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County City Town Village
(select one:)

of New Lebanon

Introductory Local Law No. 3 of the year 2023

**A LOCAL LAW TO AMEND CHAPTER 205 OF THE TOWN CODE OF THE TOWN
OF NEW LEBANON**

Be it enacted by the Town Board of the Town of New Lebanon as follows:

See attached.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

TOWN OF NEW LEBANON

INTRODUCTORY LOCAL LAW NO. 3 OF THE YEAR 2023

A LOCAL LAW TO AMEND CHAPTER 205 OF THE TOWN CODE OF THE TOWN OF NEW LEBANON

SECTION 1

This local law shall be referred to as “A Local Law to Amend Chapter 205 of the Town Code of the Town of New Lebanon”.

SECTION 2

Chapter 205 of the Town Code of the Town of New Lebanon is hereby amended as follows:

A. Paragraph A of Section 205-4 is hereby amended to read in its entirety as follows:

A. The Town of New Lebanon is hereby divided into the following districts:

RA-5	Residential-Agricultural/Conservation
RA-2	Residential-Agricultural
RA-1	Residential-Agricultural
C	General Commercial
C-Rec	Commercial-Recreational
C-R	Commercial-Residential
C-I	Commercial-Industrial
FZ-O	Flood Zone Overlay
S-O	Solar Overlay

B. A new subparagraph (7) is hereby added to Paragraph B of Section 205-4 to read in its entirety as follows:

(7) Solar Overlay (S-O). The boundaries of the Solar Overlay District are intended to identify areas that may be appropriate for large-scale solar energy systems based on the following goals, and additional lands may be added to the Solar Overlay District by legislative action of the Town Board where consistent with the following goals:

- (a) Avoiding prime farmland;
- (b) Encouraging the productive re-use of unused or underused land formerly used for commercial excavation or similar commercial or industrial uses, and land where the potential use and development is adversely affected by real or perceived environmental contamination ;
- (c) Focusing the use and development of land for large-scale solar energy systems on areas in close proximity to existing electrical grid infrastructure that is sufficient to support such systems;
- (d) Avoiding important wetlands and floodways;
- (e) Incorporating community values and priorities;
- (f) Avoiding areas intended for commercial development of labor-intensive and/or customer-oriented establishments along the Routes 20/22 corridor; and
- (g) Minimizing interference with existing viewsheds to the extent practicable.

C. Paragraph C of Section 205-4 is hereby amended to read in its entirety as follows:

C. The locations and boundaries of the zoning districts hereby established (including the S-O) are shown on a map entitled "Zoning Districts of the Town of New Lebanon," initially adopted August 9, 2010, and as amended from time to time. The FZ-O is shown on the map entitled "Flood Insurance Rate Map." The maps and all notations, references and other information shown thereon are hereby declared to be a part of this chapter and shall be kept up-to-

date in the offices of the Town Clerk for the use and benefit of the public.

D. Paragraph A of Section 205-5 is hereby amended to read in its entirety as follows:

A. No building or part thereof shall be erected, moved or structurally altered, nor shall any building or lands be used or occupied, except in conformity with the regulations of this chapter, herein specified for the district in which such building or land is located. The regulations herein are deemed to be specific. Those uses and structures for which there are no specific provisions in this chapter shall be deemed to be prohibited. Any use not specified as permitted or allowed by a special permit for any district as per the Use Schedule is prohibited. Notwithstanding the foregoing, uses identified as permitted or allowed by special permit in the Solar Overlay District shall supplement and be in addition to uses that are otherwise permitted or allowed by special permit in the applicable underlying zoning district.

E. Paragraph C of Section 205-8 is hereby amended to read in its entirety as follows:

C. Manufactured homes and compact homes.

(1) A manufactured home or compact home installed in the Town of New Lebanon shall be installed in compliance with the applicable provisions of the New York State Uniform Fire Prevention and Building Code.

(2) A manufactured home shall be securely located on and permanently affixed to a concrete pad or foundation. A compact home shall either be securely located on and permanently affixed to a concrete pad or foundation, or otherwise properly anchored using an approved anchoring system for manufactured homes or mobile homes.

(3) All foundations, undercarriages, wheels, and/or anchoring systems of a manufactured home or compact home, as applicable, shall be closed by a skirt securely fastened and extending from the outside wall of the home. The skirt shall be constructed of sturdy wood, plastic, masonry, or metal material capable of withstanding weather conditions. No skirt shall be required where a perimeter foundation fully encloses the area

between the unit and the ground level. Skirting must be installed within 10 days of installation of the home.

(4) Any lot containing a manufactured home or compact home shall meet applicable area and dimensional requirements.

(5) A permit may be granted to the owner of a farm located within a certified New York State agricultural district to allow placement of not more than two manufactured homes and/or compact homes to be occupied only by full-time farm workers and their families employed by the owner and provided that the such homes are located on a lot of at least 100 feet by 150 feet and are no closer than 40 feet to the farmhouse and any farm building. All water and septic system requirements for single-family homes shall be met.

