LOCAL LAW # OF 2019 ADDING CHAPTER 174 TO THE SWEDEN TOWN CODE CONCERNING SOLAR ENERGY SYSTEMS AND SOLAR ENERGY FARMS

Be it enacted by the Sweden Town Board, County of Monroe, State of New York (hereinafter referred to as the Board), as follows:

SECTION 1. TITLE (§174-1)

This Local Law shall be referred to as "Local Law # of 2019 Adding Chapter 174 to the Sweden Town Code Concerning Solar Energy Systems and Solar Energy Farms".

SECTION 2. AUTHORIZATION (§174-2)

This Local Law is adopted pursuant to the legislative authority in Municipal Home Rule Law §10, Town Law §261-§264, General Municipal Law §96-and §119-dd and Public Service Law Article 10.

SECTION 3. PURPOSE AND INTENT (§174-3)

The Town of Sweden (hereinafter referred to as Sweden) finds that solar energy, as properly regulated, is clean, readily available and a renewable energy source beneficial to Sweden, its residents and the general public. Among other things, solar energy can potentially take advantage of a safe, abundant, renewable and nonpolluting energy resource and can also

decrease the cost of energy to commercial and residential properties. Sweden encourages the use of Community Choice Aggregation to partner with community solar projects as a means to provide the benefits of solar energy directly to residents. Solar energy can increase employment and business development in Sweden by furthering the installation of solar energy systems and solar energy farms. Sweden finds a growing need to properly site and regulate solar energy systems and solar energy farms within Sweden to protect residential, commercial, business and other areas or land uses, to preserve the overall beauty, nature and character of Sweden, to promote the effective and efficient use of solar energy resources and to protect the health, safety and general welfare of the citizens of Sweden. Solar energy systems and/or solar energy farms deplete land available for other uses, introduce industrial usage into other nonindustrial areas and can potentially pose environmental challenges. Solar energy systems and/or solar energy farms need to be regulated for removal when no longer utilized and/or useful in order to prevent environmental problems and/or abandonment of industrial properties and/or such solar energy systems and/or solar energy farms.

SECTION 4. DEFINITIONS (§174-4)

As used in this Chapter, the following terms shall have the meanings indicated herein below:

1. BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM: A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing

materials and shading over windows for the purpose of producing electricity for onsite usage or consumption.

2. GROUND-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the purpose of producing electricity for onsite usage or consumption, with system capacity up to 25 kW AC and that generate no more than 110 % of the electricity consumed on the site over the previous 12 months.

3. LARGE-SCALE SOLAR ENERGY SYSTEM: A solar energy system that is ground-mounted and produces energy for the purpose of onsite usage or consumption with system capacity of more than 25 kW AC and that generate no more than 110 % of the electricity consumed on the site over the previous 12 months.

4. ROOF-MOUNTED SOLAR ENERGY SYSTEM: A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite usage or consumption of any kilowatt (kw) alternating current (ac) capacity.

5. SOLAR FARM: The use of land where a series of one (1) or more solar collectors are placed in an area on a parcel of land for the purpose of generating photovoltaic power and said series of one (1) or more solar collectors placed in an area on a parcel of land collectively has nameplate generation capacity of more than twenty-five (25) kilowatts (kw) alternating current (ac) or more when operating at maximum efficiency for the purpose of offsite sale, usage and/or consumption. The term solar farm shall not be construed to include, so as to

prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating or generating electricity for a residential property. The term solar farm shall also not be construed in such a way as to prohibit the installation or mounting of a series of one (1) or more solar collectors upon the roofs of residential and/or commercial structures regardless of whether said series of one (1) or more solar collectors collectively has a total nameplate generation more than 25kW AC when operating at maximum efficiency.

6. SOLAR ENERGY EQUIPMENT: Electrical energy storage devises, material, hardware, inverters or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

7. SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into electric energy suitable for use and storage. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment.

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

9. 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.

SECTION 5. APPLICABILITY (§174-5)

The requirements of this Chapter shall apply to all solar energy systems and/or solar energy farms proposed, installed, operated, maintained, modified or constructed in any Sweden district after the effective date, excluding general maintenance and repair and/or building-integrated photovoltaic systems, with the proviso that same conforms with noise and glare regulations contained in Sweden Town Code §175-46(G)(4).

