



# GENESEE COUNTY PLANNING BOARD REFERRALS NOTICE OF FINAL ACTION

GCDP Referral ID **T-07-PEM-10-22**  
Review Date **10/13/2022**

Municipality  
Board Name  
Applicant's Name  
Referral Type  
Variance(s)  
Description:

**PEMBROKE, T.**  
**TOWN BOARD**  
**Jim Wolbert, contact for Town of Pembroke**  
**Zoning Text Amendments**  
**Zoning Text Amendments to replace the solar law and add a battery storage law.**

Location  
Zoning District

**Entire Town of Pembroke**  
**Entire Town of Pembroke**

### PLANNING BOARD RECOMMENDS:

**APPROVAL**

### EXPLANATION:

The proposed Zoning Text Amendments are intended to protect the health, safety, and welfare of the Town and should pose no significant county-wide or inter-community impact.

Director

October 13, 2022

Date

If the County Planning Board disapproved the proposal, or recommends modifications, the referring agency shall NOT act contrary to the recommendations except by a vote of a majority plus one of all the members and after the adoption of a resolution setting forth the reasons for such contrary action. Within 30 days after the final action the referring agency shall file a report of final action with the County Planning Board. An action taken form is provided for this purpose and may be obtained from the Genesee County Planning Department.

**SEND OR DELIVER TO:**

GENESEE COUNTY DEPARTMENT OF PLANNING  
3837 West Main Street Road  
Batavia, NY 14020-9404  
Phone: (585) 599-1209

**Clear Form**

**DEPARTMENT USE ONLY:**

GCDP Referral # T-07-PEM-10-22



**\* GENESEE COUNTY \*  
PLANNING BOARD REFERRAL**

RECEIVED  
Genesee County  
Dept. of Planning  
9/29/2022

Required According to:  
**GENERAL MUNICIPAL LAW ARTICLE 12B, SECTION 239 L, M, N**  
(Please answer ALL questions as fully as possible)

**1. REFERRING BOARD(S) INFORMATION**

Board(s) Pembroke Town Board  
Address 1145 Main rd  
City, State, Zip Corfu New York 14036  
Phone (585) 599 - 1209 Ext. \_\_\_\_\_

**2. APPLICANT INFORMATION**

Name Jim Wolbert  
Address 1145 Main Rd.  
City, State, Zip Corfu New York 14036  
Phone (585) 599 - 1209 Ext. \_\_\_\_\_ Email zoning-codes@townofpemk

MUNICIPALITY:  City  Town  Village of Pembroke

**3. TYPE OF REFERRAL:** (Check all applicable items)

- |   |  |                                      |
|---|--|--------------------------------------|
| <input type="checkbox"/> Area Variance      | <input type="checkbox"/> Zoning Map Change                 | Subdivision Proposal                 |
| <input type="checkbox"/> Use Variance       | <input checked="" type="checkbox"/> Zoning Text Amendments | <input type="checkbox"/> Preliminary |
| <input type="checkbox"/> Special Use Permit | <input type="checkbox"/> Comprehensive Plan/Update         | <input type="checkbox"/> Final       |
| <input type="checkbox"/> Site Plan Review   | <input type="checkbox"/> Other: _____                      |                                      |

**4. LOCATION OF THE REAL PROPERTY PERTAINING TO THIS REFERRAL:**

- A. Full Address Town of Pembroke
- B. Nearest intersecting road \_\_\_\_\_
- C. Tax Map Parcel Number \_\_\_\_\_
- D. Total area of the property \_\_\_\_\_ Area of property to be disturbed \_\_\_\_\_
- E. Present zoning district(s) \_\_\_\_\_

**5. REFERRAL CASE INFORMATION:**

- A. Has this referral been previously reviewed by the Genesee County Planning Board?  
 NO  YES If yes, give date and action taken \_\_\_\_\_
- B. Special Use Permit and/or Variances refer to the following section(s) of the present zoning ordinance and/or law  
\_\_\_\_\_
- C. Please describe the nature of this request To remove SECTION 523 Solar Law and replace with Section 524 Solar Law and add SECTION 525 Battery Storage Law to the present Town of Pembroke Zoning Law.

**6. ENCLOSURES** – Please enclose copy(s) of all appropriate items in regard to this referral

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Local application      | <input checked="" type="checkbox"/> Zoning text/map amendments | <input type="checkbox"/> New or updated comprehensive plan |
| <input type="checkbox"/> Site plan              | <input type="checkbox"/> Location map or tax maps              | <input type="checkbox"/> Photos                            |
| <input type="checkbox"/> Subdivision plot plans | <input type="checkbox"/> Elevation drawings                    | <input type="checkbox"/> Other: _____                      |
| <input checked="" type="checkbox"/> SEQR forms  | <input type="checkbox"/> Agricultural data statement           |  |

**7. CONTACT INFORMATION** of the person representing the community in filling out this form (required information)

Name Jim Wolbert Title CEO / ZEO Phone (585) 599 - 1209 Ext. \_\_\_\_\_  
Address, City, State, Zip 1145 Main Rd. Corfu New York 14036 Email zoning-codes@townofpembroke.org

**TOWN OF PEMBROKE**  
**1145 MAIN ROAD**  
**CORFU, NEW YORK 14036**  
**585-599-4892**

APPLICATION FOR:	ZONING APPEAL
<input type="checkbox"/> SPECIAL USE PERMIT	<input type="checkbox"/> LAND SEPARATION
<input type="checkbox"/> TEMP. SPECIAL USE PERMIT	<input type="checkbox"/> SUB DIVISION
<input type="checkbox"/> USE VARIANCE	<input type="checkbox"/> ZONE DISTRICT CHANGE
<input type="checkbox"/> AREA VARIANCE	<input type="checkbox"/> SITE PLAN REVIEW

DATE APPLIED FOR	9-29-22
APPLICATION NUMBER	87
REFERRED TO PLANNING	OCT-19
REFERRED TO <del>ZBA</del> TOWN BOARD	DFC
PUBLIC HEARING REQ.	FOR TOWN BOARD

APPLICANT	STREET LOCATION #
ADDRESS	TAX MAP PARCEL #
TELEPHONE #	ZONING DISTRICT
	SIZE OF PARCEL
	CORNER LOT
PROPERTY OWNER (IF OTHER THAN ABOVE)	
NAME	CURRENT SET BACK OF BUILDING
ADDRESS	FRONT
TELEPHONE #	REAR
	SIDE

PERMIT OR VARIANCE FOR:	IF THIS APPLICATION IS FOR A VARIANCE PLEASE STATE THE SECTION OF THE ORDINANCE UNDER WHICH THE VARIANCE REQUESTED
<input type="checkbox"/> NEW CONSTRUCTION	
<input type="checkbox"/> ADDITION	
<input type="checkbox"/> SIGN	
<input type="checkbox"/> HOME OCCUPATION	DESCRIBE REASON FOR VARIANCE
<input type="checkbox"/> OTHER	

DOES THIS PROJECT REQUIRE APPROVAL FROM THE FOLLOWING? CHECK THOSE THAT APPLY:

<input type="checkbox"/> GENESEE CO. HEALTH DEPARTMENT	<input checked="" type="checkbox"/> TOWN BOARD
<input type="checkbox"/> GENESEE CO. SOIL & WATER	<input type="checkbox"/> Z.B.A.
<input type="checkbox"/> DEPARTMENT OF TRANSPORTATION	<input checked="" type="checkbox"/> PLANNING BOARD
<input checked="" type="checkbox"/> COUNTY PLANNING DEPARTMENT	<input type="checkbox"/> PUBLIC HEARING
<input type="checkbox"/> D.E.C.	