(6) Manufactured homes and compact homes shall be considered and treated as a single-family structure.

F. Paragraph G of Section 205-8 is hereby amended to read in its entirety as follows:

G. Short-term rentals. A short-term rental that would include use or occupancy of any existing or previous ADU shall not be permitted for a period of three years from the date a final certificate of occupancy was issued for such ADU. If a short-term rental is not occupied by the owner/operator, the owner/operator shall provide the Zoning Enforcement Officer with the name, telephone number, and email address of a contact person who must reside within 20 miles of the property and who must be authorized to act and receive notices and process on behalf of the owner/operator with respect to the property. Updated contact information shall be provided to the Zoning Enforcement Officer whenever the name, telephone number, or email address of such contact person changes, and not less than annually.

G. A new Paragraph I to Section 205-8 is hereby added to read in its entirety as follows:

I. Accessory Dwelling Units (ADUs)

(1) In furtherance of allowing more efficient use of existing lots and buildings and to expand housing opportunities within Town, while maintaining the existing residential character of neighborhoods, the provisions of this Paragraph I of Section

205-8 shall govern Accessory Dwelling Units (ADUs) where permitted.

(2) Notwithstanding anything to contrary contained within Section 205-14 of this chapter, site plan review and approval shall be required prior to placement, construction, operation, use and occupancy of an ADU where the parcel on which the ADU is to be sited is less than twice the minimum lot size applicable within the district, except that site plan review and approval shall not be required where the ADU is to be located wholly within the existing footprint of the principal structure on the lot.

(3) An ADU approved and operated in accordance with this Paragraph I shall be considered an accessory use and shall not be considered an additional dwelling unit for purposes of calculating the density of the lot upon which it is located.

(4) No more than one ADU shall be permitted on any lot.

(5) An attached or detached ADU shall constitute an accessory structure for purposes of determining compliance with the limit on the number of accessory structures on a lot pursuant to Section 205-7 (B) (9) [2] [e].

(6) An ADU may be constructed or installed concurrently with or after construction of the principal dwelling on the lot upon receipt of all applicable approvals therefor.

(7) The living area of an ADU shall not exceed 50% of the living area of the principal dwelling or 800 square feet, whichever is less.

(8) The height of an ADU shall not exceed the average height of the principal dwelling.

(9) To the extent not inconsistent with this paragraph I of section 205-8, an ADU shall conform to those requirements of paragraph C of section 205-8 of this chapter (manufactured homes and compact homes) that are otherwise applicable.

(10) Where applicable, all towing devices, wheels, axles and hitches shall be removed from the ADU.

(11) Any ADU constructed or manufactured off-site shall remain detached from the principal dwelling and any other structure on the lot.

(12) An ADU may be included on an existing lot that does not otherwise comply with the minimum lot size applicable within the district only where the inclusion of the ADU does not create or increase any other nonconformity on the lot with respect to applicable area and bulk regulations.

(13) An ADU on a lot of 4,000 square feet or larger shall not occupy more than 15% of the total lot area, provided, however, that an ADU built wholly within the footprint of an existing legal accessory structure that exceeds this limit shall be permissible.

(14) ADU Setbacks.

(a) Except as otherwise provided herein, all ADUs shall conform in all respects to front, side, and rear yard setback requirements applicable within the district.

(b) Notwithstanding subparagraph (a) above, an ADU may be constructed and operated within an existing lawful structure that does not conform to one or more setback requirements, or in a new structure that replaces an existing lawful structure that does not conform to one or more setback requirements provided that the new structure is constructed wholly within the footprint of the existing lawful structure.

(c) Notwithstanding subparagraph (a) above, an ADU that is attached to or constitutes an addition to a lawfully existing nonconforming structure shall not encroach any closer to lot lines or further into any required yards or setbacks than the lawfully existing nonconforming structure.

(d) No ADUs, whether detached or attached, shall be permitted in the front yard. For purposes of applying this provision, the location of the front yard shall be determined without reference to any ADU.

(15) In addition to the off-street parking spaces otherwise provided for the principal structure, one off-street parking space shall be provided for the ADU.

(16) An ADU shall not be used as a short-term rental as defined and regulated in this chapter for a period of three years

from the date a final certificate of occupancy is issued for the ADU.

(17) Exterior stairs and fire escapes serving an above-grade ADU shall not be located on the front of the principal structure or accessory structure, except to the extent required by the New York State Uniform Fire Prevention and Building Code.

(18) No building permit or zoning permit shall be issued for an ADU until the proposed method of water supply and sewage disposal is approved.

(19) An ADU shall comply with all applicable provisions of the New York State Uniform Fire Prevention and Building Code.

