

**Town of Genoa**  
**Local Law #1 of 2021**  
**Solar Power Siting Review Law**

**BE IT ENACTED** by the Town Board of the Town of Genoa, County of Cayuga, State of New York, as follows:

**ARTICLE 1**

**SECTION 1 –Authority.** This Local Law is adopted pursuant to the authority and provisions of § 10 of the Municipal Home Rule Law, § 10 of the Statute of Local Governments, and Town Law § 130, and Town Law Article 16, including §§ 268 and 274-a therein.

**SECTION 2 –Purpose and Legislative Matters.** This local law shall be known as the “Solar Siting Local Law” or the “Solar Energy Law” (or simply herein, the “local law”). The purpose and intent of this Local Law is to further the purposes of Site Planning within the Town of Genoa, by both promoting solar power and protecting the land and persons from the impacts of such land use and development, including to help preserve important soils and open spaces, to mitigate impacts and nuisances, and to help ensure harmony with natural Site conditions and surrounding land uses, including through decommissioning and Siting requirements, including:

- A. Taking advantage of a safe, abundant, and renewable energy resource.
- B. Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses.
- C. Increasing the benefit of solar energy to low-to-moderate income households through community solar projects.
- D. Protecting our environment and resources for future generations by minimizing the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources.
- E. Managing commercial renewable energy development to provide a balance between energy needs that protect our environment and respect for our rural agricultural landscape.
- F. Maintaining a balance between property rights of individual landowners and the community at large.

**SECTION 3 - Applicability.**

- A. The requirements of this Local Law shall apply to all Solar Energy Systems/Facilities permitted, approved, installed or modified after the effective date of this local law, excluding general maintenance and normal repairs of such Solar Energy Systems.
- B. Solar Energy Systems/Facilities 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. Any repairs that are material in nature and not general maintenance or in a normal repair, as determined by the Town Board, shall be subject to the requirements of this local law.
- D. All Solar Energy Systems/Facilities shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as references in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Conservation Code (“Energy Code”).

- E. Agricultural energy systems are not exempt, but the Town Board shall consider the rules for Agricultural Districts and apply waivers as are or many be necessary to meet such standards and not unduly burden or prohibit lawful agricultural uses.

**SECTION 4 - Definitions.** As used in this Local Law, the following terms shall have the meanings indicated:

ACE: The Unites States Army Corps of Engineers.

Applicant: any person or entity responsible for submitting a Site Plan application for review, or otherwise responsible for compliance with the terms, conditions, and requirements of this Local Law.

Building: A Structure wholly or partially enclosed within exterior walls, or within exterior party walls, and a whole or partial roof, affording shelter to persons, animals, or property.

Building-Mounted Solar Energy System: A solar panel system located on the roof or any structural surface of any legally permitted Building or Structure for the purpose of producing electricity for on-Site or off-Site consumption. A Building-Mounted Solar Energy System shall include any Solar Thermal Energy Systems that meet the definition in the preceding sentence.

DEC: the New York State Department of Environmental Conservation.

Flood Plain: Any jurisdictional or mapped flood plain identified by the DEC or on jurisdictional flood plain and FEMA/FIRM maps.

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. A Ground-Mounted Solar Energy System shall include any Solar Thermal Energy Systems that meet the definition in the preceding sentence.

Large-Scale Solar Energy System: A Solar Energy System that feeds electricity directly into the grid, is ground mounted and is larger than four thousand (4,000) square feet in total area, including solar collectors, the enclosure and/or fence surrounding the Solar Energy System per each lot or per adjacent lots under common ownership or under common operation. A Large-Scale Solar Energy System shall include any Solar Thermal Energy Systems that meet the definition in the preceding sentence.

Net-Metering: A billing arrangement that allows energy generating customers to receive a credit for excess electricity that they generate and deliver to the power grid so that they only pay for their net electricity usage at the end of a given month.

Qualified Solar Installer: A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be Qualified Solar Installers for the purposes of this definition.

