

LOCAL LAW NO. 1 OF 2021**ADDING ARTICLE XIV, SOLAR ENERGY SYSTEMS, TO CHAPTER 149 ZONING
OF THE CODE OF THE TOWN OF MOREAU**

Article XIV is added as follows:

§149-92 Authority.

This Solar Energy Systems Law is adopted pursuant to Article IX of the New York State Constitution §2(c)(8), New York Statute of Local Governments §10(5), New York Municipal Home Rule Law §10(1)(i) and (ii) and §10(1)(a)(8), and New York Real Property Tax Law §487(9). In addition, Town Law § 261 through §263 authorizes the Town to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor."

§149-93 Applicability.

The requirements of this article shall apply to all solar energy systems installed or modified after its effective date, excluding general maintenance and repair and building-integrated photovoltaic systems.

§149-94 Statement of purpose.

- A. This solar energy article is adopted as a new article in Chapter 149 Zoning, of the Code of the Town of Moreau to advance and protect the public health, safety, and welfare of the Town of Moreau, including:
1. Taking advantage of a safe, abundant, renewable, and nonpolluting energy resource.
 2. Decreasing the cost of energy to the owners of government, commercial and residential properties, including single-family houses.
 3. Enhancing agricultural viability and mitigating the impact on agricultural land resources and providing public utilities that meet present needs and anticipate future needs of residents; and
 4. Increasing employment and business development in the region by furthering the installation of solar energy systems.
 5. Decreasing the use of fossil fuels, thereby reducing the carbon footprint of the Town;

6. Enhancing the economic viability of agricultural operations, while mitigating the potentially negative impact of solar power systems on agricultural land resources, including the land's productive capabilities and the rural character of the Town, in accordance with the Town's Comprehensive Plan
7. Mitigating the permanent loss of agricultural lands to subdivision while providing alternative revenue sources to augment existing agricultural income

§149-95 Definitions.

As used in this article, the following words and terms shall have the meanings indicated:

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM

A roof-mounted solar energy system of a principal or accessory building that is designed and constructed as an integral part of the roof frame, sheathing or surface. The components of a building-integrated system may be designed to replace or substitute for architectural or structural elements of a building's roof and generally complement, blend with or form part of a building's architectural appearance. Such components will generally maintain a uniform plane with, and/or form a part of, the roofline or roofing into which they are integrated. Such a system is used in lieu of a separate solar PV system where components of the system are designed and attached to a building independent of building architecture. A building-integrated system may occur within transparent skylight systems, within roofing systems, replacing traditional roofing materials. A combination of photovoltaic building components integrated into any building skylight systems, and roofing materials.

DECOMMISSIONING

The process of making a solar energy system inoperable, complete removal and proper disposal of all system components, and remediating either the land upon which the system was sited, and/or the building on or in which it was installed. Remediation may include restoration of building components, grading, seeding, replanting, and revegetating the area impacted by the removal of the system and any associated components or facilities.

DECOMMISSIONING PLAN

A plan that demonstrates how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the property to its original state prior to construction. It ensures the property will be restored to a useful, nonhazardous condition without delay including but not limited to: Restoration of the surface grade and soil after removal of equipment, Revegetation of restored soil areas with native seed mixes, excluding any invasive species.

FARMLAND OF STATEWIDE IMPORTANCE

Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of state wide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies.

Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

GLARE

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

GROUND-MOUNTED SOLAR ENERGY SYSTEM

A solar PV system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity for on-site and off-site consumption.

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).

KILOWATT HOUR (kWh)

A unit of energy equivalent to one kilowatt of power generated or expended for one hour of time.

LOT COVERAGE

For the purpose of this Article, lot coverage includes the area covered by a solar panel or array as measured on a horizontal plane projected from the perimeter of said panel or array vertically to the ground. For panels or arrays where the tilt angle is adjusted by week, month, season or other time period, lot coverage shall be determined by the tilt angle producing the greatest lot coverage.

NET METERING

A system in which solar panels or other renewable energy generators are connected to a public utility power grid and surplus power is transferred onto to the grid, allowing customers to offset the cost of power drawn from the utility.

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

PRINCIPAL USE – the main or primary purpose for which land is used, occupied, or maintained. When more than one use is present on a lot, the most intense use shall be the principal or primary use

PRODUCTIVE FARMLAND, COMMON

Land designated by the U.S. Department of Agriculture and Prime Farmland or Prime Farmland if Drained, representing land that has the best combination of physical and chemical

characteristics for producing feed, feed, forage, fiber and oilseed crops and is also available for these land uses, or Unique Soils, or land designated as Farmland of Statewide Importance by the USDA, New York State Department of Environmental Conservation or the U.S. Army Corps of Engineers.