H. Subparagraph (1) of Paragraph C of Section 205-10 is hereby amended to read in its entirety as follows:

(1) Extension, expansion, alteration.

(a) Except as otherwise provided, a nonconforming use of the land shall not be enlarged or extended beyond the size of the use or the area of land occupied by such use at the time of the adoption of this chapter or amendment thereto. A nonconforming use of land may not be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of adoption of this chapter.

(b) A nonconforming use consisting of self-storage units may be enlarged or extended upon issuance of a special use permit under Section 205-13 of this chapter and approval of a site plan under Section 205-14. Upon application to enlarge or extend a nonconforming use consisting of self-storage units, the Planning Board shall apply the following standards and have the following authority, in addition to standards and authority set forth in Section 205-13 and Section 205-14 of this chapter:

[1] The area of such enlargement or extension shall be limited to the area of the lot as it existed at the time such use became a nonconforming use.

[2] The enlargement or extension shall comply with all regulations set forth in this chapter that are otherwise applicable within the relevant zoning district.

[3] In reviewing a special use permit application and site plan application for an enlargement or extension under this section, the Planning Board shall be authorized to impose conditions relating to both the proposed enlargement or extension and the original nonconforming use that are reasonably related to the applicable standards under this section, Section 205-13, or Section 205-14.

I. A new subdivision (c) of subparagraph (1) of Paragraph E of Section 205-13 is hereby added to read in its entirety as follows:

(c) No special use permit shall be issued for a short-term rental that would include use or occupancy of any existing or previous ADU during a period of three years from the date a final certificate of occupancy was issued for such ADU.

J. Subparagraph (6) of Paragraph E of Section 205-13 is hereby amended to read in its entirety as follows:

(6) Flea markets and farmers' markets.

(a) Flea markets and farmers' markets may be permitted only in General Commercial and Commercial-Recreational zoning districts.

(b) Seventy percent of flea market or farmers' market area must be reserved for parking.

(c) Sanitary facilities shall be provided by the owner on site.

(d) There shall be no on-street parking.

(e) All access to Routes 20 and/or 22 shall have New York State Department of Transportation approval.

K. Subparagraph (11) of Paragraph E of Section 205-13 is hereby amended to read in its entirety as follows:

(11) Temporary housing.

(a) In districts where temporary housing is identified as a permissible use, a mobile home, manufactured home, compact home, or recreational vehicle may be used as a temporary

residence or business while a permanent building is being constructed. A special use permit for temporary housing shall have a term of one year, and may be renewed as needed for two six-month periods.

(b) The first six-month extension shall be granted only upon satisfactory completion of the foundation, framing and sheathing of the permanent structure and shall be extended only upon good cause being shown and a showing that construction has not been completed. The mobile home, manufactured home, compact home, or recreational vehicle shall be removed from the premises upon expiration of the permit.

(c) Drainage and grading, water supply, sewage disposal, garbage receptacles, and electric service and connections relating to temporary housing shall comply with the provisions of Chapter 88, Section 88-6 (Regulations for camping grounds and tourist camps), or its successor, of the Code of the Town of New Lebanon, as in effect from time to time. Sanitary sewage waste shall either be disposed of using an on-site private septic system that complies with all applicable regulatory requirements, or where such on-site private septic system is not then available, shall be pumped and lawfully disposed of in accordance with applicable regulatory requirements at regular intervals.

L. New subparagraphs (17), (18), and (19) of Paragraph E of Section 205-13 are hereby added to read in their entirety as follows:

(17) Cannabis Retail Dispensaries and Cannabis Consumption Facilities. Each cannabis retail dispensary and each cannabis consumption facility shall comply with the following additional requirements:

(a) In reviewing an application for special use permit for a cannabis retail dispensary or cannabis consumption facility, and in addition to any other applicable special use permit standards, the Board shall require:

[1] that the applicant demonstrate that the proposed use will not cause discernable odors beyond the property line, or where the proposed use is permissible as one of multiple uses on a single lot, beyond the boundary of the area designated specifically for such proposed use (e.g., the tenant space);

[2] that the applicant demonstrate, through competent technical proof, that its proposal includes sufficient off-street parking to fully support the anticipated parking load for the proposed use, which competent technical proof shall include an assessment of parking loads at other established similar adult-use cannabis uses within the region (including, where appropriate, outside of New York State); and

[3] that the applicant demonstrate that its proposal includes sufficient ingress and egress points designed to permit safe and efficient access from adjoining public highway(s) and to avoid traffic congestion.

(b) No cannabis retail dispensary or cannabis consumption facility shall be located within 500 feet of the boundary of any Town park or national or state historic site.

(c) Cannabis retail dispensaries and cannabis consumption facilities shall not open before 9 AM nor remain open after 9 PM Mondays through Saturdays and shall not open before 12 PM nor remain open after 7 PM on Sundays.

