).

ii. Herbicides are prohibited except where the Town Planning Board finds it impractical to use mechanical means to control vegetation.

(d) Photographic simulations shall be included showing the proposed solar farm along with elevation views and dimensions and manufacturer's specifications and photos of the proposed solar energy systems, solar collectors, solar panels and all other components comprising the solar farm from all neighboring properties and from other vantage points and at selected hourly increments (including seasons) at full tilt in both directions (shadow study), all as selected by the Town Planning Board. Such photos will depict before and after simulations showing the extent of mitigation from vantage points selected by the Town Planning Board.

(e) When applicable, certification from a professional engineer or architect registered in New York State indicating that any building or structure to which a solar panel or solar energy system is affixed is capable of handling the loading requirements of the solar panel or solar energy system and various components.

(f) One- or three-line electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices.

(g) Documentation of access to the project site(s), including location of all access roads, gates, parking area etc.

(h) Access Road Maintenance Agreement.

(i) A plan for clearing and/or grading of the site and a stormwater pollution prevention plan (SWPPP) for the site. The SWPPP shall be filed and recorded in the Madison County Clerk's Office (indexed against the property) by the applicant following Town Planning Board approval (prior to commencement of construction) and shall provide for access to the Town of Nelson in the event of a default of the operator's obligations under the SWPPP. The SWPPP shall include a security amount, at least in the amount of on one year of maintenance, approved by the Town's Consulting Engineer and shall remain in place until decommissioning is complete. The SWPPP shall comply with applicable current New York State Department of Environmental Conservation regulations. The applicant shall be

responsible for all reasonable and necessary professional fees and expenses associated with completion of the SWPPP and associated reporting requirements per State and Local regulations.

(j) Documentation of utility notification, including an electric service order number.

(k) Sunchart. Where deemed appropriate, the Town Planning Board may require that the applicant submit a sunchart for the proposed site indicating the sun angle for the southern boundary of the site for a minimum four-hour continuous period during the time of the highest sun angle on December 21, along with the potential for existing buildings, structures, and/or vegetation on the site or on adjacent sites to obstruct the solar skyspace of the proposed solar farm. The sunchart shall also indicate the potential for obstructions to the solar skyspace of the proposed solar farm under a scenario where an adjacent site is developed as otherwise permitted by the Town of Nelson laws and regulations with a building/structure built to maximum bulk and height at the minimum setback. Where no standards for setback are established, this scenario shall assume a maximum setback of five feet from the property line. The sunchart shall be kept on file at the Town Code Enforcement Office and determine the minimum setback required for any solar collectors from the south property line as well as the solar skyspace that should be considered when development of neighboring properties occurs. This section in no way places responsibility on the Town of Nelson for guaranteeing the solar skyspace of a solar energy system in the event setbacks are waived at the applicant's request.

(l) The manufacturer's or installer's identification and appropriate warning signage shall be posted at the entrance to the site from the public road, and be clearly visible.

(m) Solar energy systems shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the electric systems. Materials used for marking shall be weather-resistant. The marking shall be placed adjacent to the main service disconnect location clearly visible from the location where the lever is operated.

(n) The height of the solar panel array shall not exceed 12 feet at its highest tilt measured from the ground and including any base or supporting materials. However, the Town Planning Board may consider heights in excess of 12 feet in circumstances when active agricultural uses are proposed for the life of the lease, but in no case shall panel height exceed 20 feet.

(o) Color. Neutral paint colors, materials and textures may be required for commercial solar project components, buildings and structures to achieve visual harmony with the surrounding area as approved by the Town Planning Board.

(p) The design, construction, operation and maintenance of the solar energy system shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties, public roads, public parks and public buildings.

(q) Artificial lighting of commercial solar projects shall be limited to lighting required for safety and operational purposes, shall be shielded from all neighboring properties and public roads, downcast and shall meet dark skies requirements of Chapter 133.

(r) Commercial solar projects shall be enclosed by perimeter fencing to restrict unauthorized access, with "HIGH VOLTAGE" placards affixed every 50 feet, and as otherwise approved by the Town Planning Board. Style and type of fence shall be approved by the Town Planning Board as part of the site plan. Fence height shall be established at a minimum of 7 feet, subject to Town Planning Board approval. Proposed fencing shall be designed to allow periodic low level gaps (no greater than 12-inches from ground level) to accommodate wildlife movement for smaller species.

(s) Only signage used to identify the location of the commercial solar project shall be allowed and such signage shall otherwise comply with the Town's sign regulations and requirements.

(t) The area beneath the solar energy systems comprising the commercial solar project shall not be included as impervious surface coverage in calculating whether the lot meets the maximum permitted lot coverage requirements for the applicable zoning district.

(u) All applications shall be accompanied by a full environmental assessment form for purposes of environmental review under the New York State Environmental Quality Review Act (SEQRA), including visual impact and glare impact analyses. The following additional material may be required by the Town Planning Board:

[1] A digital-elevation-model-based project visibility map showing the impact of topography upon visibility of the project from other locations to a distance radius of three miles from the center of the project. Scaled use shall depict a three-mile radius as not smaller than 2.7 inches, and the base map shall be a published topographic map showing cultural features.

[2] No fewer than four color photos taken from locations within a three-mile radius from the proposed location, as selected by the Town Planning Board and computer- enhanced to simulate the appearance of the as-built aboveground solar farm components as they would appear from these locations.

(v) Applicant shall submit details of the proposed noise that may be generated by solar inverter fans or other solar farm components. The Town Planning Board may require a noise analysis to determine potential adverse noise impacts.

