A Local Law Amending and Replacing Local Law No. 2 of 2022, Regulating Solar Energy Systems and Battery Energy Storage Systems (BESS) in the Town of Leyden

Adopted on June 9, 2026.

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SECTION 1. Authority.

This Local Law shall be known as: Local Law No. 1 of 2026: A Local Law Amending and Replacing Local Law No. 2 of 2022 Regulating Solar Energy Systems and Battery Energy Storage Systems.

This Local Law is adopted pursuant to the authority granted by the New York State Municipal Home Rule Law and Town Law §§ 261–263.

SECTION 2. Purpose.

The purpose of this Local Law is to amend, update, and replace Local Law No. 2 of 2022 in its entirety to:

1. Establish updated standards for the siting, permitting, operation, and decommissioning of Solar Energy Systems and Battery Energy Storage Systems;

2. Incorporate new safety, fire code, and environmental standards;
3. Establish complete procedures for Site Plan Review and Special Use Permits that are not currently contained in the Town of Leyden Zoning Law;
4. Improve clarity, public safety, and environmental protections; and
5. Ensure consistency with the Town of Leyden Comprehensive Plan and other applicable state laws.

SECTION 2.1 Repeal of Prior Local Law.

Local Law No. 2 of 2022, titled “A Local Law Regulating Solar Energy Systems and Battery Energy Storage Systems,” is hereby repealed and replaced in its entirety by this Local Law.

SECTION 3. Definitions.

All terms used in this law shall have their ordinary and customary meaning unless specifically defined within this law.

Contains definitions for technical terms related to solar energy, electricity, and power generation.

1. ***Agricultural Solar Energy System:*** *An on-farm, solar energy system that provides no more than 110% of the energy required to operate a farm operation as defined by New York State Agriculture and Markets Law 305-a.*
2. ***Battery (ies):*** *A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.*
3. ***Battery Energy Storage Management System****: An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.*
4. ***Battery Energy Storage System (BESS)****: An energy storage system that stores energy using electrochemical battery technologies. Not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:*
    a. ***Tier 1 Battery Energy Storage Systems*** *have an aggregate energy capacity less than or equal to 600kW and. if in a room or enclosed area, consist of only a single energy storage system technology. Also known as Small Battery Energy Storage Systems.*
    b. ***Tier 2 Battery Energy Storage Systems*** *have an aggregate energy capacity greater than 600kW or are comprised of more than one storage*

battery technology in a room or enclosed area. Also known as Large Battery Energy Storage Systems.

5. ***Building-Integrated Solar Energy Systems:*** *A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.*
6. ***Cell****: The basic electrochemical unit, characterized by an anode and a cathode. used to receive. store. and deliver electrical energy.*
7. ***Farmland of Statewide Importance****: Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.*
8. ***Glare****: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.*
9. ***Ground-mounted Solar Energy System****: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.*
10. ***Kilowatt (kW)****: A unit of power equal to 1,000 watts. The nameplate capacity of residential and commercial solar energy systems may be described in terms of kW.*
11. ***Large Solar Energy System:*** *Any solar energy system that cumulatively on a lot meets one of the following provisions:*
    a. *Is intended to supply energy principally to a utility grid for the purpose of off-site consumption, or*
    b. *Has a total ground surface area of greater than four thousand (4,000) square feet and is not an agricultural solar energy system (as defined by this law),*
12. ***Megawatt (MW):*** *A unit of power equal to 1,000 kW. The nameplate capacity of larger solar energy systems may be described in terms of MW*
13. ***Mineral Soil Groups 1-4 (MSG 1-4):*** *Soils recognized by the New York State (NYS) Department of Agriculture and Markets as having the highest value based on soil productivity and capability, in accordance with the uniform statewide land classification system developed for the NYS Agricultural Assessment Program.*
14. ***Nameplate Capacity****: A solar energy system's maximum electric power output under optimal operating conditions. Nameplate Capacity may be expressed in terms of Alternating Current (AC) or Direct Current (DC).*

15. ***Native Perennial Vegetation****: Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.*
16. ***Pollinators****: Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and include both wild and managed insects.*
17. ***Prime Farmland:*** *Land, designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.*
18. ***Roof-mounted Solar Energy System****: A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for on-site or off-site consumption.*
19. ***Site Plan Review:*** *The review process conducted by the Town of Leyden Planning Board to determine compliance with this Local Law, the Town of Leyden Zoning Law, and other applicable regulations. Site Plan Review includes evaluation of project layout, access, screening, lighting, drainage, stormwater controls, environmental impacts, landscaping, emergency access, and all other materials and standards required by this Local Law.*
20. ***Small Solar Energy System:*** *Any solar energy system that cumulatively on a lot meets any of the following provisions:*
    a. *Is an accessory use or structure designed and intended to generate energy primarily for a principal use located on site and has a total ground surface area no larger than four thousand (4,000) square feet.*
    b. *Is an agricultural solar energy system (as defined by this law).*
21. ***Solar Access:*** *Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.*
22. ***Solar Energy Equipment:*** *Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.*
23. ***Solar Energy System:*** *The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all land within the perimeter of the Solar Energy System, including any interconnection equipment. A Solar Energy System is classified as Small or Large.*
24. ***Solar Panel:*** *A photovoltaic device capable of collecting and converting solar energy into electricity.*

25. ***Special Use Permit (SUP):*** *A permit granted by the Town of Leyden Planning Board authorizing a use that is permitted subject to specific conditions and performance standards. A Special Use Permit may be approved, approved with conditions, or denied based on compliance with the standards of this Local Law, the Town of Leyden Zoning Law, and SEQRA.*
26. ***Storage Battery:*** *A device that stores energy and makes it available in an electrical form.*
27. ***Public Environmental Benefit:*** *An investment, improvement, program, contribution, project, or other action taken by a Large Solar Energy System Project developer that contributes to greenhouse gas reduction, energy efficiency, multimodal transportation, ecological diversity, or habitat preservation as determined by the Planning Board.*

Terms not defined in this Local Law shall have the meanings assigned in the Town of Leyden Zoning Law.

SECTION 4. Applicability & Review Procedures.

A. Applicability.
The requirements of this Local Law apply to all Solar Energy Systems and Battery Energy Storage Systems (BESS) permitted, installed, modified, or expanded after the effective date of this Local Law, excluding general maintenance and repair.

