

February 15, 2021

**Town of Ancram Local Law No. \_\_ of 2021**

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## ***Local Law Filing***

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### **Town of Ancram Local Law No. \_\_ of 2021**

#### **A Local Law Amending the Town of Ancram Zoning Law with Regard to the Regulation of Solar Energy Generating Systems.**

**Be it Enacted by the Town Board of the Town of Ancram, Columbia County, New York, as follows:**

#### **Part 1. Title**

This Local Law shall be known as the “A Local Law Amending the Town of Ancram Zoning Law with Regard to the Regulation of Solar Energy Generating Systems.”

#### **Part 2. Enactment**

This Local Law is adopted and enacted pursuant to the authority and power granted by §10 of the Municipal Home Rule Law of the State of New York, Articles 2 and 3, and pursuant to Article 2 of the New York State Statute of Local Governments.

#### **Part 3. Purpose, Background and Findings**

The purpose of this Local Law is to amend selected provisions of the Town of Ancram Zoning Law adopted on November 20, 2014, and as amended since (hereafter the “Zoning Law”).

Further purposes are to implement the 2019 Town of Ancram updated Comprehensive Plan. The updated Plan outlined a variety of zoning changes needed to address ongoing and new issues facing the Town, including solar development in the Town. The Town of Ancram appointed a Zoning Review Committee to implement these recommendations made in the adopted Comprehensive Plan through updated zoning regulations. The amendments contained in this Local Law were drafted by the Zoning Review Committee with their consultants and submitted to the Town Board for review and adoption.

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**Part 4. Amendment of Zoning Law Article III (Uses)**

The Town of Ancram Zoning Law Article III is hereby amended to add the following uses to the Table of Uses set forth therein::

<b>USES</b>	<b>Ancram, Ancramdale, Hamlets-B/R</b>	<b>Ancram, Ancramdale, Boston Corners Hamlets AH-R2</b>	<b>Ag</b>	<b>RhoR1</b>	<b>I-1</b>	<b>CarsRd</b>
<b>Residential Accessory Uses</b>						
Small-scale solar energy system, rooftop and flush mounted, 25 KW or less *	P	P	P	P	P	P
Small-scale solar energy system, ground-mounted and freestanding, 25 KW or less*	SUP	SUP	SUP	SUP	SUP	SUP
Small-scale solar energy system, building integrated	P	P	P	P	P	P
Storage batteries associated with small-scale solar energy facility when located on same parcel as solar facility	P	P	P	P	P	P
Storage batteries associated with small-scale solar energy facility when located on different parcel than solar facility	SUP	SUP	SUP	SUP	SUP	SUP
<b>Business Uses</b>						
Community scale solar energy system 10 acres or less in size*	X	X	SUP	X	X	X
Storage batteries associated with community scale solar energy system when located on same parcel as solar system	X	X	Accessory use as part of SUP review of entire facility	X	X	X
Storage batteries associated with community scale solar energy system when located on different parcel than solar system	X	X	SUP	X	X	X
<b>Industrial Uses</b>						

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Utility scale solar energy system > 10 acres and < 20 MW	X	X	X	X	X	X
Utility scale solar energy system 20 MW or greater	X	X	X	X	X	X

**Part 5.** Amendment of Zoning Law Article V (Supplemental Regulations), Section (D)  
(Individual Standards for Selected Uses).

The Section of the Zoning Law entitled “Solar Energy Panels” which appears in Zoning Law Article V (Supplemental Regulations), Section (D) (Individual Standards for Selected Uses), shall be repealed in its entirety and shall be replaced by the following Section entitled “Solar Energy Systems.”

**Solar Energy Systems**

**a. Solar Systems Purpose and Intent.**

The Town of Ancram recognizes that solar energy is a clean, readily available, and renewable energy source.

This Section aims to permit certain solar energy systems in the Town of Ancram, and to do so in a way that balances the positive impacts of those systems with the potential adverse impacts of those systems on neighbors and the environment, and which preserves community character, and encourages property owners to install and sensibly site solar energy systems.

The Town of Ancram has determined that regulations regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents, its farms, and its businesses as articulated in the 2019 Town of Ancram Comprehensive Plan. This Section is intended to:

- a. promote the effective and efficient use of solar energy systems;
- b. encourage the siting of solar energy systems in a way that preserves and protects community character, environmentally sensitive areas, and prime farmlands;
- c. set provisions for the placement, design, construction, and operation of such systems to be consistent with the Town of Ancram Comprehensive Plan;
- d. protect the public health, safety, and welfare; and
- e. ensure that such systems will not have a significant adverse impact on the environment, including on aesthetic qualities and rural character of the Town.

**Greater restrictions to prevail:** In their interpretation and application, the provisions of this Section shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare. This Local Law shall not interfere with, abrogate, or annul any ordinance or any rule, regulation, or permit previously or hereinafter enacted or adopted, or issued pursuant to law, provided that, unless specifically excepted, whenever the requirements of this provision are inconsistent with the requirements of any other lawfully adopted rule, regulation, ordinance or local law, the more restrictive provisions that impose higher standards shall govern.

**b. Applicability**

1. The requirements of this Section shall apply to all solar energy systems and related equipment installations modified or installed after the effective date of this Section.

Solar energy system installations for which a valid building permit has been issued before the effective date of this Section shall not be required to meet the

requirements of this Section. However, any modifications to existing solar energy systems that increase the solar energy system area by more than 5% of its original size in acres shall be subject to this Section.

In addition to meeting all the requirements of the Town of Ancram Zoning Law, all solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code and the New York State Energy Conservation Code.

**c. General Design and Siting Requirements for all Solar Energy Systems**

1. All solar collectors and related equipment shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent properties or public roadways.
2. All solar collectors and their associated support elements shall have a non-reflective finish and be of neutral paint colors to achieve visual harmony with the surrounding area. Panels shall not reflect more than 2% of incoming sunlight.
3. All solar collectors and their associated support elements shall, at the time of installation, be designed according to generally accepted engineering practice to withstand heavy snow loads and wind pressures applied to exposed areas by wind from any direction, to minimize the migration of light or sound from the installation and to minimize sight obstructions for adjacent structures or land parcels. A licensed professional engineer or registered architect shall stamp and sign all construction and other plans and documents to affirm that the design meets all structural requirements, including snow and wind loads, as a condition of those plans being approved.
4. Any on-site power lines shall be underground installations. If such requirement is impossible or impracticable, the Planning Board shall have the discretionary authority to modify this requirement.
5. The proposed project shall be consistent with the adopted Town of Ancram Comprehensive Plan.
6. All areas of the proposed project shall be readily accessible for fire, emergency services and police protection. The Planning Board may require local fire and emergency services to be provided with site plans for a solar energy system for their review to ensure emergency accessibility.

**d. Rooftop and Flush-Mounted Small-Scale Solar Energy Systems.**

1. A rooftop and flush-mounted solar energy system with a rated capacity of 25 kW or less that generates electricity primarily for on-site consumption is allowed as an accessory structure and shall be permitted through use of the Unified Solar Permitting Process adopted by the Town of Ancram. No Planning Board review shall be required for such systems.
2. In addition to meeting the requirements of Subsection (c) [General Design and Siting

Requirements] , rooftop and flush-mounted solar energy system shall incorporate the following design requirements:

- a. Solar collectors on pitched roofs shall be mounted with a maximum distance of eight (8) inches between the roof surface and the highest edge of the system.
  - b. Solar collectors on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
  - c. Solar collectors on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
  - d. Solar collectors on flat roofs shall not extend above the top of the surrounding parapet, or more than twenty-four (24) inches above the flat surface of the roof, whichever is higher.
  - e. In no event shall solar collectors mounted on buildings be higher than five (5) feet above the level of the permitted building height.
3. A rooftop and flush-mounted solar energy system shall be designed according to New York State Building Code to withstand wind and heavy snow loads. Access points required to maintain the solar collectors and solar equipment in proper working order shall be incorporated in all plans for installations of rooftop and flush-mounted solar energy systems.
4. In order to ensure the safety of firefighters and other emergency responders, except in the case when solar collectors are installed on an accessory structure less than 1,000 square feet in area, there shall be a perimeter area around the edge of the roof and pathways to provide space on the roof for walking around solar collectors. There shall be access pathways along the roof with no such pathways extending over windows, roof vents, or skylights or conflicting with overhead wires, tree limbs, ground obstructions, or satellite dishes/antennae. Pathways shall be placed at building strong points. In order to mitigate electrical hazard to firefighters and other emergency responders, the following shall be implemented:
- a. Direct current (DC) and alternating current (AC) disconnect switches for the energy system shall be located in close proximity to the electrical service meter.
  - b. A photovoltaic (PV) system shall have a disconnect switch on the electrical service to prevent energy from being fed into the service during a power failure.
  - c. The electrical meter of a building served by a photovoltaic (PV) system shall have affixed to it a utility warning sticker stating, in substance, that the building is served by a photovoltaic system.
5. There shall be a permanent plaque or directory placed in an exterior location near the main or front entry of a residence or other structure that is readily visible to firefighters to identify system disconnect(s) location. The plaque or directory shall meet all New York State Building Code standards for reflection, lettering and color for easy visibility. As part of the permitting process, the Code Enforcement

Officer/Building Inspector shall inspect and evaluate such location and plaque design to ensure its visibility.