(w) Waiver. The Town Planning Board may, upon exercise of its reasonable discretion, waive one or more of the submission requirements imposed herein.

(2) Site plan review criteria. In addition to the above, no site plan shall be approved unless the Town Planning Board determines that the proposed solar farm complies with the following:

(a) The use is oriented in its location upon the site as to layout, coverage, screening, means of access and aesthetics so that:

[1] The flow control and safety of traffic and human beings shall not be adversely affected to an unreasonable degree;

[2] There is reasonable compatibility in all respects with any structure or use in the surrounding area, actual or permitted, which may be directly substantially affected;

[3] There shall not be any unreasonable detriment to any structure or use, actual or permitted, in the surrounding area;

[4] There is a reasonable provision for open space and yard areas as appropriate to the surrounding area.

[5] That the removal of existing trees larger than 6 inches in diameter has been minimized to the extent possible.

[6] That it has been demonstrated that the establishment of the proposed solar facility will not have negative impacts to surrounding property values as established by competent evidence.

G. Public hearing. No action shall be taken by the Town Planning Board to issue a site plan approval or special use permit in relation to an application for a solar farm until after public notice and a public hearing. Proper notice of a hearing before a board shall be given by legal notice published in the official newspaper of the Town of Nelson at least five days before the date set for such public hearing(s) and written notice mailed to the applicant or his agent at the address given in the application to be considered. The applicant shall be responsible for notifying, by certified mail, all property owners of record within 500 feet of the outside perimeter of the boundary line of the property involved in the application of the time, date and place of such public hearing at least 10 days prior to such hearing. Notice shall be deemed to have been given if mailed to the property owner at the tax billing address listed on the property tax records of the assessing unit or at the property address. At least seven days prior to such hearing, the applicant shall file with the Town Planning Board his/her affidavit verifying the mailing of such notices. Failure of the property owners to receive such notice shall not be deemed a jurisdictional defect.

H. Compliance with New York State Uniform Fire Prevention and Building Code. Building permit applications shall be accompanied by standard drawings of structural components of the solar farm and all its components (including but not limited to solar panel, solar collector, solar energy system, etc.). Drawings and any necessary calculations shall be certified, in writing, by a New York State-registered professional engineer that the system complies with the New York State Uniform Fire Prevention and Building Code. This certification would normally be supplied by the manufacturer.

I. Where the structure, components or installation vary from the standard design or specification, the proposed modification shall be certified by a New York State-registered professional engineer for compliance with the structural design provisions of the New York State Uniform Fire Prevention and Building Code.

J. Compliance with state, local and national electric codes.

(1) Building permit applications shall be accompanied by a line drawing identifying the electrical components of the solar farm to be installed in sufficient detail to

allow for a determination that the manner of installation conforms with the National Electric Code. The application shall include a statement from a New York State-registered professional engineer indicating that the electrical system conforms with good engineering practices and complies with the National Electric Code, as well as applicable state and local electrical codes. This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.

(2) Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a New York State-registered professional engineer for compliance with the requirements of the National Electric Code and good engineering practices.

K. Following construction/installation of the solar farm, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust and demonstrating established growth. Every Operations and Maintenance Plan shall include provisions for reseeding and established growth.

L. Post-construction/installation certification. Following the construction/installation of the solar farm, the applicant shall provide a post-construction/installation certification from a professional engineer registered in New York State that the project complies with any and all applicable codes and industry practices and has been constructed and operating according to the drawings and development plan(s) submitted to the Town Planning Board.

M. Insurance. The applicant, owner, lessee or assignee shall at all times during construction and operation maintain a current insurance policy which will cover installation and operation of the solar farm and shall be increased annually per industry standards. Said policy shall provide a minimum of $5,000,000 property and personal liability coverage. Proof of such policy shall be provided to the Town Clerk on an annual basis. Notwithstanding any terms, conditions, or provisions in any other writing between the parties, the applicant shall agree to effectuate the naming of the Town of Nelson as an additional insured on the applicant's insurance policies, with the exception of workers' compensation and NYS disability insurance. The policy naming the Town of Nelson as an additional insured shall:

(1) Be an insurance policy from an A.M. Best rated "secured" or better insurer, authorized to conduct business in New York State. A New York State licensed insurer is preferred.

(2) State that the applicant's insurance coverage shall be primary and noncontributory coverage for the Town of Nelson, its Boards, employees, agents, and volunteers.

(3) Additional insured status shall be provided by standard or other endorsements that extend coverage to the Town of Nelson for both on-going and completed operations. A completed copy of the endorsements shall be attached to the certificate of insurance.

(4) The applicant shall provide a copy of the declaration page of the liability policies with a list of endorsements and forms. If so requested, the applicant will provide a copy of the policy endorsements and forms.

(5) The certificate of insurance shall contain a provision that coverage afforded under the applicable policy shall not be cancelled or terminated until at least 45 days'

prior notice has been provided to the Town Clerk. In the event of a termination, cancellation, or lapse of the required insurance coverage, the site plan approval to operate the solar energy system shall be immediately suspended and operation of the system shall cease. Upon restoration of the required insurance coverage, to the satisfaction of the Town Planning Board, permission to operate the solar farm may be restored.

N. Inspections. The Building Inspector, Code Enforcement Officer and/or Town Engineer shall have the right at any reasonable time to enter, in the company of the owner or his agent, the premises on which a solar farm is being or is constructed, to inspect all parts of said solar farm installation and require that repairs or alterations be made if, in his judgment, there exists a deficiency in the operation or the structural stability of the solar farm or any component thereof. If necessary, the Building Inspector or Town Engineer may order the system secured or to otherwise cease operation. It shall not be required that the owner or agent be present in the event of an emergency situation involving danger to life, limb or property. Weekly status/inspection reports are to be submitted during construction of the project and annual post-installation reviews thereafter.