(d) Each cannabis retail dispensary and cannabis consumption facility shall comply with all laws and regulations of New York State applicable thereto.

(e) Any local permit or approval for a cannabis retail dispensary or a cannabis consumption facility, including special use permit, site plan approval and a zoning permit, shall be deemed conditioned upon the applicant securing and continuously maintaining the appropriate state license therefor. No applicant for any local permit or approval shall commence operations until such state license has been issued, and proof thereof shall be provided to the Zoning Enforcement Officer. Any local permit or approval for a cannabis retail dispensary or a cannabis consumption facility shall be deemed to expire upon the suspension, revocation, termination, non-renewal, or expiration of any such state license that results in any period of time during which the use lacks a current, effective and valid state license for such use.

(18) Mixed Use.

(a) Each constituent use comprising a mixed use must meet all requirements applicable to such constituent use set forth in this chapter.

(b) In reviewing an application for special use permit for a mixed use, the Planning Board shall consider each constituent use comprising a proposed mixed use individually, as well as all such constituent uses comprising a proposed mixed use cumulatively.

(c) A special use permit for a mixed use shall only permit the constituent uses for which the special use permit was issued. Any additional or different constituent uses, whether considered principal uses or accessory uses under this Chapter, shall not be permitted unless special use permit approval is granted therefor by the Planning Board.

(19) Commercial Event Venues. Each commercial event venue shall comply with the following requirements:

(a) Commercial event venues shall be limited to holding one event per calendar day.

(b) Each event held at a commercial event venue shall not exceed fourteen hours.

M. Paragraph D of Section 205-14 is hereby amended to read in its entirety as follows:

D. Site plan review and approval shall be required prior to beginning any new land use activity, engaging in any previous land use activity after having not engaged in such land use activity for a period of 18 months or more, or changing any land use activity, except with respect to the following:

(1) Construction of one- and two-family homes and ordinary accessory structures and related land use activities.

(2) Landscaping or grading, provided that such landscaping or grading is not undertaken in connection with a project that is otherwise subject to site plan review.

(3) Ordinary repair or maintenance of existing structures or uses.

(4) Exterior alterations or additions to existing structures which, when combined with all other exterior alterations or additions over the past five years, results in an aggregate increase in total square footage of such existing structures during such five-year period of not more than 25%.

(5) Nonstructural agricultural or gardening uses.

N. Subparagraph (3) of Paragraph A of Section 205-18 is hereby amended to read in its entirety as follows:

(3) Providing for the installation of solar energy systems that are consistent with the requirements of the Comprehensive Plan for the Town of New Lebanon with the goal of maintaining the community appearance and rural character of the Town; and

O. Subparagraph (2) of Paragraph B of Section 205-18 is hereby amended to read in its entirety as follows:

(2) All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards, including without limitation the New York State Uniform Fire Prevention and Building Code (including the Electrical Code), the Town Code, and any other applicable regulations. To the extent any provision of this Section 205-18 conflicts with any other applicable code, regulation or industry standard, the provision, code, regulation or standard that is more protective of health and safety shall control.

P. Paragraph D of Section 205-18 is hereby amended to read in its entirety as follows:

D. Large-scale solar energy systems. Large-scale solar energy systems, which term includes, but is not limited to, community solar energy systems, have a greater impact on the land and Town. As such, these systems shall be subject to the following regulations:

(1) Approval standards for applications for large-scale solar energy systems.

(a) Large-scale solar energy systems are permitted in the Solar Overlay District upon the granting of a special use permit and subject to site plan approval by the Planning Board. Where a large-scale solar energy system is present on site, it will be considered a principal use on that site.

(b) Special use permit application requirements and conditions. A special permit application shall be subject to

these additional special use permit standards and requirements:

[1] If the property of the proposed project is to be leased, legal consent to the solar use between the owner and tenant, specifying the use(s) of the land for the duration of the lease, including information on any necessary easements and other agreements, shall be submitted with the application, and both parties must sign the application. The lease agreement must contain a provision which specifies the rights and/or obligations regarding decommissioning.

[2] All special use permit applications for large scale solar energy systems shall be accompanied by the application fee designated therefor in the Town of New Lebanon Fee Schedule.

[3] Site plans conforming to the requirements described in § 205-14 depicting the layout of the solar energy system signed by a professional engineer or registered architect shall be required.

[4] The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, inverters and any other equipment that are to be installed.

[5] Property operation and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

[6] Decommissioning plan. To ensure the proper removal of large-scale solar energy systems and community solar energy systems, a decommissioning plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this section. The decommissioning plan must specify that after the solar energy system is no longer producing power for a period of 12 months, it shall be removed by the property owner within 90 days of notification from the Town requiring removal. The plan shall demonstrate the existing conditions on the site before construction of the array, the plan for removal, including the disposal or recycling of its components, together with the restoration

of soil and vegetation to return the parcel to its original state prior to construction. All aboveground and below-ground equipment, structures and/or foundations associated with the solar energy system must be removed during decommissioning. The plan shall include an expected time line for removal of the equipment and restoration of the site. A cost estimate detailing the projected costs associated with the decommissioning shall be prepared by a professional engineer or contractor. Cost estimations shall take into account inflation.