**e. Ground-Mounted and Freestanding Small-Scale Solar Energy Systems**

1. Ground-mounted and freestanding solar energy systems with a rated capacity of 25 kW or less that generate electricity primarily for on-site consumption shall be allowed as an accessory structure and shall require a Special Use Permit approval by the Planning Board and the subsequent issuance of a Building Permit.
2. Ground-mounted or freestanding solar energy systems shall not locate in the following areas:
  - a. Areas of potential environmental sensitivity, including but not limited to resources such as flood plains, wetlands, wetland buffers and stream buffers as identified by the Significant Habitats in the Town of Ancram map, or other maps identified in the Town of Ancram Comprehensive Plan, or as identified by the New York State Department of Environmental Conservation, United States Army Corps of Engineers, or other Town, County, State and/ or Federal Agency.
  - b. Slopes greater than fifteen percent (15%).
3. Ground-mounted and freestanding solar energy systems shall be set back a minimum of twenty-five (25) feet on any side and rear lot.
4. No Ground-mounted and freestanding solar collector is allowed in the required front yard setback except in the following circumstance. In the case where a lot's width and road frontage are greater than the depth, and where it is not feasible to meet all setbacks to place ground-mounted solar collectors in the rear, ground-mounted solar collectors may be placed in the front yard setback placed to the side of the principal structure. No ground-mounted solar collectors may be placed directly in front of the home or principal structure.
5. The height of ground-mounted or freestanding solar collectors shall not exceed fifteen (15) feet when oriented at maximum tilt.
6. No minimum lot size is required for the installation of a ground-mounted or freestanding solar system.
7. Screening shall be provided to the maximum extent practicable from adjoining lots using features such as earthen berms, landscaping, fencing, or other screening which will harmonize with the character of the property and surrounding area. The proposed screening shall not interfere with normal operation of the solar collectors nor shall it block or shade property to the north. The Planning Board may require a screening plan.
8. There shall be a permanent plaque or directory placed in an exterior location that is readily visible to firefighters to identify system disconnect(s) location. The plaque or directory shall meet all standards for reflection, lettering and color for easy visibility. As part of the permitting process, the Code Enforcement Officer/Building Inspector shall

inspect and evaluate such location and plaque design to ensure its visibility.

**f. Building-integrated Small-Scale Solar Energy Systems**

1. Photovoltaic systems that are integrated directly into building materials (e.g., roof shingles) and are a permanent and integral part of a building or structure (not mounted on or affixed to), are exempt from the requirements of this Section. However, all applicable building codes shall be met, and necessary permits obtained. Building-integrated small-scale solar energy systems must be properly engineered and when proposed, shall be shown on any application submitted for a building permit.
2. There shall be a permanent plaque or directory placed in an exterior location that is readily visible to firefighters to identify system disconnect(s) location. The plaque or directory shall meet all standards for reflection, lettering and color for easy visibility. As part of the permitting process, the Code Enforcement Officer/Building Inspector shall inspect and evaluate such location and plaque design to ensure its visibility.

**g. Community-Scale Solar Energy Systems**

1. Community-scale solar energy systems are allowed in the Town of Ancram Agriculture Zoning District pursuant to a Site Plan and Special Use Permit approved by the Planning Board.
2. After review and study, the Town has determined that a solar energy system occupying ten (10) acres would have the capacity to generate energy sufficient to meet the energy needs of approximately twenty five percent (25%) of the total number of housing units in Ancram. Further, the Town considers solar systems requiring more than ten (10) acres in scale to be incompatible with the Town's environmental, farmland, local food production, and rural character priorities, as those priorities have been established and expressed in the Town of Ancram Comprehensive Plan. Therefore, community-scale solar energy systems shall not exceed ten (10) acres in size regardless of the maximum energy generating capacity of the system.
3. All applications for community-scale solar energy systems shall include the following, in addition to the site plan review and special use permit application requirements of Article VI and VII:
  - a. Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposed layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of site plan approval.
  - b. An electrical diagram detailing the solar energy system installation, all associated components including any proposed battery storage facilities, and electrical interconnection methods, with all disconnects and over-current devices identified.
  - c. Location and design of all access roads, gates, parking areas, etc.

- d. Plan for clearing and/or grading of the site. The clearing and grading plan shall also include methods to stockpile, reduce erosion of, and reuse all disturbed topsoil.
- e. A stormwater pollution prevention plan, certified by a professional engineer, which demonstrates stormwater runoff will infiltrate into the ground beneath at a rate equal to that of the infiltration rate prior to the placement of the system and that will not adversely affect adjacent properties or natural resources such as streams, wetlands, or other water bodies.
- f. Documentation of utility notification, including an electric service order number.
- g. Decommissioning plan and submission of a performance bond or other financial surety that satisfies the Town that all required remediation and restoration improvements shall be made.
  - i. All applications for a community-scale solar energy system shall be accompanied by a decommissioning plan to be implemented upon abandonment, or a cessation of activity, or in conjunction with removal of the community-scale solar energy system. Prior to issuance of a building permit, the owner or operator of the facility or structure shall post a performance bond or other suitable guarantee in a face amount of not less than 150% of the estimated cost of decommissioning, as determined by the engineer retained by the Town, to ensure removal of the facility or structure as well as restoration and revegetation in accordance with the decommissioning plan described below and as approved by the Planning Board. The form of the guarantee must be reviewed and approved by the Town's consulting engineer and the Town Attorney, and the guarantee must remain in effect until the system is removed. The cost of the review of the guarantee by the Town's consulting engineer and the Town Attorney shall be paid from a Town escrow funded by the applicant. Prior to removing a community-scale solar energy system or structure, the applicant shall obtain a demolition permit from the Town of Ancram.
  - ii. The applicant will submit a decommissioning plan that ensures that the site will be restored to a useful, nonhazardous condition without delay, including but not limited to the following:
    - 1. Removal of all aboveground and below-ground equipment, structures and foundations including but not limited to ground anchors, cables, wiring, concrete foundations, switchyards, control houses, fencing, and inverters.
    - 2. Restoration of the surface grade and topsoil after removal of equipment. Compacted portions shall be decompacted and excavations shall be backfilled to restore the site.
    - 3. Revegetation of restored topsoil areas with native seed mixes, excluding any invasive species.
    - 4. In the event that construction of the community-scale solar energy

system or structure has been started but is not completed and functioning within 18 months of the issuance of the final site plan, the Town may notify the operator and/or the owner to complete construction and installation of the facility within 180 days. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan.