DESCRIPTION OF PROPOSED PROJECT OR REASON FOR PERMIT REQUEST

TO REMOVE & REPLACE TOWN SOLAR LAW

TO ADD NEW BATTERY STORAGE LAW

- INSTRUCTIONS FOR COMPLETING THIS APPLICATION:
1. INCLUDE SITE SKETCH PLAN, PREFERABLY A LAND SURVEY WITH CURRENT AND PROPOSED SET BACKS.
  2. IF APPLICANT IS NOT THE OWNER OF THE LAND ON WHICH THE PROPOSED PROJECT IS LOCATED, THEY ARE THEN REQUIRED TO OBTAIN WRITTEN PERMISSION FROM THE LAND OWNER FOR THE PROJECT.
  3. A SEQF FORM (EAF) MUST BE INCLUDED WITH THE APPLICATION.
  4. APPLICANT OR REPRESENTATIVE SHOULD ATTEND PLANNING BOARD AND/OR ZBA MEETING.

NOTE: IF THE REQUEST IS FOR A USE OR AREA VARIANCE, THE PLANNING BOARD'S ONLY ACTION WILL BE TO MAKE A RECOMMENDATION TO THE ZONING BOARD OF APPEALS FOR APPROVAL OR DISAPPROVAL.

APPLICANT SIGNATURE Jon Wyllet DATE 9-29-22

**Full Environmental Assessment Form**  
**Part 1 - Project and Setting**

**Instructions for Completing Part 1**

**Part 1 is to be completed by the applicant or project sponsor.** Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either “Yes” or “No”. If the answer to the initial question is “Yes”, complete the sub-questions that follow. If the answer to the initial question is “No”, proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

**A. Project and Applicant/Sponsor Information.**

Name of Action or Project: Solar and Battery Zoning Law		
Project Location (describe, and attach a general location map): Town of Pembroke		
Brief Description of Proposed Action (include purpose or need): To replace current Solar Law and add Battery storage law.		
Name of Applicant/Sponsor: Town of Pembroke		Telephone: 585-599-1209
		E-Mail: zoning-codes@townofpembroke.org
Address: 1145 Main Rd		
City/PO: Corfu	State: New York	Zip Code: 14036
Project Contact (if not same as sponsor; give name and title/role):		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:

**B. Government Approvals**

**B. Government Approvals, Funding, or Sponsorship.** (“Funding” includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	Town Board	
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Planning Board	
c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input type="checkbox"/> No		
d. Other local agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Planning	
f. Regional agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
<p>i. Coastal Resources.</p> <p><i>i.</i> Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><i>ii.</i> Is the project site located in a community with an approved Local Waterfront Revitalization Program? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><i>iii.</i> Is the project site within a Coastal Erosion Hazard Area? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		

**C. Planning and Zoning**

**C.1. Planning and zoning actions.**

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed?  Yes  No

- **If Yes**, complete sections C, F and G.
- **If No**, proceed to question C.2 and complete all remaining sections and questions in Part 1

**C.2. Adopted land use plans.**

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located?  Yes  No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located?  Yes  No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?)  Yes  No

If Yes, identify the plan(s):

NYS Heritage Areas: West Erie Canal Corridor

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c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan?  Yes  No

If Yes, identify the plan(s):

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**C.3. Zoning**

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance.  Yes  No  
If Yes, what is the zoning classification(s) including any applicable overlay district?

\_\_\_\_\_

b. Is the use permitted or allowed by a special or conditional use permit?  Yes  No

c. Is a zoning change requested as part of the proposed action?  Yes  No

If Yes,

i. What is the proposed new zoning for the site? \_\_\_\_\_

**C.4. Existing community services.**

a. In what school district is the project site located? Pembroke Schools

b. What police or other public protection forces serve the project site?  
Genesee County Sheriff

c. Which fire protection and emergency medical services serve the project site?  
Pembroke Fire Dept

d. What parks serve the project site?  
Pembroke Town Park

**D. Project Details**

**D.1. Proposed and Potential Development**

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)?  
\_\_\_\_\_

b. a. Total acreage of the site of the proposed action? \_\_\_\_\_ acres

b. Total acreage to be physically disturbed? \_\_\_\_\_ acres

c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? \_\_\_\_\_ acres

c. Is the proposed action an expansion of an existing project or use?  Yes  No

i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % \_\_\_\_\_ Units: \_\_\_\_\_

d. Is the proposed action a subdivision, or does it include a subdivision?  Yes  No

If Yes,

i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)  
\_\_\_\_\_

ii. Is a cluster/conservation layout proposed?  Yes  No

iii. Number of lots proposed? \_\_\_\_\_

iv. Minimum and maximum proposed lot sizes? Minimum \_\_\_\_\_ Maximum \_\_\_\_\_

e. Will the proposed action be constructed in multiple phases?  Yes  No

i. If No, anticipated period of construction: \_\_\_\_\_ months

ii. If Yes:

- Total number of phases anticipated \_\_\_\_\_
- Anticipated commencement date of phase 1 (including demolition) \_\_\_\_\_ month \_\_\_\_\_ year
- Anticipated completion date of final phase \_\_\_\_\_ month \_\_\_\_\_ year

• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: \_\_\_\_\_

\_\_\_\_\_

f. Does the project include new residential uses?  Yes  No  
 If Yes, show numbers of units proposed.

	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	_____
At completion	_____	_____	_____	_____
of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)?  Yes  No  
 If Yes,

i. Total number of structures \_\_\_\_\_

ii. Dimensions (in feet) of largest proposed structure: \_\_\_\_\_ height; \_\_\_\_\_ width; and \_\_\_\_\_ length

iii. Approximate extent of building space to be heated or cooled: \_\_\_\_\_ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage?  Yes  No  
 If Yes,

i. Purpose of the impoundment: \_\_\_\_\_

ii. If a water impoundment, the principal source of the water:  Ground water  Surface water streams  Other specify: \_\_\_\_\_

iii. If other than water, identify the type of impounded/contained liquids and their source. \_\_\_\_\_

iv. Approximate size of the proposed impoundment. Volume: \_\_\_\_\_ million gallons; surface area: \_\_\_\_\_ acres

v. Dimensions of the proposed dam or impounding structure: \_\_\_\_\_ height; \_\_\_\_\_ length

vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): \_\_\_\_\_

**D.2. Project Operations**

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both?  Yes  No  
 (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)  
 If Yes:

i. What is the purpose of the excavation or dredging? \_\_\_\_\_

ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards): \_\_\_\_\_
- Over what duration of time? \_\_\_\_\_

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. \_\_\_\_\_

iv. Will there be onsite dewatering or processing of excavated materials?  Yes  No  
 If yes, describe. \_\_\_\_\_

v. What is the total area to be dredged or excavated? \_\_\_\_\_ acres

vi. What is the maximum area to be worked at any one time? \_\_\_\_\_ acres

vii. What would be the maximum depth of excavation or dredging? \_\_\_\_\_ feet

viii. Will the excavation require blasting?  Yes  No

ix. Summarize site reclamation goals and plan: \_\_\_\_\_

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area?  Yes  No  
 If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): \_\_\_\_\_

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

iii. Will the proposed action cause or result in disturbance to bottom sediments?  Yes  No  
If Yes, describe: \_\_\_\_\_

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation?  Yes  No  
If Yes:

- acres of aquatic vegetation proposed to be removed: \_\_\_\_\_
- expected acreage of aquatic vegetation remaining after project completion: \_\_\_\_\_
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): \_\_\_\_\_
- proposed method of plant removal: \_\_\_\_\_
- if chemical/herbicide treatment will be used, specify product(s): \_\_\_\_\_

v. Describe any proposed reclamation/mitigation following disturbance: \_\_\_\_\_  
\_\_\_\_\_

c. Will the proposed action use, or create a new demand for water?  Yes  No  
If Yes:

i. Total anticipated water usage/demand per day: \_\_\_\_\_ gallons/day

ii. Will the proposed action obtain water from an existing public water supply?  Yes  No  
If Yes:

- Name of district or service area: \_\_\_\_\_
- Does the existing public water supply have capacity to serve the proposal?  Yes  No
- Is the project site in the existing district?  Yes  No
- Is expansion of the district needed?  Yes  No
- Do existing lines serve the project site?  Yes  No

iii. Will line extension within an existing district be necessary to supply the project?  Yes  No  
If Yes:

- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_
- Source(s) of supply for the district: \_\_\_\_\_

iv. Is a new water supply district or service area proposed to be formed to serve the project site?  Yes  No  
If Yes:

- Applicant/sponsor for new district: \_\_\_\_\_
- Date application submitted or anticipated: \_\_\_\_\_
- Proposed source(s) of supply for new district: \_\_\_\_\_

v. If a public water supply will not be used, describe plans to provide water supply for the project: \_\_\_\_\_  
\_\_\_\_\_

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: \_\_\_\_\_ gallons/minute.

d. Will the proposed action generate liquid wastes?  Yes  No  
If Yes:

i. Total anticipated liquid waste generation per day: \_\_\_\_\_ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): \_\_\_\_\_  
\_\_\_\_\_

iii. Will the proposed action use any existing public wastewater treatment facilities?  Yes  No  
If Yes:

- Name of wastewater treatment plant to be used: \_\_\_\_\_
- Name of district: \_\_\_\_\_
- Does the existing wastewater treatment plant have capacity to serve the project?  Yes  No
- Is the project site in the existing district?  Yes  No
- Is expansion of the district needed?  Yes  No



• Do existing sewer lines serve the project site?  Yes  No  
 • Will a line extension within an existing district be necessary to serve the project?  Yes  No  
 If Yes:  
 • Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site?  Yes  No  
 If Yes:  
 • Applicant/sponsor for new district: \_\_\_\_\_  
 • Date application submitted or anticipated: \_\_\_\_\_  
 • What is the receiving water for the wastewater discharge? \_\_\_\_\_

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction?  Yes  No  
 If Yes:  
 i. How much impervious surface will the project create in relation to total size of project parcel?  
 \_\_\_\_\_ Square feet or \_\_\_\_\_ acres (impervious surface)  
 \_\_\_\_\_ Square feet or \_\_\_\_\_ acres (parcel size)  
 ii. Describe types of new point sources. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?  
 \_\_\_\_\_  
 \_\_\_\_\_  
 • If to surface waters, identify receiving water bodies or wetlands: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

• Will stormwater runoff flow to adjacent properties?  Yes  No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater?  Yes  No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations?  Yes  No  
 If Yes, identify:  
 i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)  
 \_\_\_\_\_  
 ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)  
 \_\_\_\_\_  
 iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)  
 \_\_\_\_\_  
 \_\_\_\_\_

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit?  Yes  No  
 If Yes:  
 i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year)  Yes  No  
 ii. In addition to emissions as calculated in the application, the project will generate:  
 • \_\_\_\_\_ Tons/year (short tons) of Carbon Dioxide (CO<sub>2</sub>)  
 • \_\_\_\_\_ Tons/year (short tons) of Nitrous Oxide (N<sub>2</sub>O)  
 • \_\_\_\_\_ Tons/year (short tons) of Perfluorocarbons (PFCs)  
 • \_\_\_\_\_ Tons/year (short tons) of Sulfur Hexafluoride (SF<sub>6</sub>)  
 • \_\_\_\_\_ Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflouorocarbons (HFCs)  
 • \_\_\_\_\_ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)?  Yes  No  
 If Yes:  
 i. Estimate methane generation in tons/year (metric): \_\_\_\_\_  
 ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): \_\_\_\_\_

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i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations?  Yes  No  
 If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): \_\_\_\_\_

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j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services?  Yes  No  
 If Yes:  
 i. When is the peak traffic expected (Check all that apply):  Morning  Evening  Weekend  
 Randomly between hours of \_\_\_\_\_ to \_\_\_\_\_.  
 ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): \_\_\_\_\_  
 iii. Parking spaces: Existing \_\_\_\_\_ Proposed \_\_\_\_\_ Net increase/decrease \_\_\_\_\_  
 iv. Does the proposed action include any shared use parking?  Yes  No  
 v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: \_\_\_\_\_  
 vi. Are public/private transportation service(s) or facilities available within 1/2 mile of the proposed site?  Yes  No  
 vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles?  Yes  No  
 viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes?  Yes  No

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k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy?  Yes  No  
 If Yes:  
 i. Estimate annual electricity demand during operation of the proposed action: \_\_\_\_\_  
 ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): \_\_\_\_\_  
 iii. Will the proposed action require a new, or an upgrade, to an existing substation?  Yes  No

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l. Hours of operation. Answer all items which apply.  
 i. During Construction:  
 • Monday - Friday: \_\_\_\_\_  
 • Saturday: \_\_\_\_\_  
 • Sunday: \_\_\_\_\_  
 • Holidays: \_\_\_\_\_  
 ii. During Operations:  
 • Monday - Friday: \_\_\_\_\_  
 • Saturday: \_\_\_\_\_  
 • Sunday: \_\_\_\_\_  
 • Holidays: \_\_\_\_\_

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both?  Yes  No  
 If yes:  
 i. Provide details including sources, time of day and duration:  
 \_\_\_\_\_  
 \_\_\_\_\_

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen?  Yes  No  
 Describe: \_\_\_\_\_  
 \_\_\_\_\_

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n. Will the proposed action have outdoor lighting?  Yes  No  
 If yes:  
 i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:  
 \_\_\_\_\_  
 \_\_\_\_\_

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen?  Yes  No  
 Describe: \_\_\_\_\_  
 \_\_\_\_\_

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o. Does the proposed action have the potential to produce odors for more than one hour per day?  Yes  No  
 If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage?  Yes  No  
 If Yes:  
 i. Product(s) to be stored \_\_\_\_\_  
 ii. Volume(s) \_\_\_\_\_ per unit time \_\_\_\_\_ (e.g., month, year)  
 iii. Generally, describe the proposed storage facilities: \_\_\_\_\_  
 \_\_\_\_\_

---

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation?  Yes  No  
 If Yes:  
 i. Describe proposed treatment(s):  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

ii. Will the proposed action use Integrated Pest Management Practices?  Yes  No

---

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)?  Yes  No  
 If Yes:  
 i. Describe any solid waste(s) to be generated during construction or operation of the facility:  
 • Construction: \_\_\_\_\_ tons per \_\_\_\_\_ (unit of time)  
 • Operation : \_\_\_\_\_ tons per \_\_\_\_\_ (unit of time)  
 ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:  
 • Construction: \_\_\_\_\_  
 \_\_\_\_\_  
 • Operation: \_\_\_\_\_  
 \_\_\_\_\_

iii. Proposed disposal methods/facilities for solid waste generated on-site:  
 • Construction: \_\_\_\_\_  
 \_\_\_\_\_  
 • Operation: \_\_\_\_\_  
 \_\_\_\_\_

s. Does the proposed action include construction or modification of a solid waste management facility?  Yes  No  
 If Yes:  
 i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): \_\_\_\_\_  
 ii. Anticipated rate of disposal/processing:  
 • \_\_\_\_\_ Tons/month, if transfer or other non-combustion/thermal treatment, or  
 • \_\_\_\_\_ Tons/hour, if combustion or thermal treatment  
 iii. If landfill, anticipated site life: \_\_\_\_\_ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste?  Yes  No  
 If Yes:  
 i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: \_\_\_\_\_  
 \_\_\_\_\_  
 ii. Generally describe processes or activities involving hazardous wastes or constituents: \_\_\_\_\_  
 \_\_\_\_\_  
 iii. Specify amount to be handled or generated \_\_\_\_\_ tons/month  
 iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: \_\_\_\_\_  
 \_\_\_\_\_  
 v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility?  Yes  No  
 If Yes: provide name and location of facility: \_\_\_\_\_  
 \_\_\_\_\_  
 If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility:  
 \_\_\_\_\_  
 \_\_\_\_\_

**E. Site and Setting of Proposed Action**

**E.1. Land uses on and surrounding the project site**

a. Existing land uses.  
 i. Check all uses that occur on, adjoining and near the project site.  
 Urban  Industrial  Commercial  Residential (suburban)  Rural (non-farm)  
 Forest  Agriculture  Aquatic  Other (specify): \_\_\_\_\_  
 ii. If mix of uses, generally describe:  
 \_\_\_\_\_  
 \_\_\_\_\_

b. Land uses and covertypes on the project site.