REMOTE NET METERING

An arrangement with the electric utility that allows the kilowatt hours (kWh) generated from a solar PV system located at a specific site to be credited towards kWh of consumption at a different location.

ROOF-MOUNTED SOLAR ENERGY SYSTEM

A solar PV system consisting of panels and associated brackets and hardware installed on an existing roof of any legally permitted principle or accessory building for the purpose of producing electricity for on-site or off-site consumption.

SOLAR ENERGY EQUIPMENT

Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy as part of the solar PV system.

SOLAR ENERGY SYSTEM

The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System.

SOLAR ENERGY SYSTEM, TIER 3

A solar energy system that has the capacity to collect the sun's light energy to either generate one MW or more of power that feeds into the utility grid; or generate steam and drive a turbine (commonly referred to as concentrated solar power (CSP)) that generates one MW or more of power that feeds directly into the grid.

SOLAR ENERGY SYSTEM, TIER 2

A solar energy system for residential, business, or farm use that has the capacity to collect the sun's light energy and generate no more than 110% of the electricity consumed over the previous 12 month period by land use(s) existing on the lot where the solar energy system is located or on multiple lots in cases where remote net metering is allowed. For new construction that does not have a twelve-month log of electricity use, a projection of electricity use over the first 12 months shall be used. For the purposes of this Chapter a Tier 2 solar energy system shall be considered an accessory use.

SOLAR ENERGY SYSTEM, TIER 1

A solar energy system for residential, business or farm that is identified as a Roof-Mounted Solar Energy System or Building-Integrated Solar Energy Systems

SOLAR PANEL

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

§149-96. Permits and Transfers.

- A. Permit requirement. No solar energy system shall be constructed, reconstructed, moved, or have modifications to physical size, capacity, location or placement undertaken in the Town of Moreau except by first obtaining a building permit from the Town of Moreau Building Department.
- B. Exemptions. Replacement in-kind or repair of a solar energy system may occur without Planning Board approval when there shall be:
 - 1. No increase in total height.
 - 2. No increase in physical size.
 - 3. No change in location.
 - 4. No increase in rated capacity beyond the limits defined herein.
- C. Transfer. The standards of this Article and the terms or conditions for approval of any solar energy system as approved by the Planning Board under the standards of this Article shall remain in effect regardless of the transfer of any solar energy system or solar energy system permit, or sale of the entity owning such facility

§149-97 Standards for Tier 1 Solar Energy Systems.

- A. All Tier 1 Solar Energy Systems shall be installed by a qualified solar installer, as determined by the Town of Moreau Building Department.
- B. All Tier 1 Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations and standards set forth in this Chapter and any applicable federal, state, and county laws.
- C. A building permit shall be required for installation of all Tier 1 Solar Energy Systems.
- D. Tier 1 Roof-Mounted Solar Energy Systems requirements.
 - 1. Permitted Use. Tier 1 Roof-Mounted Solar Energy Systems are permitted as an accessory use in all zoning districts without site plan

review when attached to any lawfully permitted building or structure.

2. Height. Tier 1 Roof-Mounted Solar Energy Systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.
 3. Panel Location on the Roof. Tier 1 Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements:
 - a. Panels must be mounted parallel to the roof's surface with a maximum distance of 18 inches of separation between the roof surface and panel.
 - b. Panels on pitched roofs shall not extend higher than the peak of the roof.
 - c. No portion of the system, including but not limited to mounting brackets, panels or hardware shall be located on any of the gable, rear wall or front wall eave (overhang) of the building.
 - d. Panels on flat roofs shall not extend above the top edge of the parapet, or more than [24] inches above the flat surface of the roof, whichever is higher and shall not have an incline in excess of 10%
 - e. Panels and modules shall be listed and labeled in accordance with UL 1703 and shall be installed in accordance with the manufacturer's printed instructions.
 4. Glare: All panels shall have an anti-reflective coating.
- E. Tier 1 Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

§149-98 Standards for Tier 2 Solar Energy Systems.