5. The decommissioning plan must be completed within 180 days of notification by the Town.
  6. Upon cessation of activity of a fully constructed community-scale solar energy system or structure for a period of one (1) year, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within 180 days of notice being served, the owner and/or operator shall either restore operation equal to at least eighty percent (80%) of approved capacity or complete implementation of the decommissioning plan.
- iii. If the owner and/or operator fails to fully implement the decommissioning plan within the 180-day time period and restore the site as required, the Town may, at its own expense, provide for the restoration of the site in accordance with the decommissioning plan and may, in accordance with the law, recover all expenses incurred for such activities from the defaulted owner and/or operator. The cost incurred by the Town shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes.
  - iv. If the applicant ceases operations of the community-scale solar energy structure or system for a period of eighteen (18) months or begins and does not complete construction within eighteen (18) months after receiving final site plan approval, the decommissioning plan shall be fully implemented within 180 days.
- h. The Planning Board is authorized to seek and use legal, engineering, planning, or other professional assistance in connection with its review of any proposed community-scale solar energy system. All costs incurred related to retention of any such assistance shall be paid from the Town's escrow account with funds provided in full by the applicant. The Town shall require any applicant to pay all associated costs for any application review, including but not limited the review required under the State Environmental Quality Review Act [SEQRA]. The Town shall establish an escrow account for the project pursuant to LL#1 of 2004, with fees to be paid by the applicant prior to initiation of any project review. The Town shall provide a written estimate of fees to the applicant in order to establish this escrow. Project review shall not initiate or continue unless the escrow account is funded as per estimates provided by the Planning Board.
  - i. Accurate photo simulations shall be included showing the proposed solar energy system in relation to the building/site along with elevation views and dimensions, and manufacturer's specifications and photos of the proposed solar energy

system, solar collectors, and all other components. Photo simulations shall be provided from multiple angles for all key locations identified as may be directed by the Planning Board. Key viewpoints including existing tree lines, surrounding topography, and proposed elevations shall be required.

- j. A landscape plan showing all existing natural land features, trees, forest cover, and all proposed changes to these features. The plan shall show all trees and other vegetation which shall be incorporated into screening of the facility.
  - k. Part I of the full environmental assessment form (FEAF) filled out.
  - l. Details of the proposed noise that may be generated by inverter fans. The Planning Board shall require a noise analysis to determine potential adverse noise impacts.
  - m. Fees. The applicant shall submit all fees as established by the Town of Ancram Town Board.
4. General Provisions for Community-Scale Solar Energy Systems. In addition to meeting all requirements for a special use permit and site plan review as established in this Zoning Law, all community-scale solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code. In addition, the following requirements shall be met:
- a. All solar collectors and related equipment shall be surfaced, designed, and sited so as not to reflect glare onto adjacent properties and roadways. Collectors shall not reflect more than two percent (2%) of incoming sunlight. The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists.
  - b. Setbacks. Solar collectors shall be set back a minimum of 100 feet on any side and rear lot. No solar collector shall be allowed to be placed within the required front yard setback. The Planning Board is authorized to increase the width of this setback after analysis of site conditions and adjacent land uses and determines that a wider buffer is required.
  - c. The character and appearance of the proposed project shall be in general harmony with the character and appearance of the surrounding neighborhood and shall not detract from the scenic qualities, rural character, and visual qualities of Ancram's landscape and historic character.
  - d. All community-scale solar energy systems shall adhere to all applicable New York State or Town of Ancram building, plumbing, electrical, and fire codes.
  - e. Community-scale solar energy systems are prohibited within the Scenic Corridor Overlay Zone.
  - f. Development and operation of a solar energy system shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other

significant habitats identified by the Town of Ancram or other federal or state regulatory agencies. Applicants shall use the adopted Town of Ancram Comprehensive Plan, the Town of Ancram Natural Resource Plan, the Town of Ancram Agricultural and Farmland Protection Plan, and the Town of Ancram Natural Resource Occurrence map showing sensitive environmental features, along with other site information, to identify and describe how the proposed solar energy system shall avoid or mitigate adverse impacts to these resources. The site plan shall include identification of wildlife species that may use the parcel including potential wildlife travel corridors, migration paths, or critical habitats as identified by the New York State Department of Environmental Conservation or as shown on the Town of Ancram Natural Resource Occurrence map.

- g. As per the Natural Resources Occurrence Map, lands having three (3) or more overlapping natural resources shall be prohibited for siting community-scale solar energy systems. No solar system shall be installed in a designated wetland as defined by the New York State Department of Environmental Conservation, the U.S. Army Corps of Engineers, or other governing body, on slopes > 15%, on ridgelines as shown on the Town of Ancram Steep Slope and Ridgeline Overlay District map, or within 150 feet of a stream.
- h. Any site containing a community-scale solar energy system shall be enclosed by perimeter fencing at a height of 8.5 feet to restrict unauthorized access. The Planning Board may require open space at the bottom of the fence to allow for unfettered passage of birds and small animals. There shall be created and maintained within the security fence, and between such fence and the components, structures, or fixtures of the solar energy system, a clear and unobstructed buffer area at least twenty-five (25) feet in width encircling the entire perimeter of the facility, with a surface and grade suitable for the safe passage of fire trucks and other emergency vehicles.
- i. Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize both the number and size of roadways constructed and soil compaction.
- j. Previously cleared or disturbed areas such as but not limited to former commercial sites, old landfill, and abandoned mines are preferred locations for solar collector arrays. The clearing of additional lands to accommodate a proposed community-scale solar system may be permitted, provided the percentage of newly cleared land on any parcel does not exceed ten percent (10%) of the existing woodlands on that parcel.
- k. Native grasses and vegetation shall be maintained below the arrays. Pollinator-friendly vegetation shall be included in the landscaping. The ground within the fenced perimeter shall not be tamped, compressed, or otherwise conditioned with herbicides or similar other treatment to inhibit the growth of natural vegetation.
- l. Agrivoltaic Dual Use. The Planning Board may allow but not require a solar energy system on farmland to exist alongside agricultural uses, so the land is used both for energy generation and farming concurrently. Dual uses allow for the co-usage of the lands under and around installed solar collectors for grazing or growing of crops that could be grown or harvested without damaging or

interfering with solar facilities. While allowing design flexibility to support varying agricultural activities without unnecessary costs, a solar system designed for dual use should result in less than fifty percent (50%) shading of the underlying land. The Planning Board shall require the applicant to submit information about potential impacts to farmland and agricultural uses in the New York State Agricultural District in Ancram as part of its special use permit application.

- m. The solar energy system, including all proposed structures and off-site infrastructure, shall be located and maximally screened within 5 years in such a way as to avoid or minimize visual impacts as viewed from:
  - i. Public roads and highways and other public sites.
  - ii. Existing residential dwellings located on contiguous parcels.
- n. The applicant shall provide a landscape plan designed to maximally screen the site from roadways and other public locations, neighboring properties, and other locations identified by the Planning Board. The landscape plan may include vegetated earthen berms, fences or other planted or natural screening which will harmonize with the character of the surrounding area. The plan shall include a planting plan and plant list with installed and mature plant sizes. The plants should be a mix of deciduous and evergreen native trees, shrubs, and herbaceous vegetation arranged in a natural way to achieve full screening. The plan shall also include a landscape maintenance plan and guarantee that the plantings will maximally screen the system within five (5) years and remain until it is decommissioned.
- o. All transmission lines and wiring associated with a solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and Town requirements. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant to demonstrate that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead and underground electric utility 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 utility company's requirements for interconnection.
- p. Artificial lighting of solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads. All lighting sources and fixtures shall fully shield and comply with International Dark-Sky Association lighting standards.
- q. Any signage used to advertise the solar energy system shall be in accordance with the Town's signage regulations. The manufacturer's and installer's identification, contact information, and appropriate warning signage shall be posted at the site and clearly visible.
- r. The maximum height of the solar collector arrays shall not exceed fifteen (15) feet.

- s. Following construction of a community-scale solar energy system, 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.
- t. Any post-construction changes or alterations to the solar energy system shall be done by amendment to the special use permit only and subject to the requirements of this article.
- u. Within 30 days after completion of a community-scale solar energy system, the applicant shall file in the office of the Town Clerk a post-construction certification from a professional engineer registered in New York State stating that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected.
- v. Special use permits granted for community-scale solar energy systems shall be assignable or transferable to future landowners of that system on the approved parcel so long as they are in full compliance with this Section and all conditions imposed upon the use from the original special use permit approval, and the Code Enforcement Officer is notified in writing of the property transfer at least fifteen (15) days prior thereto.

**h. Storage Batteries**

- 1. Storage batteries for small-scale and community-scale solar systems that are located on the same parcel as the solar system shall be considered an accessory use as per the Town of Ancram Use Table and shall be reviewed as such. All batteries and battery and storage structures shall comply with all applicable laws, codes, regulations, and standards including, but not limited to, ensuring they are screened and sited in the same manner as all other structures related to the solar system.
- 2. Storage batteries for small-scale and community-scale solar systems that are located on a different parcel than the solar system shall be considered an additional principal use as per the Town of Ancram Use Table and shall be reviewed and permitted separately.