Land use or Covertypes	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces			
• Forested			
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)			
• Agricultural (includes active orchards, field, greenhouse etc.)			
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: _____ _____			

c. Is the project site presently used by members of the community for public recreation?  Yes  No  
i. If Yes: explain: \_\_\_\_\_

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site?  Yes  No  
If Yes,  
i. Identify Facilities:  
\_\_\_\_\_

e. Does the project site contain an existing dam?  Yes  No  
If Yes:  
i. Dimensions of the dam and impoundment:  
• Dam height: \_\_\_\_\_ feet  
• Dam length: \_\_\_\_\_ feet  
• Surface area: \_\_\_\_\_ acres  
• Volume impounded: \_\_\_\_\_ gallons OR acre-feet  
ii. Dam's existing hazard classification: \_\_\_\_\_  
iii. Provide date and summarize results of last inspection:  
\_\_\_\_\_

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility?  Yes  No  
If Yes:  
i. Has the facility been formally closed?  Yes  No  
• If yes, cite sources/documentation: \_\_\_\_\_  
ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:  
\_\_\_\_\_  
iii. Describe any development constraints due to the prior solid waste activities: \_\_\_\_\_

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste?  Yes  No  
If Yes:  
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:  
\_\_\_\_\_

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site?  Yes  No  
If Yes:  
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply:  Yes  No  
 Yes – Spills Incidents database Provide DEC ID number(s): \_\_\_\_\_  
 Yes – Environmental Site Remediation database Provide DEC ID number(s): \_\_\_\_\_  
 Neither database  
ii. If site has been subject of RCRA corrective activities, describe control measures: \_\_\_\_\_  
iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database?  Yes  No  
If yes, provide DEC ID number(s): 915136  
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):  
\_\_\_\_\_

v. Is the project site subject to an institutional control limiting property uses?  Yes  No

- If yes, DEC site ID number: \_\_\_\_\_
- Describe the type of institutional control (e.g., deed restriction or easement): \_\_\_\_\_
- Describe any use limitations: \_\_\_\_\_
- Describe any engineering controls: \_\_\_\_\_
- Will the project affect the institutional or engineering controls in place?  Yes  No
- Explain: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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**E.2. Natural Resources On or Near Project Site**

a. What is the average depth to bedrock on the project site? \_\_\_\_\_ feet

b. Are there bedrock outcroppings on the project site?  Yes  No  
 If Yes, what proportion of the site is comprised of bedrock outcroppings? \_\_\_\_\_ %

c. Predominant soil type(s) present on project site: \_\_\_\_\_ %  
 \_\_\_\_\_ %  
 \_\_\_\_\_ %

d. What is the average depth to the water table on the project site? Average: \_\_\_\_\_ feet

e. Drainage status of project site soils:  Well Drained: \_\_\_\_\_ % of site  
 Moderately Well Drained: \_\_\_\_\_ % of site  
 Poorly Drained \_\_\_\_\_ % of site

f. Approximate proportion of proposed action site with slopes:  0-10%: \_\_\_\_\_ % of site  
 10-15%: \_\_\_\_\_ % of site  
 15% or greater: \_\_\_\_\_ % of site

g. Are there any unique geologic features on the project site?  Yes  No  
 If Yes, describe: \_\_\_\_\_  
 \_\_\_\_\_

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)?  Yes  No

ii. Do any wetlands or other waterbodies adjoin the project site?  Yes  No  
 If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency?  Yes  No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name 837-64, 837-59, 837-34, 837-66, 837-65, 837-20,... Classification C, B, C(T)
- Lakes or Ponds: Name \_\_\_\_\_ Classification \_\_\_\_\_
- Wetlands: Name Federal Waters, NYS Wetland, Federal Waters, Fe... Approximate Size NYS Wetland (in a...
- Wetland No. (if regulated by DEC) CR-7, CR-16, CR-28, CR-5, C...

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies?  Yes  No  
 If yes, name of impaired water body/bodies and basis for listing as impaired: \_\_\_\_\_  
 Name - Pollutants - Uses: Tonawanda Creek, Middle, Main Stem – Nutrients; Silt/Sediment – Recreation; Aquatic Life

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i. Is the project site in a designated Floodway?  Yes  No

j. Is the project site in the 100-year Floodplain?  Yes  No

k. Is the project site in the 500-year Floodplain?  Yes  No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer?  Yes  No  
 If Yes:  
 i. Name of aquifer: Principal Aquifer

<p>m. Identify the predominant wildlife species that occupy or use the project site: _____          _____          _____</p>	
<p>n. Does the project site contain a designated significant natural community? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>          If Yes:  <i>i.</i> Describe the habitat/community (composition, function, and basis for designation): _____          Limestone Woodland  <i>ii.</i> Source(s) of description or evaluation: _____  <i>iii.</i> Extent of community/habitat:              • Currently: _____ 176.0 acres              • Following completion of project as proposed: _____ acres              • Gain or loss (indicate + or -): _____ acres</p>	
<p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>          If Yes:  <i>i.</i> Species and listing (endangered or threatened): _____          Northern Long-eared Bat, Rock Whitlow Grass</p>	
<p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>          If Yes:  <i>i.</i> Species and listing: _____</p>	
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>          If yes, give a brief description of how the proposed action may affect that use: _____          _____</p>	
<b>E.3. Designated Public Resources On or Near Project Site</b>	
<p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>          If Yes, provide county plus district name/number: GENE001, ERIE001, GENE002</p>	
<p>b. Are agricultural lands consisting of highly productive soils present? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>  <i>i.</i> If Yes: acreage(s) on project site? _____  <i>ii.</i> Source(s) of soil rating(s): _____</p>	
<p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>          If Yes:  <i>i.</i> Nature of the natural landmark:   <input type="checkbox"/> Biological Community   <input type="checkbox"/> Geological Feature  <i>ii.</i> Provide brief description of landmark, including values behind designation and approximate size/extent: _____          _____</p>	
<p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>          If Yes:  <i>i.</i> CEA name: _____  <i>ii.</i> Basis for designation: _____  <i>iii.</i> Designating agency and date: _____</p>	

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? If Yes: <i>i.</i> Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District <i>ii.</i> Name: Eligible property: Farm Residence, Eligible property: Residence, Eligible property: East Pembroke Elementary School, Mou... <i>iii.</i> Brief description of attributes on which listing is based: _____	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
g. Have additional archaeological or historic site(s) or resources been identified on the project site? If Yes: <i>i.</i> Describe possible resource(s): _____ <i>ii.</i> Basis for identification: _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? If Yes: <i>i.</i> Identify resource: _____ <i>ii.</i> Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____ <i>iii.</i> Distance between project and resource: _____ miles.	<input type="checkbox"/> Yes <input type="checkbox"/> No
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? If Yes: <i>i.</i> Identify the name of the river and its designation: _____ <i>ii.</i> Is the activity consistent with development restrictions contained in 6NYCRR Part 666?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No