- A. All Tier 2 Solar Energy Systems shall be installed by a qualified solar installer, as determined by the Town of Moreau Building Department.
- B. All Tier 2 Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations and standards set forth in this Chapter and any applicable federal, state, and county laws.
- C. All Tier 2 Solar Energy Systems shall require site plan review and approval.
- D. Tier 2 Solar Energy Systems requirements.
 1. Permitted Use. All Tier 2 Solar Energy Systems are permitted as accessory

structures through site plan review and approval from the Planning Board in the One- and Two-Family Residential (R-2), Agriculture, One- and Two-Family Residential (R-3, R-4, and R-5) Districts; General Commercial (C-1) District; Commercial and Communications (CC-1) District; Neighborhood Commercial (C-2) District; Residential and Commercial (C-3) District; General Manufacturing and Industrial (M-1) District; and the Light Manufacturing and Industrial (M-2) Districts.

2. Height, location, and setback requirements.
 - a. The height of Tier 2 Solar Energy Systems shall be limited to the maximum height of accessory structures in the district or 15 feet, whichever is less. When solar panels and mounts are oriented at maximum tilt, the height shall not exceed 15 feet.
 - b. All components of a Tier 2 Solar Energy System shall be located in the center of the lot or at least 30 feet from side yard lot line. Tier 2 Solar Energy Systems are prohibited in the side or front yards.
 - c. Solar panels and mounts of Tier 2 Solar Energy Systems shall be positioned to minimize shading of property to the north while still providing adequate sunlight access for the panels.

3. Lot coverage. Tier 2 Solar Energy Systems regardless of the lot size on which they are located are limited to a coverage area of 4,000 square feet of solar panel surface area. The surface area covered by ground-mounted solar panels shall be included in total lot coverage of the zoning district within which they are located.

4. Screening. To the maximum extent practicable, Tier 2 Solar Energy Systems are to be positioned so that maximum screening from the view of pedestrians, bicyclists and motorists on the public right-of-way, and from the view of neighboring property owners is achieved. Supplemental architectural features, berming, grading, planting and fence installation that will harmonize with the character of the property and surrounding area shall be used to screen the view of the system.

5. Glare: All Panels shall have anti-reflective coatings.

§149-99 Standards for Tier 3 Solar Energy Systems.

- A. Tier 3 Solar Energy Systems are permitted as a primary or principle use through site plan review and approval from the Planning Board within the Agriculture One- and Two-Family Residential (R-5) District; General Manufacturing and Industrial (M-1) District; and the Light Manufacturing and Industrial (M-2) District subject to the requirements set forth in this section. Tier 3 Solar Energy Systems shall not be permitted to be constructed on Prime Farmland, farmland of statewide importance, farmland of local importance, or of unique soils as defined by the US Department of Agriculture (USDA), New York State Department of Environmental Conservation (DEC), the US Army Corps of Engineers, or

local governing body. Applications for the installation of a Tier 3 Solar Energy System shall be reviewed by the Zoning Administrator and referred, with comments, to the Planning Board for site plan review and action, which can include approval, approval on conditions, or denial. The process and submittal requirements from Article VI shall be used.

- B. Site plan review application requirements. For a site plan application, the site plan application on file in the Building Department is to be used as well as the requirements from Article VI and the application shall be supplemented with the following information:
1. If the property of the proposed project is to be leased, legal consent among all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
 2. A scaled site plan showing the layout of the Tier 3 Solar Energy System, including all accessory equipment and facilities bearing the stamp and signature of a professional engineer or architect licensed by the NYS Department of Education, shall be required.
 3. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
 4. Special requirements for development and operation of Tier 3 Solar Energy System in the R-5 District. In consideration of the heavy concentrations of agricultural uses in the R-5 District and the overriding interest to protect agricultural uses in the Town of Moreau, the following additional requirements shall be met for any system located in the R-5 District.
 - a. The applicant shall indicate on the site plan and describe in written narrative form what best management practices are being undertaken to preserve agricultural use of the land in and around the area designated for the Tier 3 Solar Energy System. Such practices include, but are not limited to, the provision of barriers to securely separate wildlife and farm animals from the solar equipment; a quantitative assessment of the agricultural lands (crop production, pasture lands, etc.) before and after installation of the Tier 3 Solar Energy System; and the inclusion of measures to maximize agricultural use of the land in and around the area of the Tier 3 Solar Energy System after the system is fully installed and operational.
 - b. A visual impact assessment of the Tier 3 Solar Energy System at the conclusion of the first phase of development (if relevant) and at a full build-out of the system. The assessment shall include rendered images of the viewshed from publicly owned lands (parks, roads, streets, facilities), a description of the area impacted and mitigative measures taken to reduce the visual impact.