**i. Utility-scale solar energy systems generating electricity for off-site consumption requiring greater than ten (10) acres of land area and having a nameplate capacity of less than twenty (20) megawatts.**

- 1. **Prohibition.** In order to meet the Town of Ancram Comprehensive Plan (the Plan) direction to allow for appropriately scaled renewable energy sources and to exclude large scale projects, utility-scale solar energy systems requiring more than ten (10) acres of land area and having a nameplate capacity of less than twenty (20) megawatts (MW), the function of which is to generate energy for transfer, sale, storage or other transmission or consumption beyond the parcel or parcels upon which the facility is located, are prohibited in all Zoning Districts in the Town of Ancram.
  - a. **Rationale.** Pursuant to the Town of Ancram Comprehensive Plan, Ancram has

established an overall policy establishing its desire to maintain its predominantly rural character, preserve agricultural landscapes, open space, important scenic views, and infrastructure appropriate for a small, rural town. The Plan also establishes that Ancram wishes to respond to the effects of climate change, and specifically establishes a vision to “use and support appropriately scaled renewable energy sources.” Further, the Plan establishes specific policies for solar and wind power including that to “continue to allow solar and wind power for agricultural, residential, and small business use”, and to “consider policies for appropriately scaled solar and wind projects to generate electricity for the community”, and to “exclude large scale commercial wind and solar operations that export electricity outside the town as these are considered inconsistent with the rural character of the community.”

- b. In addition to implementing the directives of the Plan, other reasons for this prohibition are based upon a comprehensive evaluation of the environment and natural resources within the Town. This evaluation included information from Ancram’s Comprehensive Plan, Natural Resource Plan, Agricultural and Farmland Protection Plan, Hydrogeological Study, and a comprehensive Natural Resources Occurrences analysis for solar siting. Ancram has identified significant environmental sensitivities and resources within the Town that are identified as follows:

- I. Unique habitats as shown in the Ancram Natural Resource Conservation Plan and the Columbia County Natural Resources Inventory.

Ancram has twenty-five (25) upland and wetland habitats identified in the Natural Resources Conservation Plan as being ecologically significant. These include both common habitats such as upland hardwood forests, upland meadows, and hardwood swamps, and less common habitats such as kettle shrub pools, fens, cool ravines, and oak-heath barrens. They also include habitats such as “waste ground” which refers to highly disturbed areas such as mines, where topsoil and vegetation have been removed, but there are no structures or pavement.

There are two listed New York State (NYS) Endangered Animals species (Indian bat and bog turtle) in Ancram, two NYS Threatened species (timber rattlesnake, least bittern), several NYS Species of Special Concern (including spotted turtle, sharp-shinned hawk, and grasshopper sparrow), and several other NYS Species of Greatest Conservation Need (for example, four-toed salamander, New England cottontail, black-billed cuckoo, and willow flycatcher).

- II. Wetlands as shown on wetlands maps in the Ancram Natural Resource Conservation Plan and regulated by the New York State Department of Environmental Conservation (NYS DEC) or the U.S. Army Corps of Engineers.

Wetlands. Wetlands provide critical habitats for plants and animals, but also benefit the broader environment and human communities by controlling

flooding, filtering water to remove pollutants, sequestering carbon, providing wildlife habitat, and providing a host of other services. There are State-regulated wetlands delineated throughout Ancram, including a large wetland complex at Drowned Lands Swamp. Additionally, there are many National Wetland Inventory (NWI) wetlands that contribute to ecological functioning.

The Town has identified many areas that have hydric (wetland) soils even though some are currently farmed. These may often be wet meadows and not a typical emergent swamp. Wetlands, including wet meadows, contribute to the rich biodiversity in an ecosystem. New York State has adopted wetlands laws to protect the essential services wetlands play in defending the ecosystem from degradation. Ancram has included wetlands in their zoning as a resource to be protected.

The installation, maintenance and even decommissioning of solar systems in a wetland have adverse implications. Construction involves heavy equipment that not only compacts hydric soils, which leads to shifts in plant communities, but also produces noises and vibrations that disrupt use of the area by both resident and migrating wildlife species. Compaction of soils restricts nutrient and water flow, increases runoff and flooding, and reduces groundwater recharge. Post construction, solar collectors will decrease the amount of light reaching the soil surface, thus reducing plant productivity and carbon sequestration. Mechanical and chemical treatments used to control vegetation under and around collectors create potential for contamination due to pesticides.

- III. Steep Slopes and Ridgelines as shown on the Town of Ancram Comprehensive Plan, Natural Resources Conservation Plan, and in their Steep Slope and Ridgeline Overlay District Map (zoning).

Significant areas of steep slopes (> 15%) are mapped and evaluated in the Town's Comprehensive Plan and the Natural Resources Conservation Plan. Steep slopes and associated ridges are found throughout Ancram. Overall, Ancram's terrain is hilly to mountainous. Changes in elevation influence ecological systems by determining different microclimates, vegetation and habitats. Steep slopes influence farming and other land use activities.

The Town's planning has long recognized the role steep slopes and ridgelines have in Ancram. As such, the Town has created a steep slope and ridgeline overlay zoning district specifically designed to limit adverse impacts of development on those areas.

Disturbances to topographic features, especially on steep slope areas, can impact water quality of nearby streams, wildlife use of an area, and increase erosion and sedimentation risk. Other adverse impacts when steep slopes are developed could also include loss of topsoil, silting of wetlands, alteration of drainage patterns, obstruction of drainage structures, intensification of flooding, and loss of habitats and biodiversity over a much

larger area.

- IV. Areas having high hydrogeologic sensitivity as established in the Town of Ancram Hydrogeological Study (2008) and included in the Town Comprehensive Plan.

Large-scale solar systems development can affect streams and water quality indirectly even when placed outside stream boundaries due to changed water drainage regimes, and increased erosion and sedimentation from development upgrade from the stream. Ancram is committed, as evidenced by its Plan and its Zoning Law, to protect the full integrity of hydrologic systems in the Town.

- V. Important Areas Stream Habitats as shown in the Ancram Natural Resource Conservation Plan and the Columbia County Natural Resources Inventory.

Streams are valuable environmental resources also related to floodplain and riparian zone features. The Town Comprehensive Plan explicitly seeks to preserve streams and their buffers and details the role these resources play as water sources, important plant and animal habitats, travel corridors, and ecological functions within the Hudson River watershed. The Plan specifies the need to protect streams and stream corridors. Most streams in Ancram are NYS DEC regulated streams.

Like floodplains, streams provide many critical environmental services as described above. Increased frequency and intensity of extreme weather events also affect streams, their banks and adjacent riparian areas even if those areas do not flood. Wooded vegetation found along streams creates a critical green infrastructure linked to many other locations in the Town and beyond. Disruption of natural systems by siting solar systems within stream corridors could have a large environmental impact by removal of vegetation or increasing water runoff. Flood damage to solar facilities may result in release of potentially toxic heavy metals and silicone by-products that are used in the collectors. Damaged units or time may release these contaminants into the environment.

- VI. Important Areas Animals and Plants as shown in the Ancram Natural Resource Conservation Plan and the Columbia County Natural Resources Inventory

Important Areas (IA) are lands and waters that support the continued presence and quality of known populations of rare animals and rare plants, or of documented examples of rare or high-quality ecological communities. Important Areas include the specific locations where the animals, plants, and/or ecological communities have been observed, but go beyond these locations to also include additional habitat for the rare animal and plant populations, including areas which may be used by rare animals for

breeding, nesting, feeding, roosting, or over-wintering; and to include areas that support the natural ecological processes critical to maintaining the habitats of these rare animal and plant populations, or critical to maintaining these significant communities.

IA's are generated using Geographic Information System Important Area spatial models (IA models) applied to occurrences of rare plants and animals and significant natural communities in the State's New York Natural Heritage database or applied to observation locations of other species obtained from other sources. There are significant areas throughout Ancram, including areas along streams and in the central to northeastern corner of Town, identified as important areas.