[7] Performance bond. Prior to issuance of a building permit, the property owner or operator of the solar energy system shall post a performance bond or other suitable guarantee in a face amount of the estimated cost of decommissioning as provided in the cost estimate approved by the Town Engineer, together with the cost of inflation over the anticipated life of the array. For the special use permit to remain in effect, the cost estimate and performance bond shall be reviewed and adjusted at five-year intervals. The approvals allowing the use shall be suspended or revoked pending the replenishment of the financial obligation. The form of the guarantee must be reviewed and approved by the Town Engineer and the Town Attorney. Review of the guarantee by the Town Engineer and Town Attorney shall be paid from an escrow established by the applicant, which shall be required to be funded in advance of review of the project. In the event of a default upon performance of such condition or any of them, the bond or security shall be utilized by the Town to perform all necessary decommissioning work to remove the array and restore the property. The bond or security shall remain in full force and effect until the removal of the solar energy equipment and complete restoration of the site. Proof of maintenance of the bond or security shall be submitted by the property owner or operator on an annual basis to the Town Clerk by February 1 of each year.

(2) Special use permit and site plan standards. The review of an application by the Planning Board shall be subject to the following standards, in addition to those contained in the special use permit and site plan sections of this chapter:

(a) Size, height and setback.

[1] No parcel shall include one or more large scale solar energy systems that, in the aggregate, exceed a nameplate capacity of 5 megawatts alternating current.

[2] The applicant shall demonstrate that the hosting capacity of existing public utility infrastructure to which the large-scale solar energy system is to be connected is sufficient to support the total energy generating capacity of the proposed large-scale solar energy system.

[3] Large-scale solar energy systems shall adhere to the height and setback requirements of the underlying zoning district in which they are located.

[4] In addition to adhering to the otherwise applicable height and setback requirements of the underlying zoning district, no component of any large scale solar energy system may be located within 75 feet of the front lot line or 35 feet of any side or rear lot line.

(b) All large-scale solar energy systems shall be enclosed by fencing to prevent unauthorized access. The type of fencing shall be determined by the Planning Board as part of site plan review.

(c) The owner or operator of the solar energy system must have identification and contact information and appropriate warning signage posted at the entrance to the solar energy system and be clearly visible. Signage shall list the facility name, owner or operator and phone number. A clearly visible warning sign concerning voltage shall be placed at the base of all inverters, transformers and/or substations and in such other locations as the Planning Board determines is necessary.

(d) Large-scale solar energy systems shall also adhere to the following design requirements:

[1] Any buildings, inverters, transformers and/or substations and accessory structures shall, to the extent reasonably possible, use materials, colors, and textures that will blend the facility into the existing environment and/or be screened from view.

[2] Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction, while providing sufficient ability to accommodate fire and other emergency apparatus.

[3] As determined necessary by the Planning Board, a landscaped buffer shall be provided around all equipment and solar energy systems to provide screening from neighboring residences and roadways.

[4] Solar panels and equipment shall be surfaced, designed and sited in order to prevent reflective glare onto any inhabited buildings on adjacent properties as well as roadways.

[5] Where practicable, on site utility and transmission lines shall be placed underground if they would be visible and are unable to be adequately screened.

[6] All mechanical equipment, including any structure for batteries or storage cells, shall be completely enclosed by a minimum six-foot-high fence with a self-locking gate, and provided with landscape screening. Fire and emergency responders must have access to the equipment, which may be accomplished with use of a Knox-Box® or other equipment as recommended by the emergency responders.

(e) Any batteries or storage cells, when no longer in use, shall be disposed of in accordance all applicable federal, state, county, and local laws and regulations.

(f) Any application under this section shall meet any substantive provisions contained in the site plan requirements of this zoning code that, in the judgment of the Planning Board, are applicable to the system being proposed. If any site plan requirement is determined by the Planning Board as not applicable, the Planning Board may waive that requirement in its site plan review.

(g) The Planning Board may impose conditions on its approval of any special use permit under this section in order to enforce the standards referred to in this section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

(3) Other requirements applicable to large-scale solar energy systems.

(a) The operator shall maintain general liability insurance coverage on any solar energy system in the amounts of \$1,000,000 for injuries and \$500,000 for property damages, naming the Town of New Lebanon as additional insured.

(b) If in the course of the delivery, installation, maintenance, dismantling, removal or transport of the solar energy system or any components thereof the property of the Town of New Lebanon, including but not limited to roadways, shoulders, drainage structures, signage, guide rails, etc., is damaged by the efforts of the applicant or any agents thereof, the applicant shall, within 30 days of the damage, completely replace or repair all damage to the satisfaction of the Town.