B. Required Permits.

Small Solar Energy Systems: Require only a zoning permit and are exempt from Site Plan Review or Special Use Permit requirements unless otherwise specified.

Large Solar Energy Systems: Require Site Plan Review under this Local Law.

Large Battery Energy Storage Systems (BESS): Require Site Plan Review and a Special Use Permit (SUP) under this Local Law.

Emerging or hybrid energy storage technologies: Shall be processed as Large BESS unless otherwise determined by the Planning Board.

C. Application Submission Requirements.

Applications requiring Site Plan Review or a Special Use Permit shall include all the following:

1. All submission items required under §415 of the Town of Leyden Zoning Law, including maps, site plans, hydrologic features, drainage plans, utility details, landscaping, lighting, and all other materials listed therein.

2. Site plan stamped by a NYS-licensed Professional Engineer or Registered Architect.
3. A project narrative describing the purpose of the project, proposed operations, and construction timeline.
4. Decommissioning plan, including cost estimate, methods of removal, restoration requirements, and financial assurance consistent with this Local Law.
5. A BESS Emergency Operations Plan (only required for Battery Energy Storage Systems), including fire safety, shutdown procedures, and first responder requirements.
6. A screening and landscaping plan that demonstrates compliance with visual mitigation requirements, including proposed species and planting schedule.
7. A grading, erosion control, and stormwater management plan, consistent with NYSDEC requirements.
8. Equipment specifications. Complete equipment specifications shall be provided for **all** components of the proposed Solar Energy System or Battery Energy Storage System, including but not limited to:
    a) Inverters
    b) Solar panels or photovoltaic modules
    c) Battery energy storage units
    d) Safety and fire-protection systems
    e) Manufacturer safety certifications
    f) UL/NRTL listings and technical documentation
    g) Any and all backup generators or auxiliary power systems

    The omission of any piece of equipment required for construction, operation, safety, or interconnection may result in the application being deemed incomplete and may require the review process to restart.
9. Noise, visual, and environmental documentation, including any required photo simulations, viewshed analyses, or noise data.
10. A Full Environmental Assessment Form (EAF) Part 1, unless classified as a Type II action under SEQRA.

11. Any additional materials required by this Local Law or reasonably required by the Planning Board to complete its review and ensure compliance with health, safety, and environmental standards.

D. **Special Use Standards.**

The following Special Use Standards apply to all Large Solar Energy Systems, Large Battery Energy Storage Systems (BESS), and hybrid systems requiring a Special Use Permit under this Local Law:

1. The proposed facility shall demonstrate compatibility with surrounding land uses, including consideration of visual character, noise, screening needs, and environmental features.
2. All facilities shall comply with the safety, fire protection, and environmental requirements contained within this Local Law, including but not limited to emergency access, hazardous materials management, and emergency operations planning.
3. Adequate screening, buffering, vegetation, and site design measures shall be provided to minimize visual impacts to adjacent properties and public rights-of-way.
4. The applicant shall ensure adequate emergency responder access, clear site identification, and availability of system maps, safety documentation, and emergency procedures prior to operation.
5. Required decommissioning, financial assurance, operation and maintenance plans, and post-construction documentation shall be submitted and maintained in accordance with this Local Law.
6. Any material modification to an approved project shall require additional review and approval by the Planning Board.

E. Site Plan Review/ Special Use Permit Review Procedures.

1. **Completeness Determination.**
    a) Within 30 days of submission of a site plan or special use permit application, the Planning Board shall determine whether the application is complete. If the application is found to be incomplete, the Planning Board must notify the applicant in writing, detailing the additional materials or information required.

b) The completeness review period shall be tolled while awaiting the applicant's resubmission. No further action, hearing, or review shall proceed until the application is deemed complete.

2. **SEQRA Review.**
No site plan approval or special permit may be granted, nor any resolution or decision finalized, until the State Environmental Quality Review Act (SEQRA) process has been fully completed. This includes:

a) Coordination of involved agencies,

b) A determination of environmental significance (negative declaration or positive declaration),

c) Any subsequent environmental impact statement (EIS) completion, if required by 6 NYCRR Part 617,

d) The issuance of a final SEQRA Findings Statement.

3. SEQRA Classification.

The Town of Leyden hereby designates the following as Type I actions under SEQRA, pursuant to 6 NYCRR §617.4 and §617.14:

a) All Large Solar Energy Systems are regulated under this Local Law.

b) All Large Battery Energy Storage Systems (BESS).

c) Any co-located or hybrid solar-plus-storage facility.

d) Any emerging or alternative energy storage technology regulated as a Large BESS under this Local Law.

These local Type I designations are in addition to, and not in place of, the Type I thresholds established by New York State.

All Type I actions shall require a coordinated review and submission of the Full Environmental Assessment Form (FEAF), Part 1, and shall be reviewed in accordance with 6 NYCRR Part 617.

4. **Public Hearing.**

a) Required for all Special Use Permit applications.

b) Must be held within 62 days of a complete application.

c) Public notice provided at least 10 days before the hearing.

5. **Planning Board Action.**
   The Planning Board shall approve, approve with conditions, or deny the application within 62 days after closing the hearing (or after declaring the application complete, for Site Plan Review only).

F. Review Standards.

In reviewing applications, the Planning Board shall consider:

1. Compatibility with surrounding land uses
2. Noise, glare, and visual impacts
3. Screening and vegetation
4. Emergency access and fire safety
5. Environmental impacts on wetlands, watercourses, forests, and ag lands
6. Traffic, stormwater, grading, and site design
7. Compliance with all provisions of this Local Law
8. Consistency with the Town's Comprehensive Plan

G. Conditions of Approval.

The Planning Board may impose conditions necessary to:

1. Mitigate site-specific impacts
2. Ensure public health, safety, and welfare
3. Enforce compliance with this Local Law

H. **Effect of Approval.**

A Special Use Permit shall run with the land and remain binding on all future owners and operators, including all decommissioning, financial assurance, monitoring, reporting, and operational obligations.

All Special Use Permits issued under this Local Law shall include the Standard Conditions of Approval set forth in Section 7E, unless expressly modified by the Planning Board based on written findings.