O. Power to impose conditions. In granting any site plan approval or special use permit for a solar farm, the Town Planning Board may impose reasonable conditions to the extent that such Board finds that such conditions are necessary to minimize any adverse effect or impacts of the proposed use on neighboring properties and to protect the general health, safety and welfare of the Town.

P. Decommissioning and removal of solar farm facilities. The following shall be the minimum requirements to be addressed for the decommissioning of every solar farm:

(1) The submission of an acceptable Decommissioning Plan, prepared by a New York State-registered professional engineer, and Decommissioning Cash Security subject to review by the Town's consulting Attorneys and Engineers and approved by the Town of Nelson Town Planning Board. For purposes of the Decommissioning Plan and Decommissioning Cash Security, the following shall constitute "Decommissioning Events" triggering the decommissioning of the site and/or a call on the Decommissioning Cash Security: (a) if construction and installation of the project improvements are not completed within 18 months of commencement of construction (such time period may be reasonably extended upon notification to the Town Clerk and with good cause shown for any delays in completion); (b) if the solar energy facility ceases to be used for its intended purpose for twelve (12) consecutive months (such time period may be reasonably extended upon notification to the Town Clerk with good cause shown); (c) at the time of decommissioning, complete removal of the project within ninety (90) days thereafter, except for any portions of the project access roads otherwise requested by the owner to remain to facilitate agricultural access to the property; (d) upon the end of the project's operation; (e) if the Applicant, or its successors or assigns, seeks dissolution or files for bankruptcy or (f) failure to have in place or timely replace adequate decommissioning securities. Renewal securities shall be in place ninety (90) days prior to the expiration of any existing securities.

(2) Such reasonable extensions as noted above may be granted upon a demonstration that said delay or default is caused by forces outside of the Applicant's control. All decommissioning activities shall be completed to the reasonable satisfaction of the Town's consulting Engineers and/or Code's Enforcement Officer, and consistent with the Decommissioning Plan.

(3) Such agreement shall also include a commitment by the applicant to impose a similar obligation to remove any unused and/or obsolete solar panels upon any person subsequently securing rights to relocate the solar panels. The applicant shall include the following binding terms in the decommission plan, at a minimum, the following:

(a) Complete removal of above-ground and below-ground equipment, fencing, structures, and foundations and any other installed infrastructure including plantings, landscaping and screening.

(b) Restoration of the surface grade and soil after removal of equipment to the condition (or better), which it existed prior to the installation. This includes adding an adequate layer of topsoil where existing topsoil has been removed or eroded, and reseeding and/or reforestation of areas that were cleared of mature trees (with established growth demonstrated).

(c) Herbaceous revegetation of restored soil areas with native seed mixes, excluding any invasive species.

(d) Specifically address: the useful lifespan of proposed solar facility and any storage batteries; the current New York State and Federal rules and regulations regarding placement thereof and disposal thereof at the end of their useful lifespan; together with plans for replacement of solar storage batteries. The financial surety required by the Town shall take into account maintenance, replacement, and disposal of solar storage batteries if included in the application for a solar farm.

(e) Such Decommissioning Plan shall be executed by the applicant and the property owner and shall be recorded against the property in the Madison County Clerk's Office.

(4) Cash Security. The applicant shall be required to deposit with the Town of Nelson cash security in an amount sufficient for the faithful performance of the terms and conditions of the permit issued under this Local Law, and to provide for expenses associated with the decommissioning removal and restoration of the site subsequent to the removal of the solar farm. The amount of the cash security shall be no less than 150% of the cost of the removal of the solar panels and restoration of the site, and shall further be reviewed and adjusted at five-year increments. Such amounts shall account for inflation and prevailing wage costs for decommissioning. In the event of a default upon performance of such conditions or any of them, the cash security shall be forfeited to the Town, upon demand. The cash security shall remain in full force and effect until the complete removal of the solar panels and site restoration is finished.

Q. Fees. Fees for applications and permits under this section shall be established by resolution of the Town Board of the Town of Nelson. It shall be the applicant's responsibility to reimburse the Town for any and all reasonable and necessary legal, engineering and other professional fees incurred by the Town in reviewing and administering an application and operation of a solar farm under this Local Law. An escrow amount for anticipated fees shall be established by the Town Planning Board and deposited by the applicant prior to the review of the application. Such escrow must be replenished upon notification by the Town to the applicant.

R. Road remediation. The applicant shall be responsible for remediation of any roads damaged, during the construction of and/or completion of the installation (or removal) and throughout the life of any solar farms approved pursuant to this Section. The Highway/DPW Superintendent or other official designated by the Town Board is hereby authorized and directed to ensure a public improvement (road repairs) cash security be posted prior to the issuance of any building permit in an amount sufficient to compensate the Town for any damage to local roads that is not corrected by the applicant. The Highway/DPW Superintendent or other official designated by the Town Board is authorized to consult with any necessary professional to determine or confirm the cash security amount all at the sole cost and expense of the applicant. Such cash security shall be in addition to other securities required in this Section.