(c) Any damaged or unused components of the system shall be removed from the premises within 30 days and disposed of legally. All maintenance equipment and spare parts shall be kept in a designated storage area which is fenced and screened. Petroleum products shall be disposed of legally.

(d) If the ownership of a solar energy system changes, the special use permit and site plan approvals shall remain in full force and effect providing all the conditions of the special use permit, including bonding, letters of credit or continuing certification requirements or obligations continue to be obligations of successor owners. The change in ownership shall be registered with the Code Enforcement Officer.

(e) Any and all modifications, additions, deletions, or changes to the solar energy system, whether structural or not, shall be subject to the Planning Board's approval as an amendment of the special use permit and/or site plan, except that such amendment shall not be required for repairs which become necessary in the normal course of use of such system.

(f) An inspection report prepared by an engineer approved by the Town and licensed in the State of New York shall be required at the time of installation and every three years thereafter. The cost for this inspection shall be borne by the applicant. The inspection report is required at the time of installation and in advance of powering the system for use. Thereafter, it shall be done to inspect all components of the

solar energy system to ensure proper operation. The inspection report must be filed with the Code Enforcement Officer.

(g) No part of the solar farm/power plant, including the structure and panels, shall be used for the display of any advertising, decorative flags, streamers, or any other decorative items.

(h) When any solar energy system is installed and before it becomes active, the owner of the site and/or developer of the solar array must contact the New Lebanon Fire Department emergency responders to make arrangements for a meeting at the site to review the components of the array and to be educated on safety issues and procedures for emergency response. This shall include detailed discussion related to the location of labeled warnings, access to the site and information on emergency disconnection of the system. In addition, during site plan, the Planning Board shall determine the appropriate size and location of placards which provide mutual aid responders with sufficient information to protect them when responding to calls on site.

(i) Review of the application for any necessary approvals of any solar energy system under this section shall be conducted by the Town Engineer and Town Attorney. This review shall be funded by the applicant and paid from an escrow fee required at the time of application, and which shall be replenished upon invoice from the Town before additional review of the project by the Planning Board is able to proceed.

(j) If construction of a project is not completed within 12 months after receiving final site plan approval, and the project has not been abandoned, a new special use permit must be obtained.

(k) All owners of property upon which a large-scale solar energy system is located are required to enter into contracts with the Town to make payments in lieu of taxes (PILOT).

Q. Paragraph C of Section 205-20 is hereby amended to add the following definitions of terms in appropriate alphabetical order:

ACCESSORY DWELLING UNIT
See Dwelling Unit, Accessory

CANNABIS CONSUMPTION FACILITY

A facility or business at which the consumption of cannabis is allowed pursuant to a lawfully issued license for an adult-use cannabis on-site consumption location under the N.Y. Cannabis Law and regulations promulgated thereunder.

CANNABIS RETAIL DISPENSARY

A facility or business engaged in the acquisition, possession, sale and delivery of cannabis to cannabis consumers pursuant to a lawfully issued license for an adult-use cannabis retail dispensary under the N.Y. Cannabis Law and regulations promulgated thereunder, and not including any licensed adult-use cannabis on-site consumption facility.

COMMERCIAL EVENT VENUE

Any land(s), building(s), structure(s), improvement(s), or equipment used to hold events, such as weddings, parties, meetings, family reunions, corporate events, and similar gatherings, where any fee(s) or remuneration(s) are payable or paid therefor to the owner or operator thereof.

COMPACT HOME

A dwelling unit that is 400 square feet or less, excluding lofts, that includes complete housekeeping facilities, including for living, sleeping, eating, cooking, and sanitation, and that complies with the requirements of the New York State Uniform Fire Prevention and Building Code, as in effect from time to time, that apply thereto. This term includes compact homes that are movable, provided that they are registered with the New York State Department of Motor Vehicles as may be required, and comply with the American National Standards Institute (ANSI) standards and National Fire Protection Association (NFPA) standards applicable thereto as in effect from time to time (e.g., ANSI Standard No. A119.2, ANSI Standard No. A119.5, NFPA Standard 1192).

DWELLING UNIT, ACCESSORY (ADU)

A dwelling unit that is an accessory use to a one-family dwelling, two-family dwelling, or multifamily dwelling located on the same lot, and which has independent living facilities, permanent provisions for sleeping, cooking, and sanitation, and has an entrance, all of which are separate and independent from the one-family dwelling, two-family dwelling, or multifamily dwelling. An ADU may be within, attached to, or detached from the one-family dwelling, two-family dwelling, or multifamily dwelling.

LIVING AREA

The interior habitable area of a dwelling unit, including basements and attic spaces lawfully used as habitable space, and excluding garages and accessory structures.