In addition to the Standard Conditions of Approval, the Planning Board shall establish, as part of each permit approval, an appropriate **permit duration, renewal requirement, and compliance review schedule to ensure continued protection of public health, safety, environmental resources, and technological performance over the life of the facility.**

The Planning Board may require more frequent reviews, early termination provisions, or technology-update conditions, where warranted by project-specific considerations.

l. **Appeals.**

Appeals from decisions made under this Local Law shall be taken to the Town of Leyden Zoning Board of Appeals pursuant to §1070 of the Town of Leyden Zoning Law.

SECTION 5. Permitting Small Solar Energy Systems.

A. Small Solar Energy Systems (to include Agricultural Solar Systems) as well as general maintenance of such systems do not require site plan review or special use permit approval and shall be considered accessory structures. Such systems shall be required to obtain a zoning permit from the Town of Leyden prior to placement and operations unless the Town exempts farm structures for requiring building permits and the system is an integrated component of a farm structure or the system is less than one square yard used individually for charging of batteries and powering small equipment or devices (such as lighting). Small Solar Energy Systems shall also meet all other requirements pertaining to accessory structures, to the extent they are applicable.
    a. The following conditions shall be met:
        1. Roof-mounted Solar Energy Systems shall be installed parallel to the roof surface on which they are mounted and shall not extend higher than the highest point of the roof surface on which they are mounted or the top of the surrounding parapet, or more than twenty-four inches (24") above the flat surface of the roof, whichever is greater.
        2. Ground-mounted systems to be placed in side or rear yards only. No panels to be placed in front yards.
        3. All solar panels shall have an anti-reflective coating.
        4. Building-integrated Solar Energy Systems shall be shown on the plans submitted for any building permit application for the building containing the system.
        5. Solar Energy System installations for which a valid building permit has been issued before the effective date of this local law shall not be required to meet the requirements of this law.
        6. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code'), the NYS Energy Conservation Code ("Energy Code"), and the Town of Leyden Code.

SECTION 6. Permitting Large Solar Energy Systems.

A) Solar Energy Systems producing 25MW or more are required to seek a permit through the State-level siting process administered by the Office of Renewable Energy Siting (ORES).
B) All Large Solar Energy Systems shall be permitted subject to receiving site plan review permit approval by the Town of Leyden Planning Board pursuant to the procedures and requirements established within this Local Law. All procedures, including, but not limited to, sketch plan review, public hearing, and time frames, shall be met. The Town of Leyden Planning Board's review of all Large Solar Energy Systems shall include but not be limited to; consideration of the visual effect of the proposed solar installation on scenic and historic resources and viewsheds; impacts on community character; compatibility with agriculture and farmlands, managing stormwater runoff, and the effect of the proposed installation on ecologically sensitive land or water resources; and recreation and wildlife in the vicinity.
C) The application materials required in Section 415 of the Town of Leyden Zoning Law shall be supplemented by the submission of the following materials and information.
    1) If the property of the proposed project is to be leased, legal consent between all parties, including easements and other agreements. Application shall include the annual ground lease payment amount, if any; the annual ground lease escalator, if any; the NYISO zone; the utility company; the community or market transition credit, if any; and the community adder, if any.
    2) Blueprints showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect. Plans shall show the proposed layout of the entire Solar Energy System along with a description of all components, whether on site or off site, existing vegetation, existing or proposed access, gates, parking areas, mounting systems, inverters, panels, fencing, proposed clearing and grading of all sites involved, and proposed buffering and screening.
    3) Stormwater runoff calculations, drainage plan, clearing and grading plan. The clearing and grading plan shall include methods to stockpile, reduce erosion of, and reuse all topsoil from the site. If one acre or more of land is to be disturbed, the applicant shall be required to submit a preliminary Stormwater Pollution Prevention Plan consistent with New York State Department of Environmental Conservation (NYSDEC) or local (Municipal Separate Storm Sewer Systems) MS4 requirements. All clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of site plan approval.
    4) Photo simulations shall be included which show the proposed Large Solar Energy System in relation to the building site, along with elevation views and

dimensions, and all other components. Additional photo simulations may be requested by the Planning Board for specific roads or other public areas that may be impacted. During review, the Planning Board may require the applicant to submit a viewshed analysis that complies with the procedures outlined in NYSDEC's State Environmental Quality Review Act (SEQRA) publication, "Assessing and Mitigating Environmental Impacts."

5) Identification of wildlife species that may use the parcel, including potential wildlife travel corridors, migration paths (to include both ground and aerial pathways), or critical habitats. Any waterbody within one-half (½, or 0.5) mile shall also be identified on the site plan.
6) Details of any proposed noise that might be generated by inverter fans or other noise-generating equipment that may be included in the proposal. The Planning Board may require a noise analysis to determine potential adverse noise impact on surrounding areas.
7) Part 1 of the Full Environmental Assessment Form filled out, unless deemed a Type II action pursuant to Part 617 State Environmental Quality Review (SEQR).
8) Property Operation and Maintenance Plan to describe continuing photovoltaic maintenance and proper property upkeep, such as mowing, trimming, fence maintenance, and any proposed use of pesticides or herbicides. Occasionally, soil testing may be required to prevent contamination from damaged equipment. Any damaged or unused components of the system shall be removed from the premises within 30 days and disposed of in accordance with applicable laws. All maintenance equipment and spare parts shall be kept in a designated storage area that is fenced and screened.
9) Landscaping and screening plans shall describe the methods and types of screening that are proposed, including but not limited to existing vegetation, topography, fencing, and structures. Plans will detail the number, location and species of vegetation to be planted on the site and the size and extent of berms. An additional plan showing the appropriate performance criteria specifying minimum plant sizes and measures to be taken in the case that the proposed vegetation fails to survive, flourish or meet said performance criteria will be submitted.
10) The location map of the connection point to the grid number provided along with a description of any easements or rights-of-way, clearing, infrastructure, appurtenances, and equipment that might be necessary or required to connect to the grid.
11) Proof of application for grid interconnection shall be provided.
12) To ensure that the proper removal of Large Solar Energy Systems, a Decommissioning Plan will be required to be submitted at the time of the application. Compliance with this Decommissioning Plan will be made as a