S. Agricultural resources. For projects located on agricultural lands:

(1) The Town of Nelson discourages solar farm installation on Prime Farmland, Prime Soils, Prime Soil Lands, and/or Farmland of Statewide Importance and the removal of such lands when reviewing applications and granting site plan approvals to solar farm applicants under this Section. Such use (where otherwise authorized by this Section 513.7) may be permitted by the Town Planning Board upon issuance of a special use permit and site plan approval on an Agricultural Use Parcel but only when it is demonstrated not to have negative impacts on the soils deemed to be USDA Prime Soils, Prime Farmland, Prime Soils, Prime Soil Lands and/or lands deemed to be Farmland of Statewide Importance.

(2) To the maximum extent practicable, solar farms approved to be located on Prime Farmland, Prime Soils, Prime Soil Lands, and/or Farmland of Statewide Importance shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.

(3) Solar farm applicants 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, pollinators and grazing or pastured animals. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the applicants shall use native plant species and seed mixes.

(4) Where a solar farm is to be located on Prime Farmland, Prime Soils, Prime Soil Lands, and/or Farmland of Statewide Importance, the applicant shall hire a New York State-registered Professional (Environmental Manager - EM), approved by the Town Planning Board, to oversee the construction, restoration, and subsequent monitoring of the agricultural lands. The Professional is to be on site whenever construction is occurring on the agricultural land(s) and any construction shall be coordinated with the Town's Code Enforcement Officer and the New York State Department of Agriculture and Markets to develop an appropriate schedule for inspections to assure these lands are being preserved and protected to the greatest extent possible.

(5) Fencing and watering systems associated with rotational grazing systems and reduction in farmland viability due to the reduction in remaining productive farmland shall be assessed and mitigated to the greatest extent possible.

(6) Structures for overhead collection lines, interconnect cables and transmission lines installed aboveground (when unavoidable) shall be located outside agricultural field boundaries. When above-ground cables and transmission lines must cross agricultural

fields, applicant shall use taller structures that provide longer spanning distances and locate poles on field edges to the greatest extent practicable.

(a) All buried electric cables in cropland, hay land and improved pastures shall have a minimum depth of 48 inches of cover. At no time is the depth of cover to be less than 24 inches below the soil surface.

(b) The Madison County Planning Department is to be consulted concerning the type of intercept drain lines whenever buried electric cables alter the natural stratification of soil horizons and natural soil drainage patterns.

(7) Access roads are to be located along the edge of agricultural fields, in areas next to hedgerows and field boundaries, and in the nonagricultural portions of the site.

(8) There shall be no cut and fill so as to reduce the risk of creating drainage problems by locating access roads, which cross agricultural fields, along ridge tops and by following field contours to the greatest extent possible.

(9) The width of access roads across or along agricultural fields is to be no wider than 20 feet so as to minimize the loss of agricultural lands and comply with the New York State Fire Code.

(10) The surface of solar farm access roads to be constructed through agricultural fields should be level with the adjacent field surface where possible.

(11) All existing drainage and erosion control structures such as diversions, ditches, and tile lines shall be preserved, and applicants shall take appropriate measures to maintain the design and effectiveness of these structures. Applicants shall repair any structure disturbed during construction to as close to original condition as possible unless such structures are to be eliminated based upon an approved site plan for the solar farm.

(12) Culverts and water bars are to be installed to maintain natural drainage patterns.

(13) All topsoil areas to be used for vehicle and equipment traffic, parking, equipment laydown, and as storage areas are to be stripped.

(14) All topsoil stripped from work areas (parking areas, electric cable trenches, along access roads) is to be stockpiled separate from other excavated materials (rock and/or subsoil).

(15) Where an open trench is required for cable installation, topsoil stripping from the entire work area may be necessary. As a result, additional workspace may be required as part of site plan approval.

(16) A maximum of 50 feet of temporary workspace is to be provided along open-cut electric cable trenches for proper topsoil segregation. All topsoil will be stockpiled immediately adjacent to the area where stripped/removed and shall be used for restoration on that particular site. No topsoil shall be removed from the site. The site plan shall clearly designate topsoil stockpile areas in the field and on the construction drawings.

(17) All vehicle and equipment traffic and parking to the access road and/or designated work areas, such as laydown areas, are to be limited in size to the greatest extent practical.

(18) No vehicles or equipment are to be allowed outside the work area without prior approval from the EM.

(19) In pasture areas, it is necessary to construct temporary or permanent fences around work areas to prevent livestock access, consistent with any applicable landowner agreements.

(20) Excess concrete used in the construction of the site is not to be buried or left on the surface in active agricultural areas. Concrete trucks will be washed outside of active agricultural areas.

(21) Restoration requirements. Upon the cessation of the solar use, the Town of Nelson shall require reasonable soil restoration to occur on the site. The following minimum requirements are set forth herein. Applicants shall restore all agricultural lands temporarily disturbed by construction and operation of the use in a manner consistent with the most recently published guidelines of the New York State Department of Agriculture and Markets and as follows:

(a) Be decompacted to a depth of 18 inches with a deep ripper or heavy-duty chisel plow. Soil compaction results should be no more than 250 pounds per square inch (PSI) as measured with a soil penetrometer. In areas where the topsoil was stripped, soil decompaction should be conducted prior to topsoil replacement. Following decompaction, removal of all rocks four inches in size or greater from the surface of the subsoil shall occur prior to replacement of topsoil. Topsoil shall be replaced to original depth and original contours reestablished where possible. All rocks shall be removed that are four inches and larger from the surface of the topsoil. Subsoil decompaction and topsoil replacement shall be avoided after October 1 of each year.

(b) Regrade all access roads to allow for farm equipment crossing and to restore original surface drainage patterns, or other drainage pattern incorporated into the approved site design by the Town Planning Board, as applicable.