SECTION 6. SOLAR ENERGY AS AN ACCESSORY USE OR STRUCTURE (§174-6)

A. ROOF-MOUNTED SOLAR ENERGY SYSTEMS.

1) Roof-mounted solar energy systems that use the electricity onsite are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure. A Building permit shall be required for installation of all Roof Mounted Systems and shall be exempt from site plan review under the local zoning code or other land use regulations subject to the requirements set forth in this section.

2) Height. Solar energy systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.

3) Aesthetics. Roof-mounted solar energy system installations shall incorporate, when feasible, the following design requirements: Panels on angled roofs must be mounted at the same angle as the roof's surface with a maximum distance of eight (8) inches between the roof and highest edge of the system and not extend beyond the highest point of the roof system.

4) Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than twenty-four (24) inches above the flat surface of the roof, whichever is higher.

B. GROUND-MOUNTED SOLAR ENERGY SYSTEMS.

1) Ground-mounted solar energy systems that use the electricity onsite are permitted as accessory structures in Sweden in all zoning districts. A Building Permit shall be required for installation of all Ground-Mounted solar energy systems and shall be exempt from site plan review under the local zoning code or other land use regulation subject to the requirements set forth in this section.

2) Height and Setback. Ground-mounted solar energy systems shall adhere to the height and setback requirements set forth herein. All ground-mounted panels shall not exceed 12 feet in height. Setback requirements of the underlying zoning districts shall be pursuant to the applicable provisions of the Sweden Town Code including Sweden Town Code §175.

3) Lot Coverage. A ground-mounted solar energy system shall not exceed 80% of the lot on which it is installed. The lot coverage percentage used by any ground-mounted solar energy system shall include all aspects necessary or required for the system (i.e. fences, shrubbery, roadways, and parking) and said percentage shall be in conformity with any Sweden Town Code regulations concerning same including zoning regulations.

4) All such systems shall be installed on the side or rear portion of the subject property or adjacent to, either behind or along the side of any lawfully permitted building or structure.

SECTION 7. APPLICATION AND APPROVAL STANDARDS

FOR LARGE-SCALE SOLAR SYSTEMS (§174-7)

A. Large-scale solar energy systems are permitted through approval by the Sweden Planning Board, subject to the requirements set forth in this Section. Any request to install a Large Scale ground-mounted solar energy system on property zoned residential, commercial, or industrial, must either be done by appropriate application to the Sweden Planning Board, or alternatively through a request for incentive zoning, all pursuant to the applicable provisions of the Sweden Town Code including Sweden Town Code §175.
Thereafter, after appropriate review by said Board, appropriate review action, approval, conditional approval and/or denial can be made.

B. Application Requirements. For any application, same shall include the following:

1) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.

2) Blueprints showing the layout of the solar energy system signed by a professional engineer or registered architect shall be required.

3) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems and inverters that are to be installed.

4) Property Operations and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance property upkeep such as mowing and trimming.

C. APPLICATION STANDARDS.

1) Height and Setback. Large-scale solar energy systems shall adhere to the height and setback requirements of the underlying zoning district except as follows herein. Any

large-scale solar energy systems that are ground-mounted shall not exceed a height of 12 feet. The retail business/airport/commercial and/or recreational front setback shall be 75 feet, the rear setback shall be 25 feet and the side setback shall be 25 feet. The residential and light industrial front setbacks shall be 100 feet, the rear and side setbacks shall be 200 feet when abutting residential property and shall be 100 feet when abutting business commercial zones. Otherwise, the foregoing setback requirements are in conformity with the Sweden Town Code and all height measurements are to be calculated when the solar energy system is oriented at maximum tilt.

2) Lot Size. Large-scale solar energy systems shall be located on lots with a minimum lot size of 10 acres.

3) Lot Coverage. A large-scale solar energy system that is ground-mounted shall not exceed 80% of the lot size on which it is installed. The lot coverage percentage used by any ground-mounted solar energy system shall include all aspects necessary or required for the system (i.e. fences, shrubbery, roadways, and parking) and said percentage shall be in conformity with any Sweden Town Code regulations concerning same including zoning regulations.

4) All large-scale energy systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Sweden Planning Board. The fencing and the system shall be further screened by any landscaping needed to avoid adverse aesthetic impacts.

5) All applications shall meet any substantive provisions contained in local site plan requirements and the zoning code that, in the judgment of the Sweden Planning Board, are applicable to the system being proposed. If none of the site plan requirements are applicable, said Board may waive the requirement for site plan review.