condition of the approval under this Section. The Decommissioning Plan must specify that after the Large Solar Energy System can no longer be used, it shall be removed by the applicant or any subsequent owner. The Decommissioning Plan must include:

a) Provisions describing the triggering events for decommissioning of the solar energy facility;
b) Provisions for the removal of structures, debris and cabling, including those below the soil surface;
c) Provisions for the restoration of the soil and vegetation. Plan shall demonstrate how the removal of all infrastructure and remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction:
d) A Town of Leyden Planning Board approval of a timetable for site restoration;
e) An estimated cost of the decommissioning as prepared and certified by a Professional Engineer. The cost estimate shall consider inflation. Removal of Large Solar Energy Systems must be completed in accordance with the Decommissioning Plan;
f) Financial Assurance, by security deposit, escrow account, bond or in any other manner acceptable to the Town of Leyden, shall be secured from the Owner or Operator, and held by the Town of Leyden's financial institution, for the purpose of adequately implementing the Decommissioning Plan. The amount is to be equal to the certified Professional Engineers' estimate of the removal and decommissioning costs. This financial assurance will be made available for review by the Town of Leyden's Attorney at any time upon request and reviewed at least every five years to ensure that adequate funds are maintained.
g) Identification of and procedures for the Town of Leyden access to Financial Assurances;
h) A provision stating that the terms of the Decommissioning Plan shall be binding upon the Owner or Operator or any of their successors, assigns, or heirs:
i) A provision that the Town of Leyden, its officials, employees, agents or contractors shall have the right of access to the site, pursuant to reasonable notice, to effectuate or complete removal and decommissioning.

13) The removal of machinery, equipment, tower, and all other materials related to the project is to be completed within one year of decommissioning. If the Large Solar Energy System is not decommissioned after being considered abandoned, the municipality may remove the system, restore the property, capture the bond,

or associated financial assurance, and impose a lien on the property to cover these costs to the municipality.

14) If in the course of delivery, installation, maintenance, dismantling, removal or transport of the solar energy system or any components thereof, the property of the Town of Leyden, including but not limited to, modifications to roadways, shoulders, drainage structures, signage, guide rails, etc. is damaged by the efforts of the applicant or any of its agents, the applicant shall within 30 days of completing construction, completely replace or repair all damages in compliance with the Town of Leyden Highway Superintendent and Town of Leyden Board.
15) If the applicant does not complete construction of the project within 18 months after beginning construction, this may be deemed as abandonment of the project. The Town of Leyden may require the operator and/or the owner to complete construction and installation of the facility within 180 days. If the operator and/or owner fails to comply, the Town of Leyden may require them to implement the decommissioning plan.
16) Upon cessation of activity of a constructed facility for a period of one year, the Town of Leyden may require 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 can either restore operation equal to 80% of approved capacity or implement the decommissioning plan.
17) If the owner and/or operator fails to fully implement the decommissioning plan within the required time period, the Town of Leyden may, at its discretion, provide for the restoration of the site in accordance with the decommissioning plan and may recover all expenses incurred for such activities from the defaulted owner and/or operator. The cost incurred by the Town of Leyden shall be assessed against the property, shall become a lien and tax upon the property, and shall be enforced and collected with interest by the same officer and in the same manner as other taxes.

D) The following design and siting standards shall be required for Large Solar Energy Systems:
1) **Anti-glare:** All solar collectors and related equipment shall be surfaced, designed, and coated with anti-reflective materials, and sited to minimize glare reflected onto adjacent residences and roadways.
2) **Height and Setbacks:** Dimensional requirements for Large Solar Energy Systems shall be governed exclusively by this Local Law.
All ground-mounted solar energy systems shall:
a) Not exceed twenty feet (20’) in height when oriented at maximum tilt.
b) Be located at a minimum of sixty feet (60') from the road right-of-way of any State Road or at least forty feet (40') from the road right-of-way of any County or Town road:

c) Be located at a minimum of one hundred feet (100') from side or rear lot lines.
d) Have panels placed no less than three hundred and fifty feet (350') from an occupied residence not involved in the project unless the owner of the residence agrees that the requirement should be waived. Property-line setbacks are only applicable to nonparticipating parcels.
e) Have inverters and battery systems placed near the center of the project, when practicable, in order to reduce noise propagation from the site.

3) **Fencing:**
All Large Solar Energy Systems shall be enclosed by security fencing that meets the following minimum standards:

a) **Height & Depth:**
   i. Minimum height: **8 feet above grade**
   ii. Minimum buried depth: **2 feet below grade**
b) **Material Standards:**
   i. Fencing shall be **commercial-grade chain-link**, or
   ii. **Equivalent or better** material approved by the Planning Board.
   iii. Barbed wire or razor wire prohibited unless requested by emergency responders.
c) **Visibility / Color:**
   i. Fencing shall be **black or dark-green vinyl-coated** to minimize visual impact.
d) **Security & Access:**
   i. Self-locking, self-closing gates
   ii. Knox-box or equivalent emergency access if required by fire code officials
e) **Signage:**
   i. Warning and emergency contact signs posted at all gates and at least every 200 feet

4) **Screening & Landscaping Standards**

All Large Solar Energy Systems shall be screened from adjoining residential properties and public roads using a combination of vegetation, berms, and existing natural features. The following minimum standards apply:

a) **Planting Height at Installation:**
   i. Deciduous trees: 6–8 feet minimum
   ii. Evergreen trees: 6 feet minimum
   iii. Shrubs: 3-gallon container size or greater
b) **Spacing:**

i. Evergreen trees planted no more than 12 feet on center
ii. Deciduous trees planted 20–25 feet on center
iii. Shrubs planted 5–8 feet on center, depending on species
iv. A staggered double row is required where visibility is high

c) **Opacity Requirement:**
   i. Screening must achieve 75% opacity year-round within 3 years
   ii. Additional plantings may be required by the Planning Board if opacity is not achieved
d) **Use of Existing Vegetation:**
   i. Existing trees may be counted toward screening if preserved
e) **Replacement Requirement:**
   i. Dead, diseased, or damaged plantings shall be replaced in the next growing season.
f) **Maintenance:**
   i. Vegetation maintained to prevent gaps, die-off, or thinning
   ii. Pesticide/herbicide impacts minimized per operation & maintenance plan

g) **Planning Board Waiver:**
   i. May waive only if applicant demonstrates the site is fully screened by topography or existing forest cover.