**F. Additional Information**

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

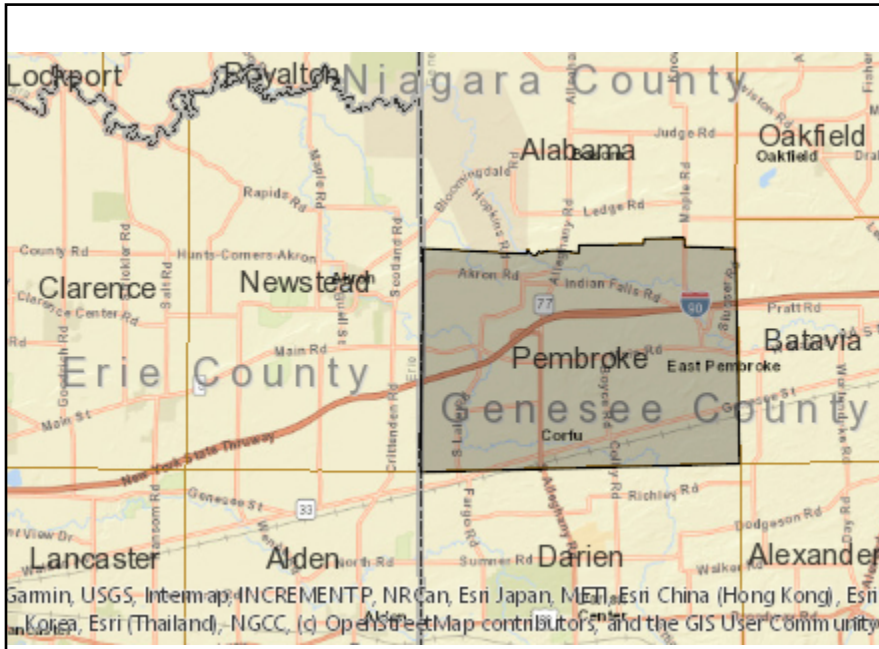
**G. Verification**

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Town of Pembroke James Wolbert Date 9-27-22

Signature \_\_\_\_\_ Title CEO / ZEO





**Disclaimer:** The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas: West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	915136
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Stream Name]	837-64, 837-59, 837-34, 837-66, 837-65, 837-20, 837-58, 837-81, 837-82, 837-83
E.2.h.iv [Surface Water Features - Stream Classification]	C, B, C(T)
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters, NYS Wetland

E.2.h.iv [Surface Water Features - Wetlands Size]	NYS Wetland (in acres):58.8, NYS Wetland (in acres):263.3, NYS Wetland (in acres):80.5, NYS Wetland (in acres):37.3, NYS Wetland (in acres):52.2, NYS Wetland (in acres):33.9, NYS Wetland (in acres):21.2, NYS Wetland (in acres):57.1, NYS Wetland (in acres):29.4, NYS Wetland (in acres):63.7, NYS Wetland (in acres):43.4, NYS Wetland (in acres):53.9, NYS Wetland (in acres):78.8, NYS Wetland (in acres):64.6, NYS Wetland (in acres):54.1, NYS Wetland (in acres):24.1, NYS Wetland (in acres):32.3, NYS Wetland (in acres):753.6, NYS Wetland (in acres):144.2, NYS Wetland (in acres):47.8, NYS Wetland (in acres):29.7, NYS Wetland (in acres):300.7, NYS Wetland (in acres):620.6, NYS Wetland (in acres):929.6, NYS Wetland (in acres):55.5, NYS Wetland (in acres):20.2, NYS Wetland (in acres):150.3, NYS Wetland (in acres):88.9, NYS Wetland (in acres):49.5, NYS Wetland (in acres):43.9, NYS Wetland (in acres):58.9, NYS Wetland (in acres):1002.2
E.2.h.iv [Surface Water Features - DEC Wetlands Number]	CR-7, CR-16, CR-28, CR-5, CR-3, CR-9, CR-8, CR-6, AK-13, AK-12, CR-4, AK-11, AK-9, AK-10, AX-17, CR-11, CR-10, AX-22, AX-13, AK-16, AX-14, AX-3, AX-16, OK-25, AK-15, OK-24, AK-14, OK-26, OK-23
E.2.h.v [Impaired Water Bodies]	Yes
E.2.h.v [Impaired Water Bodies - Name and Basis for Listing]	Name - Pollutants - Uses: Tonawanda Creek, Middle, Main Stem – Nutrients; Silt/Sediment – Recreation; Aquatic Life
E.2.i. [Floodway]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.2.j. [100 Year Floodplain]	Yes
E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	Yes
E.2.l. [Aquifer Names]	Principal Aquifer
E.2.n. [Natural Communities]	Yes
E.2.n.i [Natural Communities - Name]	Limestone Woodland
E.2.n.i [Natural Communities - Acres]	176.0
E.2.o. [Endangered or Threatened Species]	Yes
E.2.o. [Endangered or Threatened Species - Name]	Northern Long-eared Bat, Rock Whitlow Grass
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	Yes
E.3.a. [Agricultural District]	GENE001, ERIE001, GENE002
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National or State Register of Historic Places or State Eligible Sites - Name]	Eligible property: Farm Residence, Eligible property: Residence, Eligible property: East Pembroke Elementary School, Mount Pleasant
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

## **SECTION 524 SOLAR ENERGY**

### **524-1. Authority**

This Solar Energy Local Law is adopted pursuant to Sections 261-263 of the Town Law for the State of New York, which authorizes the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Town Law of New York State, “to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefore.”

### **524-2. Statement of Purpose**

This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of the Town by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives and intent:

1. To take advantage of a safe, abundant, renewable and non-polluting energy resource;
2. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
3. To invest in a locally generated source of energy to increase employment and business development in the Town of Pembroke to the extent reasonably practical by furthering the installation of solar energy systems;
4. To provide other benefits to the Town and its residents to mitigate impacts from the solar project;
5. To mitigate the impacts of Solar Energy Systems on environmental resources such as important Agricultural lands, forests, wildlife and other protected resources. The use of small-scale, on-farm sources alternative to energy generation is beneficial to local farmers allowing them the ability to cut utility costs and/or supplement their income;
6. To protect adjoining/surrounding property owners by mitigating the potential impacts from large scale solar installations;
7. To aid in the energy independence of the community as well as the country.
8. To create zoning regulations in accordance with the Town’s Comprehensive Plan, its Agriculture and Farmland Protection Plan, and other Regional Planning documents;

9. To allow for a total of up to 2,500 acres of Tier 3 and 4 Solar Energy Systems within the Town.  
This acreage calculation is based on the area within the fenced in area of the project site (includes panels, battery storage, and other Solar Energy Equipment).

### **524.3. Definitions**

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEM:** 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.

**DWELLING UNIT:** Any residence/house/apartment that may be occupied or vacant

**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.

**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.

**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.

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

**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.

**NON-PARTICIPATING PROPERTY:** A property that is not affiliated with a Solar Energy System project.

**PARCEL(S):** A tract of land owned by an individual or entity leased or otherwise controlled by an applicant upon which a Solar Energy System is proposed to be constructed.

**PARTICIPATING PROPERTY:** A property that is being leased for solar usage, or a property that has an agreement or lease but is not having solar related improvements constructed upon it.

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

**PRIME FARMLAND:** Land, designated as “Prime Farmland” or “Prime Farmland where drained” 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.

**ROOF-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

**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.

**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:** 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. A Solar Energy System in the Town of Alabama is classified as a Tier 1, Tier 2, Tier 3 or Tier 4 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

- Roof-Mounted Solar Energy Systems
- Building-Integrated Solar Energy Systems

B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems up to 1,000 square feet in size (defined as the actual square footage of panels) and that generate no more than 110% of the electricity consumed on the site over the previous 12 months.

C. Tier 3 Solar Energy Systems are systems that do not meet the definition of a Tier 1 or Tier 2 Solar Energy Systems and do not meet the requirements of a Tier 4 Solar Energy System.

D. Tier 4 Solar Energy Systems meet the definition of a Tier 3 Solar Energy System but are over 25 acres in size (defined as the fenced in area that encloses the panels and other related solar energy equipment).

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electricity.