(c) Seed all restored agricultural areas with the seed mix specified by the EM and this Section, in order to maintain consistency with the surrounding areas.

(d) All damaged subsurface or surface drainage structures are to be repaired to preconstruction conditions, unless said structures are to be removed as part of the site plan approval. All surface or subsurface drainage problems resulting from construction of the solar energy project shall be remedied with the appropriate mitigation measures as determined by the EM.

(e) Postpone any restoration practices until favorable (workable, relatively dry) topsoil/subsoil conditions exist. Restoration is not to be conducted while soils are in a wet or plastic state of consistency. Stockpiled topsoil should not be regraded, and subsoil should not be decompacted until plasticity, as determined by the Atterberg Limits and Field Test, is adequately reduced. No project restoration activities are to occur in agricultural fields between the months of October and May unless favorable soil moisture conditions exist.

(f) Following site restoration, remove all construction debris from the site.

(g) Following site restoration, the project sponsor is to provide a monitoring and remediation period of no less than two years. General conditions to be monitored include topsoil thickness, relative content of rack and large stones, trench settling, crop production, drainage and repair of severed subsurface drain lines, fences, etc.

(h) Mitigate any topsoil deficiency and trench settling with imported topsoil that is consistent with the quality of topsoil on the affected site. All excess rocks and large stones are to be removed from the site.

(i) All concrete piers, footers, or other supports are to be removed to a depth of 60 inches below the soil surface.

(j) Restoration should include complete removal of conduits.

(k) There shall be no mixing of the subsoil with the topsoil and there shall be removal and replacement of soil contaminated with subsoil to restore the rich soil for farming.

T. Payment in Lieu of Tax ("PILOT") Agreement and Host Community Agreement.

(1) In every instance of a commercial solar project application, the applicant shall be required to propose a Payment in Lieu of Tax ("PILOT") Agreement. The developer shall also comply with the notice requirements of NYS Real Property Tax Law Section 487. The applicant will then contact the Town's legal counsel to negotiate the terms of said Agreement.

(2) In addition to a PILOT Agreement, the applicant shall propose to the Town, on projects involving 1 megawatt and above, a Host Community Agreement benefit package for consideration by the Town Board as part of the approval process. Once the application package materials are deemed complete and while the Town Planning Board are completing their reviews, the project/application shall be referred to the Town Board to decide on the completion and terms of a Host Community Agreement. This Agreement shall be in addition to a PILOT Agreement.

U. Reference to Article 94-c.

Any proposed solar energy system subject to review by the New York State Board on Electric Generation Siting and the Environment pursuant to Article 10 of the New York State Public Service Law, or the Office of Renewable Energy Siting pursuant to Article 94-c of the New York State Executive Law, shall be subject to all substantive provisions of this Section, Solar Farm Guidelines and any other applicable provisions of the Town of Nelson Town Code.

V. Inspection, Inspection Reimbursement and Review During and After Construction.

Each approved project shall be annually inspected by the Town for compliance with any granted approval and these regulations. The Town shall be reimbursed by the project owner for the cost of reasonable and necessary inspection expenses incurred by the Town's engineering consultant.

W. Compliance with New York State Department of Agriculture and Markets Guidelines and New York State Department of Environmental Conservation Solar Development Guidelines.

Any approved project shall be in compliance with the most recently published New York State Department of Agriculture and Markets Guidelines and New York State Department of Environmental Conservation guidance for solar development."

X. Adhere to "Solar Farm Guidelines". In addition to the above regulations, all solar farm applicants shall demonstrate to the Town Planning Board compliance with the attached "Solar Farm Guidelines"."

**SECTION 5. SEVERABILITY.**

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

**SECTION 6. PRE-EMPTION**

To the extent that any provisions of this Chapter are inconsistent with the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, §§ 261 through 285, the New York State Executive Law, the Town Board of the Town of Nelson hereby declares its intent to supersede those sections of the Town Law, including but not limited to, in particular §261-A, §261-B, §261-C, §267, §267-A, §267-B, §268, §271, §274-A, and §274-B pursuant to its home rule powers under Municipal Home Rule Law, Article 2, §10 et seq., of the Consolidated Laws of the State of New York.

**SECTION 7. EFFECTIVE DATE.**

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

**SCHEDULE "A"**

**Solar Energy Guidelines**

**Town of Nelson, New York**

**2022**

***Introduction***

In 2019, the State of New York developed an accelerated strategy to reduce greenhouse gas emissions by transitioning to renewable energy sources, such as solar, wind, and hydropower. By reducing such emissions, the plan aims to mitigate the impacts of climate change. Included among its goals, the Climate Leadership and Community Protection Act now calls for:

- 70% of electricity generation from renewable energy sources by 2030 (the "70 x 30" goal)
- 100% of electricity generation to be carbon-free by 2040.

The Town of Nelson supports these goals as essential in transitioning away from fossil fuel power and toward a system comprised of a mix of smaller scale solutions and large solar projects. In addition to slowing climate change, solar energy systems - along with other renewable energy sources – can improve air quality and community health; reduce impacts to finite resources; increase reliability and resiliency of the state's electrical supply; and create local economic benefits through new jobs and revenue creation.

The Town of Nelson seeks to maximize the development of renewable energy projects while protecting the Town's natural, cultural, economic, and historic resources; its farmland; scenic views; and the health and welfare of its residents. It recognizes that while climate change poses threats to these very resources, the solution itself cannot pose an equivalent threat to much of what defines our community character and quality of life. The Town's Solar Energy Law, amended and adopted in 2022, aims to balance these objectives.