All required fencing shall be maintained in good repair for the life of the facility. Damage, deterioration, or failure to maintain fencing to the standards approved by the Planning Board shall constitute a violation of this Local Law and shall be subject to enforcement under Section 9.

5) **Stormwater Management:** The solar energy system shall be designed with the ground cover as pervious to the maximum extent practicable so that stormwater infiltrates as sheet flow across the system. Solar panels constructed in such a manner as to promote effective infiltration of rainfall will be considered pervious for stormwater pollution prevention purposes. Other structures, such as but not limited to transformers, buildings, or paved entrance roads, shall still be considered impervious. Criteria used to establish a solar energy system as pervious cover will be as follows;
   a) Panels must be positioned to allow water to run off their surfaces;
   b) Adequate vegetation cover must be maintained under and around panels, with an adequate area around panels to allow for proper vegetative growth.
6) **Wetland Protection:** Solar energy systems shall avoid designated wetlands as defined by the NYSDEC to the extent practicable. Impacts not practicable to avoid must be properly permitted or allowed by the applicable regulatory

authority. Where impacts to regulated wetlands or wetland buffers are approved by the applicable regulatory authority, the applicant shall provide compensatory mitigation in accordance with New York State Department of Environmental Conservation (NYSDEC) and/or U.S. Army Corps of Engineers requirements. The Planning Board may require additional on-site habitat restoration, native plantings, or buffer enhancement where necessary to offset project-specific impacts.

7) **Protection of Critical Environmental Areas**: No solar energy system shall be installed on Critical Environmental Areas (CEAs) as defined by the NYSDEC.

E) **Construction standards for Large Solar Energy Systems will include all standards required for Small Solar Energy Systems**. In addition, the following will also be required.

1) Vegetation shall be maintained below the solar panels. The ground within the fenced perimeter shall not be tamped, compressed, or subjected to any other similar treatment to inhibit the growth of natural vegetation.
2) All roadways associated with the Large Solar Energy System shall remain unpaved and of pervious surfaces, unless otherwise required by emergency responders to meet load-bearing requirements.
3) The Town of Leyden Planning Board may require a traffic impact assessment to evaluate potential adverse impacts on public roads. This may include review by the New York State Department of Transportation (NYSDOT), Lewis County, or the Town of Leyden, depending on which jurisdiction maintains the affected roadway.
4) Artificial lighting of Large Solar Energy Systems shall be limited to only lighting required for safety and operational purposes and shall be directed downward and not spill onto adjacent properties to the extent practicable.
5) **Underground Utilities & Battery Standards.**
   a) **Undergrounding Requirement.**
   All utility service lines (power, communications, etc.) must be placed underground on-site to the extent technically and economically feasible.
   b) **Battery Enclosure & Installation**
   If batteries are part of the solar energy system, they must be housed in secure, weather-resistant enclosures conforming to the following codes as amended:
      (i) 2024 International Building Code (IBC)
      (ii) 2024 International Fire Code (IFC) Chapter 12 (Energy Systems)
      (iii) NFPA 70 (NEC) Article 706
      (iv) NFPA 855 (Stationary Energy Storage Systems)
   c) **Commissioning & Labeling.**
   Prior to system activation, batteries and enclosures must be clearly labeled,

installed by certified professionals, and commissioned in accordance with NFPA 855 and manufacturer specifications.

d) **Decommissioning & Disposal.**
When batteries reach the end of life or are removed, their disposal and recycling must comply with the following codes as amended:
(i) NFPA 855 decommissioning protocols
(ii) NFPA 70/NEC requirements
(iii) IBC/IFC decommissioning standards
(iv) NYS Environmental Conservation Law § 27-0719 for battery management and disposal.
(v) Applicable local Town of Leyden ordinances or laws.

e) **Documentation Requirement.**
The developer must provide the Town with:
(i) A battery disposal/recycling plan aligned with state law and approved recycling vendors
(ii) A financial assurance instrument (e.g., escrow, bond) covering costs for removal and site restoration

6) The manufacturer's or installer's identification, contact information, and appropriate warning signage shall be posted at the site and clearly visible.
7) Following construction of the Large 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. Pollinator-friendly vegetation is preferred.
8) When any Large Solar Energy System is installed and before it becomes active, the owner of the site and/or the solar energy system, must contact the Town of Leyden's emergency responders' departments to make arrangements for a meeting at the site to review the components of the array and to be educated on safety issues and procedures for emergency response. This meeting shall include detailed discussion related to the location of labeled warnings, access to the site and information on emergency disconnection of the system. In addition, the Town of Leyden Board may require a plan for installation regarding the location of placards which provide mutual aid responders with sufficient information to protect them when responding to calls on the site.
9) The Town of Leyden Planning Board may impose conditions on its approval of any site plan under the Town of Leyden Zoning Law in order to enforce the standards referred to in this Section, or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).
10) If ownership of a solar energy system changes, the site plan approvals shall remain in full force and effect. All conditions of the permit, including bonding, letters of credit or continuing certification requirements or obligations, including

maintenance, continue to be the obligations of successor owners. The change in ownership shall be registered with the Town of Leyden Clerk and copied to the Town of Leyden Code Enforcement Officer. The Town Clerk shall notify the Town of Leyden Board.

SECTION 7. Battery Energy Storage Systems (BESS).

This section shall apply to all Battery Energy Storage Systems and to any emerging or hybrid energy storage technologies that present similar risks, infrastructure needs, or environmental considerations.

Intent and Justification.
This Section is designed to protect the health, safety, and welfare of the community through the regulation of Battery Energy Storage Systems (BESS). These systems contain high-energy electrochemical components that pose risks of fire, thermal runaway, release of hazardous substances, noise, and environmental harm. The regulations herein—covering site location, setbacks, fencing, vegetation management, emergency response, performance standards, and decommissioning—are necessary to mitigate these risks, ensure compatibility with surrounding land uses, align with nationally recognized fire and safety codes (including NFPA 855), and uphold the Town's land-use objectives and comprehensive plan.