STORAGE BATTERY: A device that stores energy and makes it available in an electrical form.

WETLANDS: Any areas designated as such by the NYS Department of Environmental Conservation or the US Army Corps of Engineers

#### **524-4. Applicability**

1. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town after the effective date of this Local Law, excluding general maintenance and repair.
2. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
3. Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 5% of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Local Law.
4. 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 Code.

#### **524-5. General Requirements**

1. A Building permit shall be required for installation of all Solar Energy Systems.
2. Issuance of permits and approvals by the Planning Board shall include site plan review and review pursuant to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”).
3. This Article shall take precedence over any inconsistent provision of the Zoning Law of the Town of Pembroke.

#### **524-6. Permitting Requirements for Tier 1 Solar Energy Systems**

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning code or other land use regulation, subject to the following conditions for each type of Solar Energy Systems:

1. Roof-Mounted Solar Energy Systems.

a. Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:

*i.* Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface the highest edge of the system.

*ii.* Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

*iii.* Height: Tier 1 Solar Energy Systems shall have the following height restrictions for all zoning districts: 2 feet above roof of highest existing structure but shall not be higher than the allowed height in the underlying zoning district, unless a variance is received.

*iv.* Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

b. Glare: All Solar Panels shall have anti-reflective coating(s) and proof of such must be provided with the building permit application.

c. Fire safety: All Roof mounted systems shall be designed and installed in accordance with the Uniform Fire Prevention and Building Code Standards.

2. Building-Integrated Solar Energy Systems - Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

**524-7. Permitting Requirements for Tier 2 Solar Energy Systems**

All Tier 2 Solar Energy Systems shall be permitted in all zoning districts as an accessory use and require site plan review in accordance with the Town of Pembroke zoning code and other Town land use regulations. The Site Plan application shall include a site plan and address the following requirements:

1. Glare - All Solar Panels shall have anti-reflective coating(s) and proof of such must be provided with the building permit application.

2. Setbacks - Tier 2 Solar Energy Systems shall be setback a minimum of 70 feet from any side or rear property line. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards. In all cases, the solar panels shall be located a minimum of 100 feet from any dwelling unit on an adjoining non-participating property.

3. Height - Tier 2 Solar Energy Systems shall be less than 10 feet in Residential and Ag-Residential and Medium Density Residential Districts. Height shall be less than 12 feet for all remaining districts.

#### 4. Screening and Visibility.

- a. All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable (as determined through the site plan process).
- b. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.

#### **524-8. Permitting Requirements for Tier 3 Solar Energy Systems**

All Tier 3 Solar Energy Systems are permitted through the issuance of a Special Use Permit within Agricultural, Agricultural Residential, Commercial, Limited Commercial, Industrial, Interchange Districts and subject to Site Plan application requirements set forth in this Section. In order to ensure that the benefits of the community solar energy resource are available to the entire community, the Town of Pembroke requires the applicant to enter into a Solar Energy System PILOT and a Host Community Agreement with the Town of Pembroke.

##### 1. Applications (Process) for the installation of Tier 3 Solar Energy System shall be:

- a. Received by the Zoning Enforcement Officer (ZEO) and checked to make sure the appropriate documents have been submitted. The ZEO will then forwarded to the Planning Board, by having it placed on the next available agenda, for them to determine completeness of the application. Applicants shall be advised within 10 business days of the first Planning Board meeting of the completeness of their application or any deficiencies that must be addressed prior to substantive review of the Special Use Permit and Site Plan.
- b. Once the application is deemed complete and while the Planning Board is completing their reviews, the project/application shall be referred to the Town Board to begin completion of the Host Community Agreement. This agreement will need to be finalized before the Planning Board acts on the Special Use Permit.
- c. Subject to a public hearing to hear all comments for and against the application. The Town shall complete all public notice requirements in accordance with the Special Use requirements of the Town.
- d. Referred to the Genesee County Planning Department pursuant to General Municipal Law § 239-m if required.
- e. Acted upon by the Planning Board, once the required steps are completed and the Planning Board has completed the SEQR process.

##### 2. Design and Application Requirements

Applications for Tier 3 Solar projects shall address and include the following:



a. Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

b. Signage.

*i.* No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet.

*ii.* As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

c. Glare. All Solar Panels shall have anti-reflective coating(s) and proof of such submitted.

d. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast (dark sky compliant) from abutting properties.

e. Noise. Information on any noise producing equipment (as determined by the Town based on application materials) shall be submitted. If necessary, the Planning Board will require analysis of the noise on any sensitive receptors, including single family homes.

f. Tree-cutting. Removal of existing trees larger than 6 inches in diameter should be minimized to the extent possible.

g. Decommissioning.

*i.* Solar Energy Systems that have been abandoned and/or not producing electricity (defined as operated at a minimum of 50% capacity for a period of at least 6 months) shall be removed at the Owner and/or Operator's expense, which at the Owner's option may come from any security made with the Town as set forth in this law. The Owner and/or Operator shall submit detailed annual reports reflecting energy production.

*ii.* A decommissioning plan (see Appendix 1) signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:

(a) The cost of removing the Solar Energy System (no allowance for recycle value).

(b) The time required to decommission and remove the Solar System and any ancillary structures.

(c) The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.

*iii. Security*

- (a) The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town Attorney and/or engineer and approved by the Town Board, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 125 % of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System. The decommissioning amount shall not be reduced by the amount of the estimated salvage value of the Solar Energy System.
- (b) In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
- (c) In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in this law.

h. Application Fees: All applications for Tier 3 (and Tier 4) solar energy systems shall include the appropriate fees as set by the Pembroke Town Board.

i. Maintenance Plan: applications shall include a maintenance plan for all leased lands (including required setbacks/buffers).

j. Safety; applications shall include a safety plan (including communication with emergency service providers).

k. Environmental and cultural resources; information on the environmental and cultural resources (as identified through the NYSDEC Mapping system and by the Town of Pembroke) on the subject property and surrounding properties.

3. Site plan application - For any Solar Energy system requiring a Special Use Permit, site plan approval shall be required. This required site plan application shall include a site plan and the following information:

- a. A Plan illustrating property lines and physical features, including roads, for the project site.
- b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures

- c. A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- d. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- e. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- f. Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.
- g. Zoning district designation for the parcel(s) of land comprising the project site.
- h. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming (or other methodologies).
- i. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- j. Engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.
- k. A completed SEQR Full Environmental Assessment Form.
- l. A Landscape Plan in accordance with the Special Use Permit requirements of this law.
- m. A calculation of the area of the solar energy system in acres (as defined in the definition of Tier 3 and Tier 4 systems). The Town will add this to the existing approved acreage of Tier 3 and 4 systems to determine if the project does not exceed the 2,500 acre threshold. If it is determined by the Town that the proposed project would exceed the 2,500 acre threshold, the application will be returned to the applicant and the project will not be allowed to proceed.

#### **524-9. Special Use Permit Standards**

##### **1. Specific Standards**

- a. Lot size – There are no lot size requirements; the project must be shown to meet all setback and other requirements of this law.

b. **Setbacks** - All Tier 3 Solar Energy Systems shall be setback a minimum of 50 feet from the fence surrounding the solar panels and equipment to all property lines and to the edge of any road ROW. Additionally, the setback from the fence line shall be a minimum of 300 feet from the side or rear of adjoining non-participating property. The setback to any off-site participating dwelling unit shall be 100 feet from the side or rear of the dwelling unit.

c. **Height** - The Tier 3 Solar Energy Systems shall be less than or equal to 15 ft. The height of systems will be measured from the highest natural grade below each solar panel. This height requirement can be waived by the Planning Board if the panels are being raised to accommodate agricultural purposes.

d. **Fencing Requirements** - All mechanical equipment, including any structure for storage batteries, shall be enclosed by a fence, and meet any other regulatory requirements such as NEC, with a self-locking gate to prevent unauthorized access.

e. **Screening and Visibility.**

*i.* Solar Energy Systems smaller than 5 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earthen berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.