VII. Natural Heritage Communities as shown in the Ancram Natural Resource Conservation Plan and the Columbia County Natural Resources Inventory.

Identified by the New York State Natural Heritage Program, one natural heritage community has been identified in Ancram. Natural Heritage Communities represent occurrences of rare or high-quality natural communities (ecological communities), as recorded by the New York Natural Heritage Program.

VIII. Significant Biodiversity Areas (SBA) as shown in the Ancram Natural Resource Conservation Plan and the Columbia County Natural Resources Inventory.

These are locations of high concentration of biological diversity or value for the regional biodiversity. The New York State Department of Environmental Conservation (NYS DEC) Hudson River Estuary Program have identified SBA's throughout the Hudson River estuary region of New York State. SBAs are defined by unique topography, geology, hydrology, and biology that distinguish them from neighboring areas. In Ancram, the Taconic Ridge SBA and the Harlem Valley Calcareous Wetlands together cover about half the Town's landmass. These areas also overlap with forests having a high Forest Condition Index.

IX. Riparian Areas as shown in the Ancram Natural Resource Conservation Plan, regulated in the Town of Ancram Zoning Law, and shown in the Columbia County Natural Resource Inventory.

Riparian areas are identified as a critical resource in Ancram. These areas are important habitats and contribute directly to the stream's water quality and ecosystem. The Natural Resource Plan establishes that "The most effective means of sustaining groundwater supplies, clear lakes and ponds, and cool, clean streams with stable banks are to maintain substantially forested watersheds and maintain riparian zones with undisturbed vegetation and soils." To protect these important areas, the Town has created a zoning requirement for stream buffers specifically to protect the

environmental functioning of this resource.

- X. Flood Hazard Areas as shown on the FIRM maps and adopted by the Town of Ancram.

Flood Hazard Areas are identified in the Town of Ancram Flood Insurance Rating Maps (FIRM) and the Town of Ancram Flood Damage Prevention Law as adopted by the Town of Ancram and are included as a mapped environmental resource in their Comprehensive Plan, Natural Resource Conservation Plan, and Natural Resources Occurrence Analysis. The Town of Ancram explicitly seeks to preserve floodplains for their natural functions. Protecting intact floodplain habitats can maintain groundwater recharge, reduce the risk of downstream flooding and erosion, increase wildlife habitat resources and connectivity, maintain or improve stream water quality and habitat quality, and support human recreational activities. They also tend to be very productive biological areas, are ecologically diverse and, along with other streamside (riparian areas), serve as important wildlife habitat and travel corridors. Ancram's Zoning Law protects floodplains through establishment of restriction on certain land uses. In addition, the Town has identified flood hazard areas as a critical environmental area in their Natural Resource Plan.

The Town Natural Resource Plan explicitly seeks to preserve floodplains and details how these lands hold important ecological and hydrological functions including providing habitats, wildlife travel corridors, enhancing water quality, maintaining biodiversity, and moderating climate change. This Plan states: "that the town prohibit construction of new buildings, roads, driveways, and other structures in the 200-year (or even 500-year) floodplains of Ancram streams, and encourages the removal of structures, equipment, and materials that could interfere with natural flood dynamics, or create local or downstream hazards if flooded. Stored materials in barns, sheds, garages, and residences in floodplains—including household cleansers, paints, solvents, fuel oil, gasoline, lubricants, antifreeze, pesticides, and fertilizers—can readily contaminate floodwaters and create toxic conditions downstream."

Increased frequency and intensity of extreme weather events are being keenly felt throughout New York State. Such events lead to more frequent and more powerful floods. Floodplains serve as the first line of defense in moderating these effects and need to remain unfettered with development that may change water flow or create debris during a flood. Installation of components such as inverters and battery storage systems in places which are vulnerable to flooding events can cause not only damage to the facility but wider electrical outages and impacts. Large scale fencing and removal of natural vegetation found in floodplains, especially within the riparian zone, will disrupt important wildlife travel corridors, remove vegetation necessary to moderate climate change, and reduce biodiversity. Large scale solar systems placed in floodplains will adversely affect these resources.

- XI. Forest Patches using NYS DEC Scoring Criteria of > 60% as developed by the NYS DEC and as shown in the Natural Resources Conservation Plan.

Large forests have values for biodiversity that are not duplicated by smaller forest patches. Forests are one of the most widespread habitats in Ancram, and one of the most valuable for biodiversity, for water resources, and for ecological services to the human community. By prioritizing the conservation of large forests, the town intends to protect habitat for many plants and animals of conservation concern, maintain habitat connectivity, facilitate plant and animal movement in a changing climate, protect groundwater and surface water resources, promote and maintain high levels of carbon sequestration, and preserve scenic viewsheds.

The quality of Ancram's forests is further quantified by the Forest Condition Index. The NYS DEC Hudson River Estuary Program and the New York Natural Heritage Program developed the Forest Condition Index to assess the conditions of forests in the Hudson River Watershed. Twenty-two different measures were included in creating the index. The Forest Condition Index is one method to describe the value of any given area of forested land. Forest condition is dependent on many features that interact differently in different places. Ancram has a large amount of prime forest that has received a Forest Condition Index of > 60%.

Ancram has contiguous forest areas of several thousand acres, some of which extend into neighboring towns and are part of a critical forest area that remains largely unfragmented and that contributes to the high level of resiliency to climate change in the region and to the high biodiversity found in and near the Taconic Ridge.

- XII. Prime Farmland Soils and Soils of Statewide Importance as mapped by the Columbia County Soil Survey, the Town of Ancram Comprehensive Plan, the Columbia County Agricultural and Farmland Protection Plan, the Columbia County Natural Resources Inventory, and the Town of Ancram Agricultural and Farmland Protection Plan.

Agriculture is the land use that utilizes the most land cover in Town. A significant amount of land in Ancram is covered with prime farmland soils, soils of statewide significance, and prime farmland soils when drained as established in the Town of Ancram Comprehensive Plan, the Natural Resources Conservation Plan, and the Ancram Agricultural and Farmland Protection Plan. Since Ancram is primarily an agricultural community, extensive field drainage exists and many of the areas identified as 'prime farmland if drained' would be considered 'prime farmland soils'. Most of the Town is included in a New York State Certified Agricultural District.

Prime farmland soils are recognized by both New York State and the USDA as crucial to continued agricultural activity and sustainability of our farms and are the best land for producing food, feed, fiber forage and oilseed

crops. New York State Agriculture and Markets Law (AML) Article 25-AA establishes that “It is the declared policy of the state to conserve, protect and encourage the development and improvement of its agricultural land for production of food and other agricultural products.” Further, the constitution of the State of New York directs the legislature to provide for the protection of agricultural lands and Article 25-AA was established to “provide a locally-initiated mechanism for the protection and enhancement of New York State’s agricultural land as a viable segment of the local and state economies and as an economic and environmental resource of major importance.”

Ancram considers prime farmland soils and soils of statewide importance to be critical environmental resources and not appropriate for conversion to other uses and seeks to preserve both its farmland and active farming activities. Adverse environmental impacts to these soils, or the loss of significant uses of these soils for food production will adversely affect the viability of Ancram’s agricultural community and economy.

Solar development has the potential to remove land from agricultural production for the duration of the life of the facility, typically decades. This is especially so since so much land in Ancram is forested and solar facilities will seek out the open spaces of Ancram’s farmland. Loss of farmland has many implications for local and regional food production, the economy, and even the economic health of the farmer. Loss of important soils for food production not only affects food safety and thus human health but has off-site impacts to agriculture as well.

Farmers that rely on rented farmland for their operations will have loss of access to those fields which have been converted to solar use. This loss can disrupt farm viability even if the actual farm is not adjacent to a proposed solar site. When land that farmers rent is slated for solar development, the farmer loses ability to implement whole-farm nutrient management plans. Loss of leased farmlands will decrease farm density, which will also affect farm suppliers, services, and the regional economy.

Although solar systems are frequently cited as being a ‘temporary’ land use and that farming could continue after decommissioning a solar facility, Ancram recognizes that due to the recent nature of the development of large-scale solar systems in New York, there is no experience or previous knowledge as to the long-term soil preservation implications. Nor have the long-term impact of removal of the supports and buried electrical conduits and other soil disturbances been evaluated. Further, without maintenance of a critical mass of farmland and the farm economy in which farmers are able to successfully farm with intact infrastructure to support it, there may be no farmers in the future that could return the land to agriculture. Thus, Ancram acknowledges that there is a high probability that a site will never return to farming and seeks to prevent this consequence.