MIXED USE

A use of property consisting of two or more constituent uses, each of which are permitted in the zoning district in which the property is located (including, as may be applicable, any overlay district). In the event a mixed use property is located within more than one zoning district, any constituent use thereof must be physically located within a zoning district in which such constituent use would otherwise be permissible and within which mixed use is permissible.

- R. Paragraph C of Section 205-20 is hereby amended to modify the definitions of “Flea Market”, “Mixed Use Property”, and “Self-Storage Units” to read as set forth below:

FLEA MARKET or FARMERS’ MARKET

An occasional or periodically held market in an open area or structure where spaces (e.g., booths, tables, stands, etc.) are rented or otherwise made available to groups or individual vendors who offer goods or services for sale to the public, and which may include live or recorded entertainment and prepared food/beverage service for on-site consumption. This does not include individual garage or tag sales.

MIXED USE PROPERTY

A property on which a mixed use is conducted.

SELF-STORAGE UNITS

A land use consisting of rental of storage space for personal property, business property or recreational vehicles in a warehouse building or multi-sized individual units. Notwithstanding inclusion of this definition in this Chapter, self-storage units are not permitted in any zoning district, except to the extent they are a pre-existing lawful nonconforming use.

- S. Attachment 2, entitled “Zoning Law Use Table”, of Chapter 205, is hereby amended to read in its entirety as set forth on the annexed Attachment 2.

SECTION 3

The Zoning Map of the Town of New Lebanon, entitled “Zoning Districts of the Town of New Lebanon”, adopted August 9, 2010 and amended from time to time thereafter, is hereby further amended to depict the zoning districts thereon as shown on Exhibit A hereto.

SECTION 4

If any word, phrase, sentence, part, section, subsection, or other portion of this Law or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

SECTION 5

This Local Law is enacted pursuant to the New York Municipal Home Rule Law.

SECTION 6

This Law shall become effective upon filing with the New York Secretary of State.

ZONING

205 Attachment 2

Town of New Lebanon

Zoning Law Use Table

KEY:

SP = Special use permit (may be subject to Site Plan Review pursuant to § 205-14)

P = Permitted use (requires zoning permit; may be subject to Site Plan Review pursuant to § 205-14)

TSP = Town Board Special Permit (pursuant to Chapter 189, Telecommunications Facilities)

See § 205-14 for applicability of Site Plan Review by the Planning Board.

Any use not listed shall be prohibited.

	Residential-Agricultural/Conservation	Residential-Agricultural	Residential-Agricultural	General Commercial	Commercial-Recreational	Commercial - Industrial	Commercial-Residential
	RA-5	RA-2	RA-1	C	C-Rec	C-I	C-R
Residential Uses							
Accessory dwelling unit	P	P	P	SP			P
Boardinghouse or group home	SP	SP	SP	SP			SP
Compact home	P	P	P	SP			P
Customary	P	P	P	P	P		P
Manufactured home	P	P	P	SP			SP
Mobile home park			SP				SP
Multifamily dwelling	SP	SP	SP	SP			SP
One-/two-family dwelling	P	P	P	SP			P
Temporary housing	SP	SP	SP				SP

NEW LEBANON CODE

	Residential-Agricultural/Conservatio	Residential-Agricultural 2	Residential-Agricultural	General Commercial	Commercial-Recreational	Commercial - Industrial	Commercial - Residential
	RA-5	RA-2	RA-1	C	C-Rec	C-I	C-R
General Uses							
Agritourism use	P	P	P	P	P		P
Any Town use	P	P	P	P	P	P	P
Boarding kennel	SP	SP					
Breeding kennel	P	P					
Bus station				P			P
Campground/ seasonal camp	SP				SP		
Cemetery	SP	SP	SP				
Customary accessory use	P	P	P	P	P	SP	P
Day care (in-home)	SP	SP	SP	SP			SP
Day-care center (not as part of another business or office use)	SP	SP	SP	SP			SP
Farm/agriculture	P	P	P	P	P		P
Fire/emergency response station		SP	SP	SP	SP	SP	SP
Garage, porch or yard sale	P	P	P	P	P		P
Historic preservation	P	P	P	P	P	P	P
Home-based business	SP	SP	SP	SP		SP	SP
Home occupation 1	P	P	P	P		P	P
Home occupation 2	SP	SP	SP	SP		SP	SP
Horse boarding operation	SP	SP	SP				SP
Hospital		SP	SP	SP			
Mixed use				SP	SP		SP
Museum/library	SP	SP	SP	SP	SP	SP	SP