A) **Permitting requirements for all battery energy storage systems.**
   1) Name, address, and contact information of the proposed or potential system installer and the owner and/or operator of the battery energy storage system shall be:
   2) Submitted prior to the issuance of a permit.
   3) Name, address, phone number, and signature of the project applicant, as well as all property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.
      a. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted in the application.

B) **Emerging Energy Storage Technologies.**
   For the purposes of this Section, "Battery Energy Storage Systems (BESS)" shall include functionally equivalent energy-storage technologies that present similar land-use, safety, environmental, or electrical interconnection considerations. These systems shall be regulated under the same permitting, safety, design, decommissioning, and enforcement standards as a Large Battery Energy Storage System unless otherwise specified.
   Emerging or alternative energy-storage technologies include, but are not limited to:
   1) Flow Battery Systems, including vanadium redox flow, zinc-iron, or similar technologies.

2) Compressed Air Energy Storage (CAES) systems.
3) Hydrogen Energy Storage Systems, including electrolysis, hydrogen storage vessels, and fuel-cell reconversion.
4) Thermal Energy Storage Systems, including molten salt, phase-change thermal media, and chilled-water systems.
5) Flywheel Energy Storage Systems.
6) Hybrid Energy Storage Systems combining batteries and any of the above technologies.
7) Grid-support microgrid storage designed to operate in islanded or grid-connected modes.
8) Any energy storage system not explicitly defined herein but meeting the functional definition of storing energy for later dispatch, and which poses comparable fire, safety, environmental, or land-use impacts, shall be reviewed as a Large Battery Energy Storage System.

Since technology is changing faster than regulations can be created and perfected, the Planning Board shall be able to set specific standards for emerging technologies based on research and proposals.

C) **Permitting requirements for small battery energy storage systems.**
1) Small Battery Energy Storage Systems shall be allowed in the Town and shall require a zoning permit. Small Battery Energy Storage Systems shall maintain a 400-foot minimum setback distance from any existing residential structure.
2) A Tier 1 (small) BESS decommissioning statement shall be filed with the zoning permit application, attesting to and describing how the system will be removed when no longer in use.
3) Failure to remove a Tier 1 (small) BESS upon abandonment, or failure to comply with the approved decommissioning statement, shall constitute a violation of this Local Law and shall be enforceable under Section 9.

D) **Permitting requirements for large battery energy storage systems.** Large battery energy storage systems are permitted through the issuance of a special use permit and shall be subject to the following requirements and design standards. Any special use permit application shall include the following information:
1) Property lines and physical features, including roads, for the project site.
2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, existing and proposed structures, exterior lighting, screening, and vegetation.
3) A preliminary specification sheet that documents all proposed storage equipment to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a special use permit.

E) **Standard Conditions of Approval for All Solar and BESS Special Use Permits**

All Special Use Permits issued under this Local Law shall include, at a minimum, the following standard conditions, which apply universally to all Large Solar Energy Systems, Battery Energy Storage Systems (BESS), and hybrid systems:

1) **Compliance with Approved Plans.**
The project shall be constructed and operated in strict compliance with all plans, drawings, reports, and submissions approved as part of the application. Any material change requires Planning Board approval.

2) **Landscaping and Screening.**
The applicant shall install and maintain all required screening, vegetation, fencing, berms, and buffers as approved by the Planning Board. Any dead or failing plantings must be replaced within the next growing season.

3) **Fencing and Site Security.**
All equipment shall be fully fenced and secured consistent with Section 6 (Solar) and Section 7 (BESS). Fencing must meet height, safety, and access requirements and be maintained in good condition.

4) **Lighting Controls.**
   a. Purpose: Lighting shall be the minimum necessary for safety and security.
   b. Full Cutoff Fixtures: All lighting shall be full-cutoff, dark-sky-compliant fixtures that direct light downward and prevent glare or light trespass.
   c. Brightness Limits:
      (i) Maximum illumination at the property boundary: 0.1 foot-candles
      (ii) Maximum illumination at any residence: 0.0 foot-candles (no measurable spillover)
   d. Color Temperature: All exterior lighting must be 3000K or lower (warm white) to minimize glare and skyglow.
   e. Automatic Controls:
      (i) Motion-activated lighting required where possible
      (ii) No dusk-to-dawn lighting unless required for safety or emergency access
      (iii) Lights must turn off automatically when not needed
   f. Shielding:
      (i) Fixtures must include house-side shielding toward all residential properties
      (ii) No upward-facing lighting permitted
   g. Lighting Plan:
      (i) Applicants must submit a Lighting Plan showing:
      (ii) Fixture locations
      (iii) Fixture specifications
      (iv) Photometric (light-trespass) modeling
      (v) Hours of intended use
   h. Enforcement:

(i) Any lighting found to exceed approved levels shall be corrected within 30 days of notice by the Code Enforcement Officer.

5) **Noise Limits.**

The project shall comply with all noise limitations required under this Local Law and shall submit post-construction compliance measurements if requested by the Planning Board.

6) **Stormwater and Drainage.**

Stormwater controls must be constructed and maintained consistent with NYSDEC requirements and the approved plans. No stormwater or heated discharge may enter regulated waterbodies, wetlands, or watercourses.

7) **Spill and Hazardous Materials Prevention.**

All projects must comply with applicable NYS and federal requirements for hazardous materials storage, emergency response, and spill prevention.

8) **Backup Generators.**

a. All backup generators and auxiliary systems must be disclosed and included in the approved plans. Installation or operation of undisclosed or non-compliant backup generator equipment constitutes a violation of this ordinance.
b. Upon discovery of a violation, the municipality may:
    i. Suspend all relevant permits or approvals;
    ii. Issue civil penalties of $300 up to $3,000 per day per unit until compliance is achieved based on the severity of the violation and the level of hazard presented by the Solar Energy System or Battery Energy Storage System;
    iii. Require removal or remediation of non-conforming equipment at the property owner's expense;
    iv. Pursue any other remedy available under applicable state law.

9) **Access for Emergency Responders.**

The applicant shall provide emergency access, signage, system maps, training and equipment for fire and emergency personnel prior to operation.

10) **Operation and Maintenance.**

The project owner shall maintain all equipment, access roads, fencing, vegetation, and screening consistent with the approved Operation and Maintenance Plan.