*ii.* Solar Energy Systems larger than 5 acres shall be required to:

(a) Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to be submitted by the applicant.

(b) Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible. The Planning Board will in good faith determine the adequacy of these measures in its sole and absolute discretion.

(c) The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscaped screening shall be comprised of a minimum of 1 evergreen tree, at least 6 feet high at time of planting, plus 2 supplemental shrubs at the reasonable discretion of the Town Planning Board, all planted within each 10 linear feet of the Solar Energy System. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. A list of suitable evergreen tree and shrub species should be provided by the Town. This minimum screening requirement will be reduced if adjoining properties are participating properties.

(d) For any buildings or structures (not panels) to be placed on the site, the applicant shall be

required to submit plans illustrating how these structures will blend into the character of the area. For example, buildings can be made to look like agricultural structures such as barns.

f. Agricultural Resources. For projects located on agricultural lands:

*i.* Any Tier 3 Solar Energy System located in areas that consist of Prime Farmland soils or Farmland soils of Statewide Importance shall not exceed 50% of the area of Prime Farmland or Farmland of Statewide Importance on the parcel upon which panels and other Solar Energy Equipment (the fenced in area) are to be installed. Any program in which the applicant participates that provides for the use of the land within the fenced in area as farm related uses may be excluded from this 50% coverage threshold calculation based on the amount of space actually occupied by the farm use. This exclusion will only be allowed based on a Planning Board's determination that these lands are being used for actual Agricultural uses.

*ii.* Tier 3 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets (See NYS Agriculture and Markets Guidelines).

*iii.* Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes. Once established, other agriculture uses such as pasturing livestock and apiculture are permissible and encouraged. Input from the local farmers and Town Agricultural Committee will be needed to make these determinations.

*iv.* Agricultural Restoration Requirements: once the system is decommissioned, the site shall be restored and remediated in accordance with the NYS Agriculture and Markets Guidelines (this will be a condition of the Special Use Permit).

g. Noise: The project shall be shown to not have any adverse noise impacts on any surrounding homes or other sensitive receptors (use of NYSDEC regulations concerning noise).

h. Hazardous Materials: The project components shall not contain any hazardous materials that could contaminate soils or the air by their release (units shall not contain cadmium).

i. Solar Energy System Liability Insurance:

*i.* The Holder of a Special Use Permit for a Solar Energy System Shall Agree to secure and maintain for the duration of the permit, public liability insurance with policy limit amounts determined by the Town of Pembroke based on the Permit Holder's project specifications/scope of work and associated exposures.

*ii.* Insurance Company: The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with at least a Best's rating of

“A”.

- iii. Insurance Policy Cancellation: The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town of Pembroke with at least thirty (30) days prior written notice in advance of cancellation.
- iv. Insurance Policy Renewal: Renewal or replacement policies shall be delivered to the Town of Pembroke at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
- v. Copies of Insurance Policy: No more than fifteen (15) days after the grant of the permit before construction is initiated, the permit holder shall deliver to the Town of Pembroke a copy of each of the policies or certificates representing the insurance in the required amounts.
- vi. Certificate of Insurance: A certificate of insurance states that it is for informational purposes only and does not confer sufficient rights upon the Town of Pembroke shall not be deemed to comply with this Law.
- vii. Indemnification: Any application for a Solar Energy System within the Town of Pembroke shall contain an indemnification provision. The provision shall require the Applicant/Owner/Operator to at all times defend, indemnify, protect, save, hold harmless and exempt the Town of Pembroke and its officers, councils, employees, attorneys, agents and consultants from any and all penalties, damages, costs or charges arising out of any and all claims, suits, demands, causes of action or award of damages whether compensatory or punitive, or expenses arising therefrom either at law or in equity which might arise out of or are caused by the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said Solar Energy System, excepting however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town of Pembroke or its employees or agents. With respect to the penalties, damages, or changes referenced herein, reasonable attorneys' fees, consultant' fees and expert witness fees are included in those costs that are recoverable by the Town of Pembroke.

#### **524-10. Permitting Requirements for Tier 4 Solar Energy Systems**

All Tier 4 Solar Energy Systems are permitted through the issuance of a special use permit within the Agricultural Residential Zone, Commercial Zone, Industrial Zone, and subject to site plan and special use permit requirements set forth in this Section for Tier 3 projects (all requirements in Sections 624-8 and 624-9). In order to ensure that the benefits of the community solar energy resource are available to the entire community, the Town of Pembroke shall require all Tier 4 applicants to enter into a Solar Energy System PILOT and Host Community Agreement.

These Tier 4 systems are very large systems that have a potential to significantly impact the Town of Pembroke, its citizens and the economy of the community. Therefore, the Tier 4 systems shall require the following additional (in addition to those in the Tier 3 level) submittals and requirements, or revisions to

Tier 3 requirements:

1. Submittal of an Agricultural Impact Statement to determine the impact to Agriculture in the Town. The Town of Pembroke has a standard Agricultural Impact Statement Table of Contents that will be provided to the applicant. The Planning Board, on a project by project basis, will work with the applicant on finalizing the requirements of this Agricultural Impact Statement.
2. Submittal of an Economic Impact Analysis to determine the impact to the economy of the Town. This includes the agricultural impacts in the Ag Impact statement and information as noted by the Town Planning Board (Town to provide scoping of this study)
3. Any Tier 4 Solar Energy System located on lands that consist of Prime Farmland soils or Farmland soils of Statewide Importance shall not exceed 50% of the area of Prime Farmland or Farmland of Statewide Importance on the parcel or project site as a whole (if multiple parcels are included) upon which panels and other solar energy equipment (the fenced in area) are to be installed. Any program in which the applicant participates that provides for the use of the land within the fenced in area as farm related uses may be excluded from this 50% coverage threshold calculation based on the amount of space actually occupied by the farm use. This exclusion will only be allowed based on a Planning Board's determination that these lands are being used for actual Agricultural uses.
- 4 For Tier 4 systems, if the project proposes to impact more than 50% of these Prime or Statewide Important soils, the applicant may purchase or lease (for the lease period of the proposed project) development rights, of an equal amount of land over the 50% threshold, of another farm within the Town of Pembroke with Prime or Statewide Important soils located on that land to offset the farmland used or leased in the primary project area.

#### **524-11. Ownership Changes**

If the owner or operator of the Solar Energy 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 Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator within 30 days of the ownership change.

#### **524-12. Safety**

1. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
2. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is located in an ambulance district, the local ambulance corps.

3. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable Local Law, fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations.

#### **524-13. Permit Time Frame and Abandonment**

1. The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 18 months, provided that construction has commenced. In the event construction is not completed in accordance with the final site plan as may have been amended and approved, as required by the Planning Board, within 18 months after approval, the applicant or the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 24 months, the approvals shall expire.
2. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 360 days of notification.
3. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

#### **524-14. Enforcement**

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town.

#### **524-15. Severability**

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



## APPENDIX 1: EXAMPLE DECOMMISSIONING PLAN

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at: [Solar Project Address]

Prepared and Submitted by [Solar Developer Name], the owner of [Solar Farm Name]  
As required by [Town/Village/City], [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the “Facility”).

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends
2. The system does not produce power at a minimum of 50% capacity for a period of at least 6 months.
3. The system is damaged and will not be repaired or replaced.
4. The conditions of the Special Use Permit are not met.

The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 36 inches below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

All said removal and decommissioning shall occur within [12] months of the Facility ceasing to produce power for sale.

The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

Facility Owner Signature:

Date:

## **Section 525 Battery Energy Storage System Law**

### **525.1 Authority**

This Battery Energy Storage System Law is adopted pursuant to Article IX of the New York State Constitution, §2(c)(6) and (10), New York Statute of Local Governments, § 10 (1) and (7); sections 261-263 of the Town Law section 10 of the Municipal Home Rule Law of the State of New York, which authorize the Towns to adopt zoning provisions that advance and protect the health, safety and welfare of the community.