This guide neither replaces nor supersedes that which is stated in the Town Code. It is intended for residents, business owners, and large-scale solar developers to understand what solutions are available; key requirements for the applicant; the practices the Town encourages; and the processes for approval. Approvals are granted through the Town of Nelson Planning Board.

## 1. SOLAR SOLUTIONS ENCOURAGED IN THE TOWN OF NELSON

Solar energy solutions are all photovoltaic systems. A photovoltaic system is one which generates voltage by absorbing and converting radiant energy (sunlight) into an electrical current. Based on the technology available in 2022, the Town recognizes the following as acceptable forms of deployment:

- Roof-top solar panel installations which consist of individual panels mounted on top of an existing roof. They can consist of multiple components, including the photovoltaic modules, mechanical and electrical connections and mounting, and a means of regulating and/or modifying the electrical output.

- Ground-Mounted Systems (also called "free-standing" or "pole-mounted") allow the benefits of renewable solar power without disrupting a roofline or altering a structure. Typically, they are placed away from the structure and connected through underground wiring. Where a roof may be blocked by trees and not receiving sunlight, or when roof placement in not acceptable, a free-standing panel(s) allows mobility to place in optimal sunlight areas or to avoid those areas that change seasonally.

- Building-Integrated Solar (Photovoltaic) Systems: These systems or products are seamlessly integrated into the building envelope, forming an integral and essential part of a permanent building structure, such as facades, windows, or roofs. Included in this category are solar shingles, also called photovoltaic shingles, which are solar cells designed to look like conventional asphalt shingles. Varieties range from shingle-sized solid panels

that take the place of a number of conventional shingles in a strip to semi-rigid designs to various thin film solar cell technologies that match conventional shingles in size and flexibility.

- Commercial Solar Projects or Solar Farms are solar energy systems or collection of solar energy systems with the primary purpose of supplying electricity to a utility grid for wholesale or retail sales of electricity to the general public or utility provider. This includes *Community Solar Projects* which feature the ability to participate in subscriptions for lower electrical costs to Town residents.

There are general requirements that apply to all such installations. Additionally, there are best practices, requirements, permitted locations, and approval processes specific to each type, as described below. The Town Code should be referenced for additional detail, clarifying language, and/or explanatory statements.

## 2. GENERAL REQUIREMENTS APPLICABLE TO ALL TYPES OF SOLAR INSTALLATIONS

- Installation by a qualified solar installer
- Unless a commercial solar project, solar installations are to provide power for use by owners, lessees, tenants, residents or other occupants of the premises on which they are erected.
- Residential solar energy system applications shall be limited to 25 kW or 125% of energy consumed on the site in the prior 12 months.
- Solar energy systems serving a commercial or industrial use shall be limited to no more than 125 of the energy consumed on the site in the prior 12 months unless applicant can demonstrate a need to exceed the threshold.
- Electrical connections and those connecting to the grid are to be inspected by the Town Code Officer, designated electrical inspection person or agency, and/or public utility, prior to operation, and providing proof of such inspection.
- All systems shall be maintained in good working order or removed if not functioning after a period of 12 consecutive months; shall be consistent in size and use with the character of surrounding neighborhoods; and shall present no safety hazards.
- Compliance to New York State Uniform Fire Prevention and Building Code Standards and to all existing New York State and Federal rules and regulations.
- All utility services and electrical wiring/lines shall be placed underground and otherwise be placed within the walls or unobtrusive conduit.
- Shall have neutral, non-reflective paint colors, materials and textures to achieve visual harmony with the surrounding area.
- Shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties, public roads, public parks, and public buildings

- Equipment shall be marked to readily identify the energy system to emergency responders. The applicant/owner shall demonstrate to the Town Code Enforcement Officer a reliable and safe master method for the de-energizing of the system in the event of an emergency.

## 3. ROOF-TOP INSTALLATIONS

Roof-top installations have become fairly common for residential, farming, and business properties, providing energy savings, as well as reducing carbon-based emissions. They may be placed on roofs of residences, businesses, as well as secondary structures. They also offer an alternative when ground-mounted systems are not possible. Flat-roof installations are particularly welcome due to minimal impact on neighboring properties.

**Where Permitted:** All Zoning Districts

**Additional Requirements Specific to Roof-Top Installations:**

- Locational placement of such panels should be made such that there is no direct adverse effect or visual impact on any significant architectural features.
- A site plan showing location of major components of the solar energy system and other equipment on the roof or legal accessory structure. Indicate relative locations of components (location of arrays, existing electrical service locations, utility meters, inverter locations, system orientation, tilt angles, etc.). If applicable, plan should show access and pathways compliant with NYS Fire Prevention and Building Code.
- One-line or three-line electrical diagram
- Specification sheets for all manufactured components
- All diagrams and plans must be prepared by a professional engineer or registered architect.

**Best Practices**:

- Utilize low-profile solar panels.
- Where possible, install on rear slopes or other locations not easily visible from the public right of way.

*(Roof-Top Installations, continued)*

- Avoid locating panels on the primary façade or public facing side.
- Panels should not alter the slope of the roof. Flat roof structures should have panels set back from the roof edge to reduce visibility.
- Where possible, position panels behind defining architectural features such as dormers or chimneys.