Columbia County Agricultural and Farmland Protection Plan.

This County adopted, and New York State Department of Agriculture and

Markets approved, plan meets the statutory requirements of Section 324-a of Article 25-AA of the New York State Agriculture and Markets Law. This Plan was funded and formally approved by the New York State Department of Agriculture and Markets as part of the Article 25-AAA, Circular 1500 Agricultural and Farmland Protection Program. This Plan establishes the importance of prime farmland soils and priority farmlands needing to be preserved in order to maintain the critical mass of farmland and farm activities in the County. The County plan also identifies priority lands for protection. Pursuant to that Plan, the Town of Ancram has one of the largest concentrations of priority farmlands identified as being of high viability for agriculture.

2. The Town of Ancram has identified and comprehensively described the above natural resources and environmental conditions present in the Town. The Town further recognizes that the individual natural resources identified in Ancram are part of a broader ecological system that supports human life. In its long history of planning, the Town has recognized how land-use changes can degrade the environment, and this has informed the understanding that degradation of one environmental component impacts the others. As a result, Ancram has put in place significant land-use regulations designed to protect core environmental features in Ancram. Preservation of natural resources, and especially protection of farmlands and maintenance of local farms in the age of pandemics and global climate change, is recognized as essential to ensuring the resiliency and sustainability of local health and safety, food security, and food availability. Additionally, Ancram has established local policies and regulations in furtherance of, and consistent with, significant and long-standing New York State policies related to protection of farmland soils, wetlands, and floodplains, and protection of threatened and endangered species, preservation of waterfront areas, protection of water quality, and improving food accessibility and food security.
3. As such, the Town has determined that utility-scale solar energy systems greater than ten (10) acres in size are not consistent with either the goals and needs of the Town or with the environmental conditions of Ancram. For the above reasons, the Town of Ancram has determined that solar energy facilities larger than ten (10) acres will cause significant adverse environmental impacts to important natural resources and the ecosystem in which they exist as identified within the Town of Ancram.
4. The Town further finds that adverse impacts associated with solar energy facilities greater than ten (10) acres in size are not capable of effective mitigation or of mitigation to a scale which will achieve mitigation to the maximum extent practicable.

**J. Utility-Scale solar energy systems or facilities having a nameplate capacity of twenty (20) megawatts or more.**

1. Prohibition of Major Renewable Energy Facilities in all Zoning Districts.

Major renewable energy facilities for off-site consumption and having a nameplate capacity of twenty (20) megawatts or more, the function of which is to generate energy for transfer, sale, storage or other transmission or consumption beyond the parcel or parcels upon which the facility is located, are prohibited in all Zoning Districts in the Town of Ancram.

- a) Rationale. Local laws which apply to major renewable energy facilities are considered to be important by New York State (NYS) Executive Law § 94-c. Section 94-c (5)(e) expressly states that:

“A final siting permit may only be issued if the office makes a finding that the proposed project, together with any applicable uniform and site-specific standards and conditions would comply with applicable laws and regulations” [emphasis added].

- I. The importance of local laws is manifest from this statement. In choosing to make this statement in the law, the State Legislature explicitly expresses the intent that the content of local laws shall be a very important consideration for the New York State Office of Renewable Energy Siting (Siting Office) in deciding whether to grant or deny permits for major renewable energy facilities. In crafting Section 94-c, the State Legislature would have been within its authority to supersede all local laws and regulations without making reference to them or statement about them. So, the existence of this language in the statute represents a conscious choice by the State Legislature to make this statement that the Siting Office must find that the project, together with applicable uniform and site-specific standards, would comply with local laws and regulations.
- II. The Town of Ancram has made a careful evaluation of the environment and natural resources within the Town through a comprehensive planning process consistent with Town Law Section 272-a, through a Natural Resource Plan consistent with the Natural Resources Inventory promoted by the New York State Department of Environmental Conservation (NYS DEC) Hudson River Estuary Program, through an Agricultural and Farmland Protection Plan adopted by the Town and approved by the Commissioner of the NYS Department of Agriculture and Markets, through a natural resources occurrence analysis conducted by the Town in 2020, all with the assistance of a professional planning consultant and an attorney. These evaluations have identified significant environmental sensitivities and resources within the Town. Based on those evaluations, the Town of Ancram has determined that renewable energy facilities with a nameplate capacity of twenty (20) MW or greater will cause significant adverse environmental impacts to the numerous critical and important environmental resources present within the Town of Ancram.

NYS Executive Law § 94-c (6) does not allow local municipalities to establish a local review and permitting process for major renewable energy facilities generating twenty (20) MW or greater; and Section 94-c(3)(e) provides that the Siting Office may collect a fee from facility applicants as a means of achieving off-site mitigation of site-specific impacts. The Town has determined that these provisions will not allow adverse impacts associated with major renewable energy facilities with a nameplate capacity of twenty (20) MW or greater to allow for effective mitigation or mitigation implemented on a scale that will achieve mitigation to the maximum extent practicable. Specific rationale is noted at Zoning Law Article V (Supplemental

Regulations), Section D (Individual Standards for Selected Uses), Solar Energy Systems (i) (1) (a) and (b) above.

- b) The Town of Ancram specifically requests that, with regard to any major renewable energy facilities proposed within the Town of Ancram, the Siting Office honor and enforce this prohibition. Based upon the comprehensive environmental analysis completed for Ancram, the Town specifically requests that, with regard to any proposed major renewable energy facility having a nameplate capacity of twenty (20) MW or greater or others being reviewed under NYS Executive Law Section 94-c (2)(h), that the NYS Office of Renewable Energy Siting honor and enforce this prohibition.

This prohibition will not be unreasonably burdensome in achieving the renewable energy targets established in the Climate Leadership and Community Protection Act ("CLCPA") due to the availability of more suitable alternative sites found throughout the entire State of New York. In fact, this Local Law and its prohibition actually serves to promote New York State's resiliency against climate change by promoting and protecting Ancram's natural and environmental resources.

Since 2009, New York State has been engaged in an interagency initiative to combat climate change. The Climate Smart Communities (CSC) program is jointly sponsored by six State agencies including the Department of Environmental Conservation (NYS DEC), the New York State Energy Research and Development Authority (NYSERDA), Department of Public Service, Department of State, Department of Transportation, Department of Health, and the Power Authority. The CSC program promotes a suite of actions that local governments can take to mitigate and adapt to climate change at the local level. In 2014, the Governor's Office directed NYS DEC "to develop and implement strategies to address the cause and effects of climate change, including strengthening our resiliency against storms and flooding." The CSC program is the result of that directive.

Zoning Law Article V (Supplemental Regulations), Section D (Individual Standards for Selected Uses), Solar Energy Systems (i) (1) (a) and (b) above identifies the significant environmental sensitivities in Ancram. That section establishes that Ancram has carefully evaluated and identified its natural and environmental resources and has determined that they are vital to the continued environmental health of the Town and region. These are the same natural resources as those identified in the CSC program as needing protection because they enhance climate resiliency.

The CSC establishes a variety of actions designed specifically to address climate change. These actions are organized into twelve (12) major goals. Among those goals, two specifically address the connection between land uses and climate resiliency and are relevant to the purposes of this Local Law. Ancram recognizes the strong nexus between protection of the Town's farmlands, forests, wetlands, streams, floodplains, natural habitats, and riparian buffers and New York State's own policies and programs (the CSC) designed to address climate change at the local level.

Specifically, the CSC program seeks local governments to implement the following:

CSC Action 6: Implement Climate-Smart Land Use.

6.7: Adopt Land Use Policies That Support or Incentivize Farmers' Markets, Community Gardens and Urban and Rural Agriculture. "Local governments have begun to take an interest in agriculture as a way to address food security, promote public health, support economic and community development, and to improve the urban environment. Increasing the availability of local foods is also an important strategy being used to reduce greenhouse gas emissions from the long-distance transport of food into a region. Rural communities can also promote and preserve agricultural areas through agriculture plans or districts or land preservation."