11) **No Discharge to Waterbodies.**

No discharge of industrial fluids, cooling water, battery effluent, or other contaminants is permitted into any regulated waterbody, stream, wetland, or hydrologic feature.

a. The project owner shall maintain and make public annual water tests for years 1 through 5 of operation and biannual testing shall commence at year 6 to the end of operation.

12) **Decommissioning Requirements.**

The project owner shall continually maintain financial assurance as required by this Local Law and shall implement the Decommissioning Plan upon abandonment or permit termination.

13)**Permit Duration and Review.**

The Planning Board may limit the duration of the Special Use Permit, require periodic review, or require renewal based on technological, safety, or environmental considerations.

14)**Transfer of Ownership.**

New owners must notify the Town at least 30 days prior to transfer and must assume all permit conditions, decommissioning obligations, and financial assurance requirements.

F) **Decommissioning plan.** The applicant shall submit a decommissioning plan in accordance with the New York State Uniform Fire Prevention and Building Code, to be implemented upon abandonment and/or in conjunction with the removal of the facility. The decommissioning plan shall include:
   1) A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;
   2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
   3) The anticipated life of the battery energy storage system;
   4) The estimated decommissioning costs and how said estimate was determined;
   5) The method of ensuring that funds will be available for decommissioning and restoration;
   6) The method by which the decommissioning cost will be kept current;
   7) The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed;
   8) A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

G) **Decommissioning fund**. The owner and/or operator of the energy storage system shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town for the removal of the battery energy storage system, in an amount to

be determined by the Town, for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed financial institution. All costs of the financial security shall be borne by the applicant.

H) **Ownership changes**. If the owner of the battery energy storage system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the Town Board of such a change in ownership or operator 30 days prior to the ownership change. A new owner or operator must provide such notification to the Town Board in writing. The special use permit and all other local approvals for the battery energy storage system would be void if a new owner or operator fails to provide written notification to the Town Board in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this section.

I) **Abandonment and removal of large battery energy storage systems.**
   1) A Large Battery Energy Storage System shall be considered abandoned if it fails to operate for 12 consecutive months. Upon abandonment, the owner or operator must implement the approved Decommissioning Plan. If the owner or operator fails to act, the Town may enter the property, utilize the required financial assurance, remove the system, restore the site, and levy a lien on the property for any unrecovered expenses. Failure to comply with this section may result in enforcement action detailed in Section 9 and Section 7H.
   2) All Tier 1 Battery Energy Storage Systems shall be removed upon abandonment, and the site shall be restored in accordance with a decommissioning requirement established by the Enforcement Officer.

J) **Administration and enforcement.**
   1) In order to verify that the battery energy storage system owner or operator and any and all lessees and renters place, construct, modify, and maintain the battery energy storage system in accordance with all applicable technical, safety, fire, building, and local codes, laws, ordinances, regulations, and other applicable requirements, the Town may inspect all facets of placement, construction, modification, and maintenance.
   2) Any inspections required by the Town that are beyond the Town's technical expertise or ability shall be conducted by third parties at the expense of the applicant.

K) **Signage**. Signage shall be in compliance with American National Standards Institute Z535 and shall include the type of technology associated with the battery energy storage system, any special hazards associated with it, the type of suppression system installed in the area of battery energy storage systems, 24-hour emergency

contact information, and any information required by the National Electric Code. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

L) **Vegetation and tree cutting**. Areas within one hundred feet (100') on each side of large battery energy storage systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover shall be permitted if they cannot readily transmit fire. Removal of trees shall be minimized to the extent possible outside the one hundred feet (100') radius of the large battery energy storage system. Under no circumstances should a proposal require clearing a half-acre (1/2, 0.5) or more of trees solely to site a BESS.

M) **Fencing and screening**. Large battery energy storage systems, including all mechanical systems, shall be enclosed by fencing at least eight feet (8') high and 2 feet (2') below grade with a self-locking gate to prevent unauthorized access (unless housed in a dedicated-use building) and not interfere with ventilation or exhaust ports. Large battery energy storage systems shall be screened to minimize adverse visual impacts by preserving natural vegetation and providing earth berms and landscaped screening to abut residential properties, public roads, public sites, and known areas of important views or vistas. Existing vegetation may be used to satisfy all or a portion of the required landscaping and screening. Any unhealthy vegetation shall be removed and replaced immediately. The Planning Board has the right to waive the landscaping requirements for large battery energy storage systems where an applicant can demonstrate no impact on adjacent parcels.

N) **Setbacks**. Minimum setback from road right-of-way lines is one-hundred feet (100'). Minimum setback from side lot lines is three hundred feet (300'). Minimum setback from rear lot lines is two hundred feet (200'). Minimum setback from any existing residential structures is four hundred feet (400'). The Planning Board may require greater setbacks if deemed necessary to reduce the project's impacts on neighboring properties. The side and rear lot line setbacks for contiguous parcels that include facility components within one proposed project can be waived. Fencing, access roads and landscaping may occur within the setback.

O) **Noise**. The one-hour average noise generated from battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of 60 dBA as measured at the outside wall of any nonparticipating residence or occupied community building. Applicants may submit the equipment and component manufacturers' noise ratings to demonstrate compliance. The applicant may be required to provide operating sound pressure level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.

P) **Lighting**. Lighting of the battery energy storage system shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

Q) **Erosion and sediment control.** Erosion and sediment control and stormwater management plans shall be prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.

R) **Engineering plans**. Prior to the issuance of the special use permit or final approval by the Planning Board, but not required as part of the application, engineering plans must be signed and sealed by a NYS Licensed Professional Engineer.

S) **Emergency operations plan**.
An Emergency Operations Plan (EOP) shall be prepared and submitted as part of any Large Battery Energy Storage System application. A copy of the approved EOP shall be provided to the system owner, the Code Enforcement Officer/Zoning Enforcement Officer (CEO/ZEO), the local fire department, and the local fire code official. A permanent copy shall also be placed in an approved, accessible location on-site for use by facility personnel and emergency responders.