6) A Building Permit shall be required for all Large Scale Solar Systems before construction begins.

SECTION 8. SOLAR FARMS (§174-8)

A. The requirements of this Section are established for the purpose of allowing the development of solar farms in Sweden and to provide standards for the placement, design, construction, operation, monitoring, modification and removal of these systems.

B. Solar farms are permitted through application and approval by the Sweden Town Planning Board, or alternatively through a request for incentive zoning to the Sweden Town Board, all pursuant to the applicable provisions of the Sweden Town Code including Sweden Town Code §175, subject to the requirements set forth in this Section. Thereafter, after appropriate review by said Board, appropriate review action, approval, conditional approval and/or denial can be made.

C. Application Requirements: For any application same shall include the following:

1) Blueprints or drawings of the solar photovoltaic installation signed by a licensed professional engineer or requested architect showing the proposed layout of the system and any potential shading from nearby structures.

2) Proposed changes to the landscape of site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures. Additionally, any vegetation clearing can or may be considered to be a negative impact depending upon the scope of same as well as wetland encroachment.

3) A description of the solar farm facility and the technical, economic and other reasons for the proposed location and design shall be prepared and signed by a licensed professional engineer or registered architect that the solar farm complies with all applicable Federal and State laws.

4) One or three phase line electrical diagram detailing the solar farm layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices.

5) Documentation of the major system components to be used, including the PV panels, mounting system and inverter.

6) An operation and maintenance plan which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

7) Information on noise (inverter) and reflectivity/glare of solar panels and identification of potential impacts to abutters.

8) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements, leases and other agreements shall be submitted.

D. In addition to any site plan approval required by the Sweden Planning Board herein, a Special Use Permit is required for a solar farm. The development shall conform to the following standards which shall be regarded as minimum requirements.

1) Solar farms shall be on a parcel of not less than ten (10) acres.

2) Solar farms shall adhere to the height and setback requirements of the underlying zoning district except as follows herein. Any solar farms that are ground-mounted

shall not exceed a height of 12 feet. The retail business/airport/commercial and/or recreational front setback shall be 75 feet, the rear setback shall be 25 feet and the side setback shall be 25 feet. The residential and light industrial front setbacks shall be 100 feet, the rear and side setbacks shall be 200 feet when abutting residential property and shall be 100 feet when abutting business commercial zones. Otherwise, the foregoing setback requirements are intended to be in conformity with the Sweden Town Code and all height measurements are to be calculated when the solar farm is oriented at maximum tilt.

3) All mechanical equipment on a solar farm, including any structure for batteries or storage cells, are completely enclosed by a minimum 8 foot high fence with a self-locking gate.

4) The total surface area of all ground-mounted and freestanding solar collectors, including solar voltaic cells, panels and arrays, shall not exceed 80% of the total parcel area.

5) The installation of a vegetated perimeter buffer to provide year round screening of the system from adjacent properties.

6) Because of neighborhood characteristics and topography, the Sweden Planning Board shall examine the proposed location on a case by case basis, ensuring that the potential impact to its residents, business or traffic are not a detriment.

7) All solar energy production systems shall be designed and located in order to prevent reflective glare toward any habitable buildings, as well as streets and rights-of-way.

8) All onsite utility and transmission lines shall be, to the extent feasible, placed underground.

9) The installation of a clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

10) The system shall be designed and situated to be compatible with the existing uses on adjacent and nearby properties.

11) All solar energy system components shall conform with setback requirements set forth in the Sweden Town Code for the particular district.

12) Solar modular panels shall not release hazardous materials.

13) All appurtenant structures including but not limited to equipment shelters, storage facilities, transformers and substations shall be architecturally compatible with each other and shall be screened from the view of persons not on the parcel.

14) Lighting of solar farms shall be consistent with all State and Federal laws. Lighting of appurtenant structures shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.

15) There shall be no signs except announcement signs, such as "no trespassing" signs, or any signs required to warn of danger. A sign is required that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a 24 hour basis. Any signage laws, regulations and/or ordinances, including the National Electrical Code and/or Emergency Services, shall prevail over the requirements contained in the previous two (2) sentences of this subparagraph in the event that a conflict between same arises.

16) There shall be a minimum of 1 parking space to be used in connection with the maintenance of the solar photovoltaic facility and the site. However, it shall not be used for the permanent storage of vehicles.