6.19: Preserve Natural Areas Through Zoning or Other Regulations.

"Natural areas (including forests, wetlands, rivers, lakes, floodplains, and coastal shorelines) play an essential role in communities. They provide clean air and water, stormwater regulation, food and forestry products, scenic areas, outdoor recreation opportunities, and protect important ecological functions. In addition, natural areas often represent a chunk of stored carbon that, if developed, would enter the atmosphere and contribute to greenhouse gas emissions. Functioning ecosystems also sequester carbon and can help to mitigate a community's greenhouse gas emissions. For these reasons, the Climate Smart Communities (CSC) program encourages local governments to use their land-use authority to preserve natural areas."

CSC Action 7: Enhance Community Resilience to Climate Change.

Restoration of Floodplains and Riparian Buffers. "Healthy vegetated riparian buffers can intercept rainfall, filter runoff, capture sediment, absorb excess floodwaters, provide shade and reduce stream temperatures, reduce erosion, and slow down the flow of the water. They also offer benefits to habitat and contribute to ecosystem resiliency. Riparian buffers can help reduce the effects of heavy precipitation events and store water through droughts. Restoring vegetated buffers is important in flood-prone areas, but also in areas upstream of those places to reduce the speed and potentially the volume of floodwaters.

In general, the wider the buffer, the more effective it can be in providing all of the benefits described above. To address flooding, the most effective buffers should include the entire width of the floodplain."

Conservation of Natural Habitats. "Large, natural areas with diverse physical conditions and little fragmentation by roads or development are most likely to maintain diverse ecosystems and ecological processes important for resiliency. Habitat fragmentation can result in species endangerment and loss of ecosystem services, including carbon sequestration. Sustaining resilient ecosystems in a changing climate requires conserving a sufficient variety and amount of connected habitat through a network of natural areas, corridors, and habitat islands that allow plants and animals to move northward and up in

elevation as temperatures increase." The CSC promotes protection of areas that provide natural habitat connectivity and support ecosystem resilience through tools like zoning and conservation easements.

Conserve Wetlands and Forests to Manage Stormwater, Recharge Groundwater and Mitigate Flooding. "It is far more cost-effective to protect natural areas than to restore them, or the streams they are protecting, after they have been degraded. Conserving wetlands and forests in floodplain areas is particularly important but conserving these areas throughout the watershed can contribute numerous benefits. These benefits include providing clean water, improving air quality, moderating extreme heat, and serving as critical wildlife habitat." And "Local Governments can play an important role in filling the gap in wetland and forest protection through comprehensive planning, zoning, regulations and land acquisition in fee or conservation easements."

- c) Prohibition. Consequently, renewable energy facilities having a nameplate capacity of twenty (20) MW or greater, and specifically including all major renewable energy facilities as they are defined in New York State (NYS) Executive Law Section 94-c (2)(h) are prohibited in all Zoning Districts in the Town of Ancram. Based upon the comprehensive environmental analysis completed for Ancram, the Town specifically requests that, with regard to any proposed renewable energy facility having a nameplate capacity of 20 MW or greater or others being reviewed under NYS Executive Law Section 94-c (2)(h), the New York State Office of Renewable Energy Siting honor and enforce this prohibition.

This prohibition will not be unreasonably burdensome in achieving the renewable energy targets established in the Climate Leadership and Community Protection Act ("CLCPA") due to the availability of more suitable alternative sites found throughout the entire State of New York.

2. Election by New York State Office of Renewable Energy Siting Not to Apply Local Prohibition.

- a) Introduction and purpose statement

Despite the stated importance of local municipal regulation in NYS Executive Law § 94-c (as described above), the Town of Ancram recognizes that Section 94-c (5)(e) gives the Siting Office the authority to elect not to apply, in whole or in part, any local law or ordinance which would otherwise be applicable if it makes a finding that, as applied to the proposed major renewable energy facility, it is unreasonably burdensome in view of the CLCPA targets and the environmental benefits of the proposed major renewable energy facility.

In recognition of this authority, and in instances where the Siting Office determines not to apply the prohibition of major renewable energy facilities in the Town of Ancram in any Zoning District in the Town, this law hereby requires that the Siting Office shall consider the environmental and agricultural resources and site-specific adverse environmental impacts set forth herein.

- b) Consideration of Environmental Impacts Under Section 94-c.

While Section 94-c establishes a consolidated approach to the review and approval of major renewable energy facilities, it simultaneously mandates protection from adverse environmental impacts. This is particularly important since the provisions of the State Environmental Quality Review Act (SEQRA) do not apply to these facilities.

Section 94-c (1) says:

“Purpose. It is the purpose of this section to consolidate the environmental review and permitting of major renewable energy facilities in this state and to provide a single forum in which the office of renewable energy siting created by this section may undertake a coordinated and timely review of proposed major renewable energy facilities to meet the state's renewable energy goals while ensuring the protection of the environment and consideration of all pertinent social, economic and environmental factors in the decision to permit such facilities as more specifically provided in this section” [emphasis added].

Later in Section 94-c (3)(c), in discussing the uniform standards and conditions to be developed and promulgated by the Siting Office, it states that those standards and conditions:

“shall be designed to avoid or minimize, to the maximum extent practicable, any potential significant adverse environmental impacts related to the siting, design, construction, and operation of a major renewable energy facility” [emphasis added].

Section 94-c (3)(d) addresses the issue of site-specific environmental impacts that may be caused or contributed to by a specific proposed major renewable energy facility and are unable to be addressed by the uniform standards and conditions. Section 94-c (3)(d) further requires the Siting Office, in the event that a particular major renewable energy facility is to be approved, to draft in consultation with the New York State Department of Environmental Conservation (NYS DEC), site-specific permit terms and conditions for site-specific significant adverse environmental impacts, including provisions for the avoidance and mitigation thereof.

c) Consideration of Specific Environmental Resources in Ancram.

With the foregoing in mind, the Town of Ancram has made a careful evaluation of the environment and natural resources within the Town and has identified significant environmental sensitivities and numerous resources within the Town as detailed in Zoning Law Article V (Supplemental Regulations), Section D (Individual Standards for Selected Uses), Solar Energy Systems (i) (1) (a) and (b).

In the event that the Siting Office elects not to require compliance with the Ancram Zoning Law prohibition against utility-scale renewable energy facilities for a

particular proposed project, this law further mandates that the Siting Office shall expressly require full compliance with the NYS Department of Agriculture and Markets Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands (Revision 10/18/19) (Guidelines). This shall include designating an environmental monitor, implementing the specific construction requirements, establishing post-construction restoration requirements, provide monitoring and remediation, and implementation of decommissioning requirements pursuant to the Guidelines.

Further, the Siting Office shall evaluate all the site-specific potential adverse impacts of the project to the sensitive environmental resources set forth in Zoning Law Article V (Supplemental Regulations), Section D (Individual Standards for Selected Uses), Solar Energy Systems (i) (1) (a) and (b) and summarized below. In making its determination, the Siting Office shall require that potential significant impacts to these sensitive environmental resources be avoided completely or mitigated to the maximum extent practicable. The Siting Office shall require incorporation of the general design criteria as per Zoning Law Article V (Supplemental Regulations), Section D (Individual Standards for Selected Uses), Solar Energy Systems, Section (g) (4) into the design for any utility-scale solar energy system twenty (20) MW or greater. As per Zoning Law Article V (Supplemental Regulations), Section D (Individual Standards for Selected Uses), Solar Energy Systems (i) (1) (a) and (b), resources deemed unsuitable for placement of a utility-scale solar energy system are:

- I. Significant habitats as shown in the Significant Habitats in the Town of Ancram Map, the Ancram Natural Resource Conservation Plan, the Columbia County Natural Resources Inventory, the Hudson Valley Natural Resource Mapper, and the Columbia County Planning Department GIS Data Viewer.
- II. Wetlands and wetland buffers as shown in the Significant Habitats in the Town of Ancram Map, in the Ancram Natural Resource Conservation Plan, and those regulated by the NYS DEC or the US Army Corps of Engineers.
- III. Steep Slopes and Ridgelines and the Scenic Corridor Overlay Zone as shown on the Town of Ancram Comprehensive Plan and in Ancram's Steep Slope and Ridgeline Overlay District Map and the Scenic Corridor Overlay Zone map.
- IV. Areas having high hydrogeologic sensitivity as established in the Town of Ancram Hydrogeological Study (2008) and included in the Town Comprehensive Plan.
- V. Important Areas Stream Habitats as shown in the Significant Habitats in the Town of Ancram map, the Ancram Natural Resource Conservation Plan, and the Columbia County Natural Resources Inventory.
- VI. Important Areas Animals and Plants as shown in the Ancram Natural Resource Conservation Plan and the Columbia County Natural Resources Inventory

VII. Natural Heritage Communities as shown in the Ancram Natural Resource Conservation Plan and the Columbia County Natural Resources Inventory.