**Examples:**

Residential installation, multi-level roof; Photo courtesy of National Park Service, https://www.nps.gov/

Residential Installation, one story; photo courtesy of CNET, www.cnet.com

*(Roof-Top Installations, continued)*

Business installation, flat roof; photo courtesy of Adco. Roofing, www.adco.com

**Process:**

- Site Plan
- Building Permit
- Payment of Fee
- Approval by Code Enforcement Officer

## 4. GROUND-MOUNTED SOLAR SYSTEMS ("Free-Standing" "Pole-Mounted")

Ground-mounted solutions offer the flexibility to be positioned on a property to receive the maximum sunlight and are an option when the property is not ideal for a roof-top system. If the roof isn't at the right angle, doesn't face south, or has obstructions, the solar array may be less productive, Ground-mounted systems can be located wherever conditions are best. In addition, if the property uses a lot of electricity, the roof might not be big enough for a solar energy system that meets the electricity needs. In contrast, ground-mounted solar systems can be sized to match electricity consumption without the space restrictions of a rooftop system.

**Where Permitted:** All Zoning Districts

**Restrictions:**

- Prohibited in all front yards and all lake abutting yards (front or rear yards with physically adjacent lake frontage but not including side yards). Side yard placement will demonstrate mitigation of any visual impacts of such placement to address the Lake and surrounding vantage points.

- Height of the solar collector/panel and any mounts shall not exceed 12 feet when oriented at maximum tilt measured from the ground (average grade) and including any base

*(Ground-Mounted Solar Systems, continued)*

- Shall be screened to harmonize with the character of the property and the surrounding area.

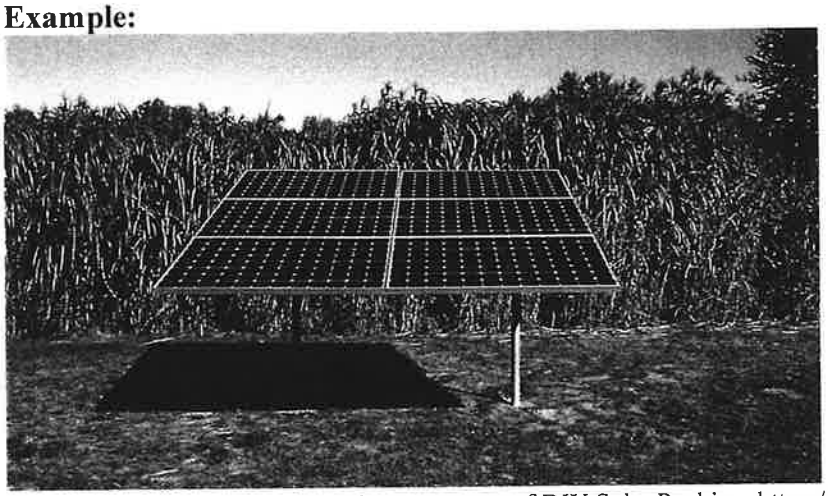
**Additional Requirements Specific to Special Use Ground-Mounted Installations:**

- For all lots, such location shall be in the side yard or rear yard of such lot.
- If desired by the Town Planning Board, visual/photo simulations of the proposed energy system facility for projects visible from any lakes.
- Appropriate screening with vegetation, trees, or fencing suitable for the scale and character of the property and neighboring properties.

**Best Practices:**

- Install in locations that can maximize energy collection regardless of season.

**Example:**



Ground-mounted solar system; photo courtesy of DIY Solar Racking, https://www.diysolarracking.com/

**Process:**

- Site Plan Application and Short Environmental Assessment Form (EAF)
- Building Permit
- Payment of Fee
- Site Plan, including planting plan
- Approval by Town Planning Board

**Timeline:** 1-3 months dependent on completeness of application

## 5. BUILDING-INTEGRATED SYSTEMS

Building-integrated systems, including solar shingles, are systems or products seamlessly integrated into the building envelope.

**Where Permitted**: All Districts

*(Building-Integrated Systems, continued)*

**Requirements Specific to Building-Integrated Systems**: Such systems will be guided by the "General Requirements Applicable to All Types of Solar Installations," as described above in Section 2.0.0 and conformance to NYS Building Code.

**Example:**

A roof with solar shingles; photo courtesy of GAF Energy

**Process:**

- Application
- Building Permit
- Payment of Fees and Deposit

**Timeline:** Dependent on project

## 6. SOLAR FARMS (COMMERCIAL SOLAR PROJECTS)

The transition to 70% clean energy will require large-scale renewable energy projects as part of the solution. Such projects are undertaken by developers either to sell power wholesale to the state-wide electric grid or on community scale where power is sold directly to the consumer.

Smaller scale roof-top or ground mounted systems alone cannot achieve this goal nor meet the electricity needs of New York State.

Due to their scale and the acreage footprint required, commercial solar projects involve examination of a wide range of numerous and scientific factors, along with consideration of property owner interests, community character, and quality-of-life impacts. Despite these factors, commercial solar projects offer benefits over other energy facilities or business uses: they do not require parking and traffic for on-site personnel; can be less visible than taller industrial structures; and do not have impacts associated with other industrial uses such as noise and pollution. New York State law requires decommissioning plans for any project generating over 25 megawatts to ensure that a facility is properly restored after an energy project reaches end of life.

*(Commercial Solar Projects, continued)*

Where possible, commercial solar projects should be located using a site design that limits the potential for negative impacts to the long-term use of productive farmland (Agricultural Use Parcel). The NYS Department of Agriculture and Markets (NYSDAM) recommends that project sponsors avoid installing solar arrays on the most valuable or productive farmland. The order of importance for solar array avoidance, per NYSDAM is:

1. Active rotational farmland
2. Permanent hay land
3. Improved pasture
4. Unimproved pasture
5. Other support lands
6. Fallow/inactive farmland

Woodland sites that may be proposed for a commercial solar project generally do not have prime agricultural soils. It may, however, be dominated by the growth of non-invasive, native tree species such as sugar maple, red maple, lack birch, beech, hickory, red oak, white oak, shadblow, and white pine. Use of such sites is discouraged.

