

**TOWN OF OSSIAN****LOCAL LAW NO. 1 OF THE YEAR 2022****A Local Law Entitled "Revisions to the Current Town Zoning Law".**

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

The current Zoning Law of the Town of Ossian, Local Law #2-2020, as earlier amended by Local Laws #s 4-2021 and 6-2021, is hereby further amended as follow:

**1. Section 2-2. Definitions.**

Add the following definitions in their alphabetical order:

**DECOMMISSIONING** – The removal and disposal of all energy structures, equipment and accessories, including subsurface foundations and all other material, concrete, wiring , and cable that were installed in connection with the energy system, whether solar, wind and/or battery storage, and the total restoration of the parcel of land on which the energy system(s) was built and the soil thereon to their original state prior to construction, including but not limited to restoration, grading, reseeding and rejuvenation of the soil to its preconstruction condition. Details of the expected Decommissioning activities and costs are to be described in the Decommissioning Plan and Decommissioning Agreement.

**DECOMMISSIONING AGREEMENT** – A written Agreement between Applicant, Initial Landowners, as well as the proposed energy system owner and operator, and Town that sets forth the obligations of the Applicant, the Initial Landowners, and the proposed energy system owner and operator, and all of their heirs, successors and assigns to properly decommission the energy system when the use of such system is discontinued, abandoned, becomes inoperable, or is otherwise terminated voluntarily or involuntarily for any reason.

**2. Section 4-7 Battery Energy Storage Systems:****a. Paragraph F.4:**

On line 2, after the words "prime farmland" add the words "and/or farmland of statewide importance".

**b. Paragraph G:**

On line 2, change the words " Article 10 of the Public Service Law" to Executive Law section 94-C".

**c. Paragraph G.1.:**

On lines 2,3 and 5, after the words "Prime Farmland" add the words "and/or Farmland of Statewide Importance".

**d. Paragraph G.2.:**

On line 3, after the words "Prime Farmland", add the words "and/or Farmland of Statewide Importance".

e. Paragraph G.10.:

Add a new sentence at the end as follows: "Further, a detailed soil analysis shall be provided by a certified New York State laboratory showing the preconstruction soil composition of the land on which the system is to be situate as well as the land 50 feet surrounding same."

f. Paragraph I.6.:

On lines 3 and 4, delete the words "dismantled as per the decommissioning plan (see section 4-27) and funds described above." and replace by "decommissioned pursuant to section 4-27 below."

g. New Paragraph I.11.:

Add a new subparagraph I.11 as follows:

11. Prior to the issuance of a special use permit and a building permit, the Applicant shall provide to the Town an irrevocable construction bond, naming the Town as sole beneficiary, in form and amount acceptable to the Town. The amount, as determined by the Town, shall equal approximately 150% of the cost to repair all potential damage to Town highways and all other public property during construction of the system, the cost of full reclamation of the land, buildings and soil to their preconstruction condition if the energy system is not timely completed, plus any other expenses anticipated to be incurred by the Town, all of which the applicant, landowners and the proposed energy system owner shall be jointly and severally liable for. If they fail to meet any of their responsibilities as determined by the Town Board, the Town may do so at the applicant's, landowners, and proposed system owner's expense, which shall be paid in full to the Town by said bond. Said bond may be executed on and used to such extent at any time(s) by the Town Board as it determines in its sole discretion if it incurs or is about to incur any such damages or expenses. If the bond is insufficient to cover all of the Town's costs and expenses so incurred, the Town may seek all other legal remedies against all responsible parties.

3. Section 4-24. Solar Energy Systems:

a. Paragraph D. Definitions.

(1) Under Solar Energy System, delete subparagraph 1. That defines a Tier 1 Solar Energy System, and replace by:

1. A Tier 1 Solar Energy System is a Roof-Mounted, Building-Integrated or Building-Mounted solar energy system primarily intended to produce energy for onsite consumption or credit for onsite consumption, limited to systems that generate no more than 110% of the electrical energy consumed on the site where the system is located.

(2) Under Solar Energy System subparagraph 2 defining a Tier 2 Solar Energy System, add a last sentence thereto as follows:

Tier 2 Solar Energy Systems are primarily intended to produce energy for onsite consumption or credit for onsite consumption and are not intended to produce energy for offsite sale to and/or consumption by one or more offsite customers.

b. Paragraph H.5., first unnumbered paragraph, 5 lines from its end, delete the words "The soil remediation required is that the land on and near where such ground-mounted systems are located" and replaced by "The soil remediation required is that the soil on and near where the ground-mounted system was located be replaced or rejuvenated back to its preconstruction condition, and that it then".

c. Paragraph I, lead in: On line 2, change the words "Article 10 of the Public Service Law" to "Executive Law section 94-C".

d. Paragraph I.1.b.: Add a new sentence at the end thereof as follows: "Further, a detailed soil analysis shall be provided by a certified New York State laboratory showing the preconstruction soil composition of the land on which the system is to be situate as well as the land 50 feet surrounding same."

e. Paragraph I.2.d.2.: On lines 1,3 and 5, after the words "Prime Farmland" add the words "and/or Farmland of Statewide Importance".

f. Add a new paragraph I.2.r. as follows:

r. Prior to the issuance of a special use permit and a building permit, the Applicant shall provide to the Town an irrevocable construction bond, naming the Town as sole beneficiary, in form and amount acceptable to the Town. The amount, as determined by the Town, shall equal approximately 150% of the cost to repair all potential damage to Town highways and all other public property during construction of the system, the cost of full reclamation of the land, structures, and soil to their preconstruction condition if the energy system is not timely completed, plus any other expenses anticipated to be incurred by the Town, all of which the applicant, landowners, and proposed energy system owner shall be jointly and severally liable for. If they fail to meet any of their responsibilities as determined by the Town Board, the Town may do so at the applicant's, landowners', and proposed energy owner's expense, which shall be paid in full to the Town by said bond. Said bond may be executed upon and used to such extent at any time(s) by the Town Board as it determines in its sole discretion if it incurs or is about to incur any such damages or expenses. If the bond is insufficient to cover all of the Town's costs and expenses so incurred, the Town may seek all legal remedies against all responsible parties.

#### 4. Section 4-27. Decommissioning:

a. Paragraph A lead in, i.e., the first 4 lines: delete and replace by:

A. Decommissioning Plan. To ensure the proper decommissioning of an energy system after such system is no longer reasonably operable or has been abandoned, or said system has otherwise been terminated, a Decommissioning Plan shall be submitted as part of the special use permit application. Said Plan shall contain a written and visual photographic record of the original site condition prior to the initiation of any work thereon, with all necessary data to facilitate complete remediation upon decommissioning. The Plan must specify that after the energy system is no longer operational or has been abandoned or otherwise terminated, it shall be decommissioned, including the total removal of all energy related above and below ground structures, materials and equipment of every kind, and the full