- c. A screening and landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. All screening shall be planted within each 10 linear feet of the Tier 3 Solar Energy System. To the maximum extent practicable, Tier 3 Solar Energy System are to be positioned so that maximum screening from the view of pedestrians, bicyclists and motorists on the public right-of-way, and from the view of neighboring property owners is achieved. Supplemental architectural features, berming, grading, planting and fence installation that will harmonize with the character of the property and surrounding area shall be used to screen the view of the system.
 - d. Prior to a final decision on the site plan and as part of the review process, the applicant shall meet with the Town Assessor to discuss any tax assessment implications of the permanent conversion of the land area previously designated for agricultural purposes to accommodation of the Tier 3 Solar Energy System. The preliminary findings from the assessor shall be reported as part of the review process.
5. Property operation and maintenance plan. A separate, written plan for maintenance and upkeep of the solar equipment, associated facilities and surrounding land shall be required. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming. An escrow account or letter of credit will be required to cover the expenses associated with funding the maintenance plan in the event the applicant or designated responsible entity is not able to fulfill the terms of the maintenance plan as required as part of the site plan review.
6. Decommissioning plan. Removal of Tier 3 Solar Energy Systems must be completed in accordance with a written decommissioning plan. The decommissioning plan shall specify the procedure for decommissioning, dismantling and complete removal of the solar equipment and associated facilities. The decommissioning plan will ensure the proper removal of all Tier 3 Solar Energy Systems and associated equipment and restoration of the site to a stable, vegetated condition. The requirements of the decommissioning plan (the plan) shall be as follows:
 - a. The plan shall be submitted as part of the application.
 - b. Compliance with the plan shall be made a condition of a decision on the associated site plan review application.
 - c. The plan must specify that should the system become inoperable or can no longer be used, it shall be removed by the applicant or any subsequent owner at their expense.

- d. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation will be conducted to return the parcel to its original state prior to construction.
- e. The plan shall include a timeline for execution.
- f. The plan shall include a provision of a cost estimate detailing the projected cost of executing the decommissioning plan. The cost estimate shall be prepared by a professional engineer or contractor retained by the Town at the sole cost and expense of the applicant. The cost estimate shall consider inflation so that costs are adequately covered through a future date to be determined by the Planning Board.
- g. The amount to fully cover the cost of the decommissioning the Tier 3 Solar Energy System shall be secured in the form of a cash escrow account or letter of credit. The form of security shall be reviewed by the Town Attorney and accepted by the Planning Board.
- h. If the Tier 3 Solar Energy System is not properly decommissioned after the Town deems the system to be abandoned, the Town may remove the system, restore the property as specified in the decommissioning plan and impose a lien on the property to cover the costs for the decommissioning.
- i. The plan shall be signed by the owner and/or operator of the Tier 3 Solar Energy

C. Site plan review standards.

- 1. Height and setback. Tier 3 Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district.
- 2. Lot size. Tier 3 Solar Energy Systems shall be located on lots with a minimum lot size of 10 acres.
- 3. Lot coverage. The percentage of lot coverage will vary depending upon the zoning district in which the system is to be located.
 - a. In the M-1 and M-2 Districts, lot coverage may be up to 40 percent of the gross area of each lot on which system components will be located. System components shall not be located in any designated wetland area or wetland buffer.
 - b. In the R-5 District, lot coverage may be up to 40 percent of the gross area of each lot on which system components are to be located. System components shall not be located in any designated wetland area or wetland buffer.
- 4. All ground-mounted, Tier 3 Solar Energy Systems shall be enclosed by fencing, a