### **525.2 Statement of Purpose**

This Battery Energy Storage System Law is adopted to advance and protect the public health, safety, welfare, and quality of life of the Town of Pembroke by creating regulations for the installation and use of battery energy storage systems, with the following objectives:

- A. To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems;
- B. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;
- C. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources.
- D. To allow for battery storage of energy generated within the Town of Pembroke.

### **525.3 Definitions**

As used in this Article, the following terms shall have the meanings indicated: ANSI: American National Standards Institute.

**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.

**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.

**BATTERY ENERGY STORAGE SYSTEM:** One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to including 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 600kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.
- B. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area.

**CELL:** The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

**COMMISSIONING:** A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

**DEDICATED-USE BUILDING:** A building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy as defined in the International Building Code, and complies with the following:

- 1) The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
- 2) No other occupancy types are permitted in the building.
- 3) Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
- 4) Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:
  - a. The areas do not occupy more than 10 percent of the building area of the story in which they are located.
  - b. A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

**DWELLING UNIT:** Any residence/house/apartment that may be occupied or vacant.

**ENERGY CODE:** The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

**FIRE CODE:** The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

**NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL):** A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

**NEC:** National Electric Code.

**NFPA:** National Fire Protection Association.

**NON-DEDICATED-USE BUILDING:** All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

**NON-PARTICIPATING PROPERTY:** Any property that is not affiliated with the project.

**NON-PARTICIPATING RESIDENCE:** Any residence located on Non-participating Property.

**OCCUPIED COMMUNITY BUILDING:** Any building in Occupancy Group A, B, E, I, R, as defined in the International Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

**PARTICIPATING PROPERTY:** A battery energy storage system host property, or a property that has an agreement or lease but is not having battery storage related improvements constructed upon it.

**UL:** Underwriters Laboratory, an accredited standards developer in the US.

**UNIFORM CODE:** the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

#### **525.4 Applicability**

- A. The requirements of this Local Law shall apply to all battery energy storage systems permitted, installed, or modified in Town of Pembroke after the effective date of this Local Law, excluding general maintenance and repair.
- B. Battery energy storage systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
- C. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Local Law.

### **525.5 General Requirements**

- A. A building permit shall be required for installation of all battery energy storage systems.
- B. Issuance of permits and approvals by the Pembroke Planning Board shall include review pursuant to the State Environmental Quality Review Act (ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ('SEQRA')).
- C. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town Code.

### **525.6 Permitting Requirements for Tier 1 Battery Energy Storage Systems**

Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts, subject to the Uniform Code, and the "Battery Energy Storage System Permit," and exempt from site plan review.

### **525.7 Permitting Requirements for Tier 2 Battery Energy Storage Systems**

Tier 2 Battery Energy Storage Systems are permitted in Agricultural, Commercial Zone, Interchange and Industrial Zone through the issuance of a special use permit and shall be subject to the Uniform Code and the site plan application requirements set forth in this Section. Tier 2 Battery Energy Storage Systems associated with a Solar or Wind Energy project shall also conform with the Town Laws associated with these types of projects.

- A. Applications for the installation of Tier 2 Battery Energy Storage System shall be:
  - 1) reviewed by the Planning Board for completeness. An application shall be complete when it addresses all matters listed in this Local Law including, but not necessarily limited to, (i) compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code and (ii) matters relating to the proposed battery energy storage system and Floodplain, Utility Lines and Electrical Circuitry, Signage, Lighting, Vegetation and Tree- cutting, Noise, Decommissioning, Site Plan and Development, Special Use and Development, Ownership Changes, Safety, and Permit Time Frame and Abandonment. Applicants shall be advised within 10 business days (of the first Planning Board meeting on the application) of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
  - 2) subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town shall have a notice printed in a newspaper of general circulation in the Town in accordance with the Town's special use permit requirements. Applicants shall also have delivered the notice by first class mail to adjoining landowners or landowners within 200 feet of the property at least 10 days prior to such a hearing.

Proof of mailing shall be provided to the Planning Board at the public hearing.

- 3) referred to the County Planning Board pursuant to General Municipal Law § 239-m if required.
- 4) Upon closing of the public hearing, the Planning Board shall take action on the application within 62 days of the public hearing (or after the SEQR process is completed, if not completed on the day of the public hearing), which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Planning Board and Applicant.

**B. Utility Lines and Electrical Circuitry.** All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

**C. Signage.**

- 1) The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.
- 2) As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

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

**E. Vegetation and tree cutting.** Areas within 10 feet on each side of Tier 2 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

**F. Noise.** The 1-hour average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of 40 dBA as measured at the outside wall of any non-participating residence or occupied community building. Applicants may submit 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.

G. Decommissioning.

- 1) Decommissioning Plan. The applicant shall submit a decommissioning plan, developed in accordance with the Uniform Code, to be implemented upon abandonment and/or in conjunction with removal from the facility. The decommissioning plan shall include:
  - a. 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;
  - b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
  - c. The anticipated life of the battery energy storage system;
  - d. The estimated decommissioning costs and how said estimate was determined;
  - e. The method of ensuring that funds will be available for decommissioning and restoration;
  - f. The method by which the decommissioning cost will be kept current;
  - g. 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; and
  - h. 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.
  
- 2) 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 Attorney 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. Site plan application. For a Tier 2 Battery Energy Storage System requiring a Special Use Permit, site plan approval shall be required. Any site plan 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, exterior lighting, and screening vegetation or structures.

- 3) A [one- or three-line] electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- 4) A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- 5) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- 6) Name, address, phone number, and signature of the project Applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.
- 7) Zoning district designation for the parcel(s) of land comprising the project site.
- 8) Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, Battery energy storage system commissioning shall be conducted by a New York State (NYS) Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Town prior to final inspection and approval and maintained at an approved on- site location.
- 9) Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.
- 10) Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code.
- 11) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- 12) Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer.



13) Emergency Operations Plan. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:

- a. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
- b. Procedures for inspection and testing of associated alarms, interlocks, and controls.
- c. Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
- d. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
- e. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
- f. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
- g. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.
- h. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

#### I. Special Use Permit Standards.

- 1) Setbacks. Tier 2 Battery Energy Storage Systems shall comply with the setback requirements of the Solar or Wind Energy Systems they are associated with.
- 2) Height. Tier 2 Battery Energy Storage Systems shall comply with the building height limitations of Solar or Wind Energy Systems they are associated with.
- 3) Fencing Requirements. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a 7-foot-high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use

building and not interfering with ventilation or exhaust ports.

- 4) Screening and Visibility. Tier 2 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports.

J. 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 of Pembroke of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification to the Town 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 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 Local Law.

### **525.8 Safety**

a. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) with subcomponents meeting each of the following standards as applicable:

- i. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power, and Light Electric Rail Applications),
- ii. UL 1642 (Standard for Lithium Batteries),
- iii. UL 1741 or UL 62109 (Inverters and Power Converters),
- iv. Certified under the applicable electrical, building, and fire prevention codes as required.
- v. Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 and applicable codes, regulations and safety standards may be used to meet system certification requirements.

b. Site Access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 2 Battery Energy Storage System is located in an ambulance district, the local ambulance corps.

c. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures

marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

### **525.9 Permit Time Frame and Abandonment**

The Special Use Permit and site plan approval for a battery energy storage system shall be valid for a period of 24 months, provided that a building permit is issued for construction [and/or] construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 24 months after approval, the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 36 months, the approvals shall expire.

The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than one year. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, enter the property and utilize the available bond and/or security for the removal of a Tier 2 Battery Energy Storage System and restoration of the site in accordance with the decommissioning plan.

### **525.10 Enforcement**

Any violation of this Battery Energy Storage System Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town.

### **525.11 Severability**

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