1) **System Certification.**
Prior to issuance of a zoning permit, the applicant shall submit copies of all required safety certifications, including equipment UL/NRTL listings, to both the Town Board and the CEO/ZEO.
2) **Site Access.**
Site access shall be maintained year-round, including snow removal and emergency access provisions satisfactory to the local fire department and first responders.
3) **Working Clearances & Electrical Safety.**
All BESS components and associated equipment shall maintain required working clearances, and all electrical circuitry shall be contained within weatherproof enclosures compliant with the most recent National Electrical Code.
4) **First Responder Training.**
The applicant shall ensure that appropriate and acceptable first responder training is completed prior to permit issuance and again prior to commencing operations, with training records submitted to the CEO/ZEO and kept on file for the life of the facility.
5) **Documentation & Updates.**
    a. The operator shall submit updated EOP materials to the CEO/ZEO within 30 days of any changes to safety procedures, equipment, or emergency response protocols.

b. **Failure to submit, maintain, or comply with the Emergency Operations Plan shall constitute a violation of this Local Law and be enforceable under Section 9.**

T) **Emergency Procedures.**

The Emergency Operations Plan must include detailed emergency procedures addressing the following:

1) **Safe Shutdown and Re-Energization.**
Procedures for safe shutdown, de-energizing, or isolating equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injury, as well as procedures for safe start-up after emergency conditions cease.

2) **Fire, Explosion, and Hazard Response.**
Procedures to be followed in the event of fire, explosion, release of liquids or vapors, mechanical failure, or any hazardous condition. Procedures shall include, at minimum: sounding alarms, notifying the fire department, evacuation protocols, equipment isolation, and fire control/suppression actions.

3) **Hazard Information Equivalent to Safety Data Sheets (SDS).**
Response considerations addressing safety hazards, responder precautions, and extinguishing guidance for battery components and chemistries, even where a formal SDS is not required.

4) **Procedures for Damaged Equipment.**
Procedures for assessing, securing, and removing damaged or compromised BESS equipment after an emergency event. The EOP must include current 24-hour contact information for personnel qualified to safely remove or secure damaged components.

5) **Drills and Responder Coordination.**
Procedures and schedules for conducting emergency response drills and providing initial and periodic refresher training for all local first responders, consistent with the most recent New York State Fire Code guidance.

6) **Recordkeeping Requirement.**
The operator shall provide copies of emergency procedures, completed drill records, and training documentation to the CEO/ZEO annually by December 31st or upon request. These records shall also be retained onsite for inspection by fire code officials.

7) **Enforcement.**
Failure to implement, maintain, or provide documentation of required emergency procedures shall constitute a violation of this Local Law and shall be enforceable under Section 9.

U) **Host Community Agreements/ PILOTs.**

1) The Town of Leyden shall lead the negotiation and execution of Commissioning and Host Community Benefit Agreements for Solar Energy Systems, Battery Energy Storage Systems, and Emerging Energy Technologies within its jurisdiction.
   a. HCBAs are voluntary but represent the Town's preferred method for securing community benefits.
2) These agreements—covering financial and community-benefit terms—shall be structured independently of IDA-administered PILOTs, unless the developer opts to apply for IDA incentives. Should a project seek IDA involvement, the Town will coordinate with the IDA per state law but will retain primary negotiation authority for municipal benefits.
3) All HCBAs and PILOT-related agreements involving the Town shall comply with applicable state and local laws and include all affected taxing jurisdictions.

SECTION 8. Review of Costs.

A Purpose and Cost Basis for Review of BESS and Solar Energy Systems.

The technical, environmental, and public-safety standards required under Section 7 for Battery Energy Storage Systems—such as fire-safety compliance, adherence to NFPA and International Fire Code provisions, emergency operations planning, noise analysis, hazardous-materials handling, decommissioning requirements, and engineering review—necessitate independent professional evaluation to ensure the protection of the health, safety, and welfare of the Town of Leyden residents.

Because these reviews exceed the routine administrative capacity of the Town and require specialized expertise, the Town must retain qualified third-party engineers, environmental consultants, fire-code specialists, and legal advisors.

Accordingly, Section 8 authorizes the Town to recover the reasonable costs of such expert review through applicant-funded escrow, ensuring that all BESS and Solar Energy System applications are reviewed thoroughly without shifting financial burdens onto taxpayers.

This cost-recovery mechanism is directly tied to the technical and safety requirements established in Section 7 and is necessary to verify compliance with applicable fire, safety, environmental, engineering, and land-use regulations.

B. Application Fees.

Applications for Solar Energy Systems and Battery Energy Storage Systems (BESS) must include payment of the permit fee as established by resolution of the Town Board of the Town of Leyden.

C. Specialized Services and Expertise Costs.

To the extent the Town incurs additional review costs for specialized services—such as engineering, fire safety, environmental, legal, or planning expertise—all such costs shall be reimbursed by the applicant. These shall include, but are not limited to:

1. Independent consultant fees (engineering, firefighting safety, environmental review);
2. Legal review costs;
3. Any other professional services necessary for a comprehensive review of the application.

D. **Escrow Account & Billing**

1. Prior to deeming the application complete, the applicant shall deposit into an escrow account a reasonable estimate of anticipated review costs, as determined by the Town Board or its designee.
2. Consultants or attorneys retained by the Town shall be compensated from the escrow account directly by the Town, at rates not to exceed the Town's actual invoiced costs.
3. If during the review the escrow depletes, the applicant must replenish the account within 14 days to avoid spoilers to the review process.
4. Any remaining balance after review and issuance of a final decision shall be returned to the applicant within 90 days.

E. **Legal Authority & Standards**

1. Imposing fees for consultant reimbursement is expressly permitted under Town Law §§ 277(1) and supported by OSC Opinion 90-14, provided such fees are reasonable and proportionate to the services rendered.
2. Similar provisions have been adopted under Municipal Home Rule through local laws, such as in the Town of Conesus and Town of Southport, establishing escrow-based reimbursement systems for professional review expenses.

SECTION 9. Enforcement.

Any violation of this Local Law shall be subject to the same enforcement procedures, civil penalties, and remedies provided in the Town of Leyden Zoning Law and applicable Town Code enforcement provisions.

SECTION 10. Severability.

Each separate provision of this Local Law shall be deemed independent of all other provisions herein, and if provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

SECTION 11. Effective Date.

This Local Law shall take effect immediately upon adoption and/or filing with the New York State Secretary of State.