17) A Building Permit shall be required for all Solar Farms before construction begins.

E. The following additional conditions shall apply to solar farms:

1) The solar farm owner or operator shall provide a copy of the project summary, electrical schematic and site plan to the Sweden Fire Marshall. Upon request, the owner or operator shall cooperate with all local emergency services in developing an emergency response plan. All means of shutting down the solar farm facility shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries through the life of the installation.

2) No solar farm shall be approved or constructed until satisfactory evidence has been provided that the utility company operating the electrical grid where the installation is to be located has authorized the interconnected customer-owner generator.

3) A solar farm owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs and integrity of security measures. Site access shall be maintained to a level acceptable to the Sweden Fire Marshall and emergency services. The owner or operator shall be responsible for the cost of maintaining the solar farm and any access road(s), unless same is accepted as a public way.

SECTION 9. ABANDONMENT AND DECOMMISSIONING (§174-9)

A. Any large scale solar energy system and/or solar farm shall be considered abandoned after 6 months without electrical energy generation and must be removed from the property. Applications for extensions subsequent to such an abandonment as described in the previous

sentence can be reviewed by the Sweden Planning Board for a period of up to 6 months after such abandonment.

B. All applications for any large scale solar energy system and/or solar farm shall include and be accompanied by a decommissioning plan to be implemented upon abandonment and/or in conjunction with the removal of same and shall:

1) Include an affirmative obligation and acknowledgement that after any large scale solar energy system and/or solar farm can no longer be used it shall be removed by the applicant and/or any subsequent owner.

2) Demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction.

3) Include an expected timeline for execution and completion.

4) Include a detailed cost estimate detailing the projected expense of executing the decommissioning plan to be prepared and signed by a professional engineer or registered architect.

5) Obligate the owner, operator and/or successors in interest to remove any ground mounted solar collectors which have reached the end of their useful life or have been abandoned, physically remove the installation no more than 6 months after the date of discontinued operations and also notify Town of Sweden by certified mail of the proposed date of discontinued operations and the plans for removal.

6) An obligation to physically remove all ground-mounted solar collectors, structures, equipment, security barriers and transmission lines from the site.

7) Include an obligation to dispose of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.

C. Absent notice of a proposed date of decommissioning and written notice of extenuating circumstances, any large scale solar energy system and/or any solar energy farm shall be considered abandoned when it fails to operate (as set forth in 9.A. of this Section) for more than 6 months without the written consent of the Town of Sweden. If the owner or operator of any large scale solar energy system and/or any solar farm fails to remove the installation in accordance with the requirements of this Section within 6 months of abandonment or the proposed date of decommissioning, Sweden may enter the property and physically remove the installation upon application to a Court of appropriate jurisdiction to obtain access to said property for that purpose.

D. In the event that an application is approved for a solar farm, the Town of Sweden shall require that the applicant and/or property owner provide or establish a bond, surety bond, financial deposit, undertaking, financial escrow and/or other financial security, the amount, substance and character of which is to be determined by and at the sole discretion of said Board, the spirit and intent of same being to ensure that sufficient funds are available to remove the installation and restore landscaping consistent with the best interests of the landowner and/or Sweden in the event the applicant fails to comply with its decommissioning obligations with same to be annually reviewed for financial sufficiency (with any decision relating to continued financial sufficiency also to be in the sole discretion of said Board). As a part of the foregoing review process, an owner or operator shall provide financial documentation, financial statements or any other information requested by said Board on an annual basis. Sweden reserves the right to request reasonable access to the property upon notice and consent.

SECTION 10. ENFORCEMENT (§174-10)

Any violation of this Local Law shall be subject to the same civil and criminal penalties provided for in the Sweden Town Code (including any applicable zoning regulations) and/or the Laws of the State of New York.

SECTION 11. SEVERABILITY AND/OR VALIDITY (§174-11)

If any clause, sentence, paragraph, subdivision, section or part of this Local Law, or the application thereof to any person, individual, firm or corporation, or circumstance, shall be adjudged by a Court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local Law, or in its application to the person, individual, firm or corporation, or circumstance, directly involved in the controversy in which said order or judgment shall be rendered.

SECTION 12. EFFECTIVE DATE (§174-12)

This Local Law shall take effect upon the date it is filed in the Office of the New York State Secretary of State in accordance with the Municipal Home Rule Law §27.

Dated: Brockport, New York
2019