- minimum of six feet high and a maximum of eight feet high, to prevent unauthorized access. Warning signs with the owner's contact information shall be placed at each entrance of the fencing. The type of fencing shall be determined by the Planning Board after considering the nature, use and visual or aesthetic impacts on adjoining properties. The fencing and the system may be required to be further screened by landscaping to avoid adverse aesthetic impacts as determined by the Planning Board.
5. Any application under this section shall meet any substantive provisions contained in local site plan requirements in the Zoning Chapter that, in the judgment of the Planning Board, are applicable to the system being proposed.
 6. A vegetative management plan detailing development, implementation, and maintenance of native vegetation to the extent practicable by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, native plant species and seed mixes shall be used.
 7. Installation on farms shall abide by rules, standards and regulations established by NYSDAM. The construction and installation of any energy system shall be designed to minimize any adverse impacts on the productivity of the soil and the farm operation
 8. Existing access roads are permitted to be utilized. Any new 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 to the extent practicable. 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 State of New York fire access code. The surface of solar farm access roads to be constructed through agricultural fields should be level with the adjacent field surface where possible.
 9. Structures for overhead collection lines are to be located upon the nonagricultural areas and along field edges where possible. Electric interconnect cables and transmission lines are to be buried in agricultural fields wherever practical. Interconnect cables and transmission lines installed aboveground shall be located outside agricultural field boundaries. When above-ground cables and transmission lines must cross agricultural fields, taller structures that provide longer spanning distances and locate poles on field edges to the greatest extent practicable. All buried electric cables in cropland, hayland and improved pasture shall have a minimum depth of 48 inches of cover. At no time is the depth of cover to be less than 48 inches below the soil surface.
 10. The Planning Board may impose conditions on its approval of any site plan under this section in order to enforce the standards referred to in this section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

§149-100 Abandonment and decommissioning.

A. Tier 3 Solar Energy Systems shall be deemed abandoned after 1 year without electrical generation and transmission, A Tier 3 Solar Energy System also shall be deemed abandoned if following site plan approval initial construction of the system has commenced and is not completed within 18 months of issuance of the first building permit for the project.

B. Extension of time. The time at which a Tier 3 Solar Energy System shall be deemed abandoned may be extended by the Planning Board for an additional period of one year, provided the system owner presents to the Board a viable plan outlining the steps and schedules for placing the system in service or back in service, at no less than 80% of its rated capacity, within the time period of the extension. An application for an extension of time shall be made to the Planning Board by the Tier 3 Solar Energy System owner prior to abandonment as defined herein. Extenuating circumstances as to why the Tier 3 Solar Energy System has not been operating or why construction has not been completed may be considered by the Board in determining whether to grant an extension.

C. A Tier 3 Solar Energy System that has been deemed abandoned shall be decommissioned and removed as per the decommissioning plan. The decommissioning plan must be completed within 360 days of notification by the Building Department to the owner of the Tier 3 Solar Energy System.

D. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Tier 3 Solar Energy System and restoration of the site in accordance with the decommissioning plan.

§149-101 Payment in Lieu of Taxes (PILOT)

A. Purpose

This section of the Moreau Solar Law is adopted to ensure that the benefits of the community's solar energy resource are available to the entire community, by promoting the installation of solar energy generating equipment through a payment-in-lieu-taxes (PILOT), granting reduced costs to system developers and energy consumers, and providing a revenue stream to the entire community.

B. Definitions

ANNUAL PAYMENT - the payment due under a PILOT Agreement entered into pursuant to Real Property Tax Law § 487(9).

ANNUAL PAYMENT DATE - January 1st of each year

CAPACITY - the manufacturer's nameplate capacity of the Solar Energy System as measured in

kilowatts (kW) or megawatts (MW) AC

ENERGY EQUIPMENT - means collectors, controls, energy storage devices, heat pumps and pumps, heat exchangers, windmills, and other materials, hardware or equipment necessary to the process by which solar radiation is (i) collected, (ii) converted into another form of energy such as thermal, electrical, mechanical or chemical, (iii) stored, (iv) protected from unnecessary dissipation and (v) distributed. It does not include pipes, controls, insulation or other equipment which are part of the normal heating, cooling, or insulation system of a building. It does include insulated glazing or insulation to the extent that such materials exceed the energy efficiency standards required by New York law

OWNER - the owner of the property on which a Solar Energy System is located or installed, or their lessee, licensee or other person authorized to install and operate a Solar Energy System on the property

RESIDENTIAL SOLAR ENERGY SYSTEMS - a Solar Energy System with a nameplate generating capacity less than 50 kW AC in size, installed on the roof or the property of a residential dwelling (including multi-family dwellings), and designed to serve that dwelling

SOLAR ENERGY SYSTEM - an arrangement or combination of Solar Energy Equipment designed to provide heating, cooling, hot water, or mechanical, chemical, or electrical energy by the collection of solar energy and its conversion, storage, protection and distribution.

C. PILOT Required

1. The owner of a property on which a Solar Energy System is located or installed (including any improvement, reconstruction, or replacement thereof), shall enter into a PILOT Agreement with the Town consistent with the terms of this section, except for

a) Residential Solar Energy Systems

b) Solar Energy Systems that do not seek or qualify for an exemption from real property taxes pursuant to Real Property Tax Law § 487(4).