ZONING

	Residential-Agricultural/Conservation	Residential-Agricultural 2	Residential-Agricultural 1	General Commercial	Commercial-Recreational	Commercial-Industrial	Commercial-Residential
	RA-5	RA-2	RA-1	C	C-Rec	C-I	C-R
Nursing home		SP	SP	SP			SP
Place of worship	P	SP	SP	SP			SP
Private school		SP	SP				SP
Professional office		SP	SP	P	P	P	SP
Public park, forest or recreational area	P	P	P	P	P		SP
Retirement home	SP	SP	SP	SP		SP	
Short-term rental	SP	SP	SP	P			SP
Small business operation (SBO)				SP	SP	SP	SP
Social, recreational or fraternal club				P	P		
Roof-mounted solar energy systems for on-site consumption	P	P	P	P	P	P	P
Ground-mounted solar energy systems for on-site consumption, under 1,000 square feet	P	P	P	P	P	P	P
Ground-mounted solar energy systems for on-site consumption, over 1,000 square feet	SP	SP	SP	SP	SP	SP	SP
Large-scale solar energy systems and community solar energy systems	See § 205-18 (D) (1) (a)						
Stable, commercial	SP	SP	SP	SP	SP		
Stable, private	P	P	P				

NEW LEBANON CODE

	Residential-Agricultural/Conservation	Residential-Agricultural 2	Residential-Agricultural 1	General Commercial	Commercial-Recreational	Commercial-Industrial	Commercial-Residential
	RA-5	RA-2	RA-1	C	C-Rec	C-I	C-R
Telecommunications facility	TSP	TSP	TSP	TSP	TSP	TSP	TSP
Temporary-business trailer				SP	SP	SP	SP
Veterinary hospital	SP	SP	SP	SP			
Business Uses							
Adult use						SP	
Auction sale, excluding livestock auction				SP			
Automobile racing facility					SP		
Bank				P	P	SP	P
Bar				SP	SP		SP
Bowling alley				P	P		P
Cannabis Consumption Facility				SP	SP		SP
Cannabis Retail Dispensary				SP	SP	SP	SP
Car wash				SP	SP		SP
Commercial Event Venue				SP	SP	SP	SP
Commercial excavation	SP						
Commercial trades operation				SP		SP	SP
Convenience store				P	SP		P
Dance hall				P	P		
Farm market		SP	SP	P	P		P
Farm stand	P	P	P	P	P		P
Flea market or Farmers' market				SP	SP		
Food Truck				P	P	P	P
Greenhouse	P	P	P	P		P	P
Hotel				SP	SP		SP
Laundromat				SP			SP

ZONING

	Residential-Agricultural/Conservation	Residential-Agricultural 2	Residential-Agricultural 1	General Commercial	Commercial-Recreational	Commercial-Industrial	Commercial-Residential
	RA-5	RA-2	RA-1	C	C-Rec	C-I	C-R
Miniature golf and driving range				P	P		P
Mortuary and funeral parlor				P			P
Motel				SP	SP		SP
Motor vehicle fueling station				SP	SP		SP
Motor vehicle repair and service				SP			SP
Motor vehicle sales				SP	SP		SP
Multi-business complex, shopping center, mall				SP			SP
Personal service shop (barber, beautician, tailor, massage therapist)				P			P
Private recreation area, involving firearms or archery range					SP		
Restaurant (non-drive-through)				P	SP		P
Restaurant (with drive-through)				P	SP		P
Retail store				P	P	SP	P
Self-storage units	Not permitted except as nonconforming use lawfully existing as of effective date of Local Law __ of 2023. See § 205-10.						
Social club					SP		
Theater, except drive-in				P	P		
Wholesale store				SP			
Industrial Uses							
Light industrial						SP	

NEW LEBANON CODE

	Residential-Agricultural/Conservation	Residential-Agricultural 2	Residential-Agricultural 1	General Commercial	Commercial-Recreational	Commercial-Industrial	Commercial-Residential
	RA-5	RA-2	RA-1	C	C-Rec	C-I	C-R
Manufacturing						SP	
Research						SP	
Sawmill						SP	
Warehouse and truck terminal						SP	

EXHIBIT A

**REVISED ZONING MAP
TO BE INSERTED ONCE PREPARED**

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law No. ___ of 2023 of the (County)(City)(Town)(Village) of New Lebanon was duly passed by the Town Board of the Town of New Lebanon on _____, 2023 in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____ in accordance with the applicable provisions of law.

(Name of Legislative body)
(Elective Chief Executive Officer*)

~~**3. (Final adoption by referendum.)**~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.

(Name of Legislative body)
(Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.

(Name of Legislative body)
(Elective Chief Executive Officer*)

Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. ~~(City local law concerning Charter revision proposed by petition.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. ~~(County local law concerning adoption of Charter.)~~

I hereby certify that the local law annexed hereto, designated as local law No. ____ of 20____ of the County of _____, State of New York, having been submitted to the electors at the General Election of _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Marcie Robertson, Town of New Lebanon Town Clerk
Clerk of the county legislative body, City, Town or Village
Clerk or officer designated by local legislative body

(Seal)

Date: _____