**Where Permitted:** Rural (R) District and Business Commercial (BC) within the Town. Use in an Agriculture Use Parcels is allowable with a special use permit, only if it can be demonstrated that it poses no negative impacts on the soils deemed to be USDA prime soils, prime farmland, prime soils, prime soil lands, and lands deemed to be farmlands of Statewide importance.

**Where Prohibited:** Neighborhood (N), Nelson Corridor (NC), Erieville Hamlet (EH), and Waterfront Zones (WF).

**Restrictions:**

- Minimum of 25 contiguous acres and compliance to required setbacks; smaller parcels may be considered by applying for an Area Variance.
- Not within one mile of an existing or approved project, unless the Town Planning Board determines there is no detrimental impact to any siting considerations or best practices.

**Requirements Specific to Commercial Solar Projects:**

In regard to the following, the reviewing boards may waive or add specific requirements based on the site.

- Proof of ownership and demonstration that owner owns sufficient land area to operate and maintain the facility
- Demonstrate avoidance of areas impacting scenic quality, versus alternate sites
- A process for emergency shutdown and display of supporting signage
- Adequate security to restrict unauthorized access

*(Commercial Solar Projects, continued)*

- No material impact on scenic views or on fish, wildlife, animal or plant species or their critical habitats, or other significant habitats
- Use of non-invasive, pollinator-friendly, native ground covers between rows of solar panels
- Should any shrubs, trees, and other vegetation planted by developer die or deteriorate noticeably within the first ten years of operation, they are to are to be replaced by developer
- Weekly Status/Inspection Reports during the life of the construction and Annual Post-Installation Reviews
- Required Documents[2]:

1. Site Plans (indicating property lines, adjacent lots, existing structures, current and proposed utility and transmission lines) of the following, stamped by a professional engineer registered in New York State:
   a. Aerial Site Plan
   b. Site Survey with Existing Topographical Conditions
   c. Site Survey with New Topographical Conditions
   d. Landscaping Plan showing proposed removals and additions
   e. Grading Plan
   f. Erosion and Sediment Control Plan[3]
   g. Erosion and Sediment Control Details[2]
2. A Geo-Technical Report, which includes a Soil Analysis as performed by an independent third party, and which provides measurements of soil samples for permeability, organic content, and nutrient content at the proposed installation site
3. Photo Simulations of current and proposed views based on a Digital Elevation Model and a map designating vantage points
4. Panel/Racking Specifications
5. Plant Selections (trees, vegetation, cover crop selections)
6. Fence and Gate Specifications (material, style, height, color)
7. Signage Details (size, verbiage, quantity, color)
8. Storm Water Pollution Prevention Plan (SWPPP)
9. Sun chart
10. Glare Analysis
11. Utility Notification and Service Order Number
12. Construction Timetable
13. Report to NY Department of Agriculture and Markets (Ag & Markets) and its determination of any impact

*(Commercial Solar Projects, continued)*

14. A Wetlands Determination of no impact by Army Corps of Engineers, if applicable

[2] Additional detail may be found in the Town's Land Use and Development Law
[3] To be reviewed in conjunction with SWPPP review

15. A Business Operations Plan, outlining hours of operation, maintenance & frequency, lighting, etc.
16. A Determination of No Impact from Federal Aviation Agency (FAA)
17. Notification to and confirmations from Emergency Services within affected area
18. Road Maintenance Agreement with the Town[4]
19. Payment in Lieu of Taxes Agreement and Community Host Benefit Agreement with the Town[3]
20. Decommissioning Plan[3]
21. Submission of professional fees and escrows

**Best Practices:**

- Focus on previously disturbed areas for potential sites. In Nelson, this includes large expanse building rooftops, contaminated brownfields, under-utilized parking lots, abandoned mining locations, and non-productive farm areas. Protect and/or avoid impacts on highest value, productive agricultural lands
- Avoid impacts to historic, cultural, ecological, and scenic resources
- Avoid migratory pathways of wildlife
- Maintain the purpose and value of conserved lands
- Avoid and minimize new transmission and distribution lines
- Use construction and operation best practices, such as minimizing grading, avoiding use of concrete footings, mitigating run-off and potential for erosion, etc.
- Where feasible and desired, promote co-location with agricultural uses
- When mitigation of visual or other impacts proves unfeasible, provide a beneficial compensatory offset to the community
- Use pollinator-friendly plantings in and among solar arrays to support bees and other insects that pollinate crops

[4] Finalization of these documents may occur after approvals by reviewing board but must be completed prior to initiating any work on the site

*(Commercial Solar Projects, continued)*

**Examples:**

Commercial solar project; photo courtesy of *The Statesman Journal*, Salem OR, www.statesmanjournal.com

Commercial solar project; photo courtesy of *Springfield News Leader,* Springfield MO, www.news-leader.com

**Process:**

- Site Plan Application and Long Form EAF
- Building Permit
- Payment of Fee and Escrow
- Submission and Review of Required Documents (see above). *Plans a – g in Item 1 and Item 2 should be submitted prior to remaining documents*
- Site Plan Review and Approval by Town Planning Board
- Special Use Permit
- Special Use Permit Review and Approval by Town Planning Board

**Timeline:** 6 - 12 months