VIII. Significant Biodiversity Areas as shown in the Significant Habitats in the Town of Ancram map, the Ancram Natural Resource Conservation Plan, and the Columbia County Natural Resources Inventory.

IX. Riparian Areas as shown in the Significant Habitats in the Town of Ancram map, the Ancram Natural Resource Conservation Plan, the Columbia County Natural Resource Inventory and as regulated in the Town of Ancram Zoning Law.

X. Flood Hazard Areas as shown on the FIRM maps and adopted by the Town of Ancram.

XI. Forest Patches using NYS DEC Scoring Criteria of > 50% as developed by the NYS DEC.

XII. Prime Farmland Soils and Soils of Statewide Importance as mapped by the Columbia County Soil Survey, the Town of Ancram Comprehensive Plan, the Columbia County Agricultural and Farmland Protection Plan, the Columbia County Natural Resources Inventory, and the Town of Ancram Agricultural and Farmland Protection Plan.

**Part 6.** Amendment of Zoning Law Article XIV (Definitions).

- a. Article XIV of the Town of Ancram Zoning Law (Definitions) shall be amended to repeal and remove from that Article the following definition:

Prime Soils: Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and that is available for these uses. It has the combination of soil properties, growing season, and moisture supply needed to produce sustained high yields of crops in an economic manner if it is treated and managed according to acceptable farming methods. In general, prime farmland has an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, an acceptable level of acidity or alkalinity, an acceptable content of salt or sodium, and few or no rocks. Its soils are permeable to water and air. Prime farmland is not excessively eroded or saturated with water for long periods of time, and it either does not flood frequently during the growing season or is protected from flooding.

- b. Article XIV of the Town of Ancram Zoning Law (Definitions) shall be amended to add to that Article the following definitions:

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEM** - A solar energy system that consists of integrating photovoltaic modules into the building envelope system such as vertical

facades including glass and other material, semi-transparent skylight systems, roofing materials, and shading over windows.

**BUILDING-MOUNTED SOLAR COLLECTORS** - an array of solar collectors mounted securely to racks attached to roof mounts, or integrated into building materials such as roof tiles, siding, or windows of any legally permitted and/ or constructed building or structure for the purpose of producing electricity.

**COMMUNITY-SCALE SOLAR ENERGY SYSTEM** – a solar energy system that is utility grid-connected, not used to provide energy to an individual residence, farm or business, established so that residents of the Town of Ancram can access the energy produced by the facility and obtain credit towards their electricity bills, and no larger than ten (10) acres in size.

**DISCONNECT SWITCH** – A device used that shuts off the incoming flow of power from solar collectors.

**FARM SOLAR SYSTEM** – See Small-scale Solar System.

**FLUSH-MOUNTED SOLAR ENERGY SYSTEM** - A rooftop-mounted solar energy system with solar collectors which are installed flush to the surface of a roof, and which cannot be angled or raised.

**GLARE** - The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual clarity and visibility.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM**- A solar energy system that is affixed to the ground either directly or by support structures or other mounting devices and that is not attached or affixed to an existing structure. Pole mounted solar energy systems shall be considered ground-mounted solar energy systems for the purposes of this chapter.

**HYDRIC SOIL** – A soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper soil layers.

**MAJOR RENEWABLE ENERGY FACILITIES** – As per Chapter XVIII, Title 19 of NYCRR Part 900, Office of Renewable Energy Siting, Subparts 900-1.2. this term means “any renewable energy system, as such term is defined in Section 66(p) of the New York State Public Service Law as added by Chapter 106 of the Laws of 2019, with a nameplate generating capacity of twenty-five thousand (25,000) kilowatts or more, and any co-located system storing energy generated from such a renewable energy system prior to delivering it to the bulk transmission system, including all associated appurtenances to electric plants as defined under Section 2 of the New York State Public Service Law, including electric transmission of facilities less than ten (10) miles at less than one hundred twenty-five (125) kV in order to provide access to load and to integrate such facilities into the state’s bulk electrical transmission system.”

**ON-SITE CONSUMPTION** - Energy generated primarily for the purpose of providing power to the owners, lessees, tenants, residents, or other occupants of the parcel on which the solar energy systems are erected.

**OWNER OF SOLAR SYSTEM** - A person, corporation, or other entity that owns a

community-scale solar system.

**PERFORMANCE BOND** – Any security that may be accepted by a municipality to ensure that improvements required as part of an application for development will be satisfactorily completed. Such security may also be required as part of a reclamation or restoration plan to ensure that any approved decommissioning plan is fully implemented.

**PRIMARILY** - An amount of projected on-site energy demand that is not less than 90% of projected energy generation.

**PRIME FARMLAND SOILS** - Prime farmland soils are those that have the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and that is available for these uses. It has the combination of soil properties, growing season, and moisture supply needed to produce sustained high yields of crops in an economic manner if it is treated and managed according to acceptable farming methods. In general, prime farmland has an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, an acceptable level of acidity or alkalinity, an acceptable content of salt or sodium, and few or no rocks. Its soils are permeable to water and air. Prime farmland is not excessively eroded or saturated with water for long periods of time, and it either does not flood frequently during the growing season or is protected from flooding. The Code of Federal Regulations (CFR) at 7 CFR § 657.5 defines several categories of important farmland in the United States under the Farmland Protection Policy Act (FPPA), including: (1) prime farmland; (2) unique farmland; (3) additional farmland of statewide importance; and (4) additional farmland of local importance.

**REFLECTOR, SOLAR** - A device for which the sole purpose is to increase the solar radiation received by a solar collector.

**ROOFTOP OR BUILDING-MOUNTED SOLAR SYSTEM** - A solar energy system in which solar collectors are mounted on top of the structure of a roof of any legally permitted building either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

**SMALL-SCALE SOLAR ENERGY SYSTEM** –Rooftop or building-mounted solar systems and ground-mounted solar energy systems with a rated capacity of 25 kW or less designed and intended to generate energy primarily for consumption of a principal use located on site that serves the building or buildings to which they are attached, and do not provide energy for any other buildings beyond the lot. Small-scale solar energy systems may be used to generate electricity for both residential, commercial and farm uses. Small-scale solar energy systems located on a farm operation (as per Agriculture and Markets Law §301(11) definition of that term) and located in a New York State Agricultural District shall also be considered small-scale solar energy systems and can produce up to 110% of the farm's needs as per the Department of Agriculture and Markets guidance document.

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

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chemical, electrical, or other usable energy.

**SOLAR ENERGY EQUIPMENT** - Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

**SOLAR ENERGY SYSTEM** - A system of components and subcomponents intended for the collection, inversion, storage and/or distribution of solar energy and that directly or indirectly generates thermal, chemical, electrical or other usable energy.

**SOLAR FARM** - see Community-scale solar energy system.

**STORAGE BATTERY** - A device that stores electrical energy created from the sun, wind, or geothermal resources that is then converted into electrical energy and makes it available in an electrical form.

### **Part 7. Severability**

The invalidity of any part or provision (e.g., word, section, clause, paragraph, sentence) of this Law shall not affect the validity of any other part of this Law which can be given effect in the absence of the invalid part or provision.

### **Part 8. Supersession**

This Local Law is intended to supersede any provisions of the Town Law, the laws of the Town of Ancram and the New York State General Municipal Law which are inconsistent with the provisions of this Local Law.

### **Part 9. Effective Date**

This Local Law shall take effect immediately upon the filing with the Office of the Secretary of State of the State of New York, in accordance with the applicable provisions of law, and specifically Article 3, Section 27 of the New York State Municipal Home Rule Law.