2. The Lessee or licensee of any owner of a property required to enter into a PILOT Agreement by this section, which owns or controls the Solar Energy System, may enter into the PILOT Agreement on behalf of the owner of the property.

3. Any owner or developer of a Solar Energy System that meets the requirements under Real Property Tax Law 487(4) MUST notify the Assessor via certified mail of its intent to construct a Solar Energy System. Such notice must be sent to: Assessor, Town of Moreau, 351 Reynolds Road, Moreau, New York 12828. Upon receipt of such notification from an owner or other person of intent to install a Solar Energy System, the Assessor shall immediately, but in no case more than sixty days after receipt of the notification, notify the owner or other person of the mandatory required for a PILOT Agreement pursuant to the terms of this section.

4. In the event of the failure of an owner, developer or other person of a Solar Energy System to provide the Town within the sixty (60) days' notice of intent to install such Solar Energy System as required by the above Subsection 3 the Town may, at its option, require the owner, developer or other person to enter into a PILOT Agreement for the full amount of the real property taxes that would otherwise be due but for the real property tax exemption authorized by Real Property Tax Law 487.
5. The failure or refusal of an owner, developer or other person of a Solar Energy System to enter into and execute a PILOT Agreement with the Town as required by this law shall result in the real property on which such Solar Energy System is situated being ineligible for the real property tax exemption authorized by Real Property Tax Law 487.
6. Nothing in this section shall exempt any requirement for compliance with state and local codes for the installation of any solar energy equipment or a solar energy system, or authorize the installation of any solar energy equipment or a solar energy system. All solar energy systems must file a Real Property Tax Exemption application pursuant to Real Property Tax Law § 487 to receive a tax exemption.
7. The Annual Payments under the PILOT Agreement shall not exceed the amounts that would be otherwise payable but for the exemption under Real Property Tax 487 as the same may be amended, superseded or replaced.

D. Contents of PILOT Agreements

1. Each PILOT Agreement entered into shall include
 - a. Name and contact information of the Owner or other party authorized to act upon behalf of the Owner of the Solar Energy System.
 - b. The SBL number for each parcel or portion of a parcel on which the Solar Energy System will be located.
 - c. A requirement for fifteen successive annual payments, to be paid commencing on the first Annual Payment Date after the effective date of the Real Property Tax Exemption granted pursuant to Real Property Tax Law § 487 as the same may be amended, superseded or replaced.
 - d. The Capacity of the Solar Energy System, and that if the Capacity is increased or increased as a result of a system upgrade, replacement, partial removal or retirement of Solar Energy Equipment, the annual payments shall be increased or decreased on a pro rata basis for the remaining years of the Agreement.
 - e. That the parties agree that under the authority of Real Property Tax Law § 487 as the same may be amended, superseded or replaced, the Solar Energy System shall be considered exempt from real property taxes with the exception of special district fees for the fifteen-year life of the PILOT Agreement.

f. That the PILOT Agreement may not be assigned without the prior written consent of the Town which consent may not be unreasonably withheld if the Assignee has agreed in writing to accept all obligations of the Owner, except that the Owner may, with advance written notice to the Town but without prior consent, assign its payment obligations under the PILOT Agreement to an affiliate of the Owner or to any party who has provided or is providing financing to the Owner for or related to the Solar Energy System, and has agreed in writing to accept all payment obligations of the Owner.

g. That a Notice of this Agreement may be recorded by the Owner at its expense, and that the Town shall cooperate in the execution of any Notices or Assignments with the Owner and its successors.

h. That the Annual Payment shall be set per resolution by the Town Board at the Organizational Meeting.

i. That if the Annual Payment is not paid when due, that upon failure to cure within thirty (30) days, the Town may cancel the PILOT Agreement without notice to the Owner, and the Solar Energy System shall thereafter be subject to taxation at its full assessed value.

j. In addition, if the Annual Payment is not paid when due, a late fee equal to twelve (12%) percent of the amount due shall be assessed on an annual basis.

§ 149-102 Penalties for offenses.

Any violation of this solar energy article shall be subject to the same civil and criminal penalties provided for in the zoning regulations of the Town of Moreau.

§ 149-103 Severability.

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision or phrase of the aforementioned sections as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision or phrase, which shall remain in full force and effect.