SEQRA: The New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

Site: The parcel(s) of land where a Solar Energy Facility is to be placed. The Site can be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties; Where multiple adjacent lots are in joint ownership or use, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has a Solar Energy Facility or has entered an agreement for said Facility or a setback agreement shall not be considered off-Site.

Site or Siting Approval(s) or (also sometimes Site Planning applications, reviews, or approvals): A Site Plan application approved by the Town Board pursuant to this Solar Energy Law and Town Law § 274-a.

Site Plan: a rendering, drawing, sketch, written plan, map, survey, or similar documents, prepared to specifications as required by and under this Local Law, which shows the arrangement, layout, and design of the proposed uses of land as shown upon such plan, together with supporting data and information as required by this Local Law, or as is reasonably requested or necessary in the discretion of the Town Board, to render such plan complete and ready for review by the Town Board.

Small-Scale Solar Energy System - Solar photovoltaic systems which generate power exclusively for on use and consumption by the owners, lessees, tenants, residents, or other occupants of the Building or lot to which they are attached, and do not provide energy for any other lots, except as may be allowable under New York State or federal regulations, such as through a net billing or Net-Metering arrangement in accordance with New York Public Service Law § 66-j. The Small-Scale Solar Energy System and any Building or Structures to which it is attached shall be accessory to the primary use of the land or parcel, and the solar facilities and any Structures to which they are attached shall be regularly subordinate and secondary uses to the primary use upon the land or parcel.

Solar Energy Equipment: Electrical energy storage devices, material, hardware, inverters, or other electrical equipment, infrastructure, and conduit of photovoltaic devices associated with Solar Panels and with the production of electrical energy.

Solar Energy System: An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

Solar Panel: A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Storage Batteries: Devices that store energy and make it available in an electrical form.

Structure: an assembly of materials located on or permanently affixed to the ground, directly or indirectly, usually including underground parts, such as a foundation, and above ground parts. A Building is one type of Structure.

Town: The Town of Genoa in Cayuga County, New York.

Town Board: The Town Board of the Town.

Wetland: Any jurisdictional or mapped Wetland identified by the DEC or ACE, or designated by local law as a wetland of local importance under the New York Environmental Conservation Law.

## ARTICLE 2

**SECTION 5 - Applications for Large-Scale Solar Energy Siting Approval.** An application for a Large-Scale Solar Energy Siting Approval for Solar Energy Facility shall include the following:

- A. Name, address, and telephone number of the Applicant. If the Applicant is represented by an agent, the application shall include the name, address, and telephone number of the agent as well as an original signature of the Applicant authorizing the representation.
- B. Name, address, and telephone number of the owners of properties on which the Solar Energy Facility will be located. If the property owner is not the Applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed application and (ii) authorizing the submission of the application.
- C. Address, or other property identification, of each proposed Solar Energy Facility location, including Tax Map section, block, and lot number.
- D. A description of the project, including the number and maximum rated capacity of each Solar Energy Facility.
- E. A plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:
  1. Property lines and physical dimensions of the Site.
  2. Location, approximate dimensions and types of major existing Structures and uses on the Site, public roads, and adjoining properties within the setback distances specified in Section 7 of this law, of the boundaries of the proposed Solar Energy facility Site.
  3. Location and elevation of each proposed Solar Energy Facility.
  4. Location of the nearest residential Structure located off the Site, and the distance from the proposed Solar Energy Facility.
  5. All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.
- F. The Town reserves the right to have an Applicant's engineering drawings, opinions, or conclusions reviewed by an engineer hired by the Town, the cost of which shall be reimbursed by the Applicant.
- G. The equipment specification sheets shall be documented and submitted for all significant components, including but not limited to, photovoltaic panels, mounting systems, and inverters that are to be installed.
- H. A Property Operation and Maintenance Plan shall be submitted. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming. No chemical herbicides or pesticides shall be used in the project.
- I. Projected production plans showing the annual amount of energy that will be generated and transmitted for each one-year period during the life of the project.
- J. List of property owners, with their mailing addresses, within 500 feet of the boundaries of the proposed Site. The Applicant may delay submitting this list until the Town Board calls for a public hearing on the application.
- K. Decommissioning Plan: The Applicant shall submit a decommissioning plan prepared by a qualified structural engineer or a professional engineer, which shall include:

1. The anticipated life of the Solar Energy Facility.
  2. Identification of the party responsible for decommissioning and removal of Solar Energy Systems.
  3. The estimated decommissioning costs in current dollars and how said estimate was determined.
  4. The supporting documentation used to substantiate the cost estimates.
  5. A schedule showing the time frame over which decommissioning will occur and for completion of Site restoration work.
  6. The estimated decommissioning cost shall not incorporate any salvage, recycling, or upcycling value that may be realized with the sale of materials, facility Structures, or equipment, land, or other assets associated with the Solar Energy System at the time of decommissioning.
  7. The supporting documentation used to substantiate the cost estimates.
  8. The method of ensuring that funds will be available for decommissioning and restoration.
  9. The method, such as by annual re-estimate by a licensed engineer, that the decommissioning cost will be kept current.
  10. The manner in which the Solar Energy Facility will be decommissioned and the Site restored, which shall include removal of all Structures and debris to a depth of four feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner.
- L. The application will include a complaint resolution process to address complaints from nearby residents. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The Applicant shall make every reasonable effort to resolve any complaint.
- M. An application shall include information relating to the construction/installation of the solar energy conversion facility as follows: (i) A construction schedule describing expected commencement and completion dates; and (ii) A description of the anticipated routes to be used by construction and delivery vehicles and the gross weights and heights of those loaded vehicles.
- N. A landscape plan depicting all existing natural land features, agriculture, trees, forest cover, and all proposed changes to these features including size and type of plant material and erosion control measures.
- O. The Town Board may require soil test data if such data is necessary to judge the adequacy of design.
- P. Completed Part I of the Full Environmental Assessment Form.
- Q. If a positive declaration of environmental significance is determined by the SEQRA lead agency, the following information shall be included in the Draft Environmental Impact Statement ("DEIS") prepared for a Solar Energy Facility. Otherwise, the following studies shall be submitted with the application:
1. A glare assessment survey and a mitigation plan reasonably acceptable to the Town Board to address glare on other parcels of land on an ongoing basis during the life of the project.
  2. A fire protection and emergency response plan created in consultation with the fire department(s) having jurisdiction over the proposed Site.
  3. Property value analysis prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact on values of properties neighboring Solar Energy Facility Sites.
- R. The Applicant shall, prior to the receipt of a Site approval, demonstrate that the proposed facility meets the system reliability requirements of the New York Independent System

Operator, or provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and/or the applicable Transmission Owner.

- S. A statement signed under penalties of perjury, that the information contained in the application is true and accurate.

## **SECTION 6 - Application Review Process**

- A. Applicants may request a pre-application meeting with the Town Board or with any consultants retained by the Town Board for application review. Meetings with the Town Board shall be conducted in accordance with the Open Meetings Law.
- B. Eight copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission.
- C. Town staff or Town designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the Applicant, determine if all information required under this Article is included in the application. Unless the Town Board waives any application requirement, no application shall be considered until deemed complete. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of solar energy facilities proposed has increased.
- D. If the application is deemed incomplete, the Town Board or its designated reviewer shall provide the Applicant with a written statement listing the missing information.
- E. Upon submission of a complete application, including the grant of any application waiver by the Town Board, the Town Clerk shall transmit the application to the Town Board.
- F. The Town Board shall hold at least one public hearing on the application. The Town Board shall have a notice printed in a newspaper of general circulation in the Town, not less than 10 days before any hearing, but where any hearing is adjourned to hear additional comments, no further publication or mailing shall be required. The Applicant shall prepare and mail the Notice of Public Hearing prepared by the Town and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.
- G. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested waivers.
- H. Notice of the project shall also be given to the Cayuga County, if required, by General Municipal Law §§ 239-l through 239-n.
- I. The Town may require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review. At the completion of the SEQRA review process, if a positive declaration of environmental significance has been issued and an environmental impact statement prepared, the Town shall issue a Statement of Findings, which Statement may also serve as the Town's decision on the applications.
- J. Upon receipt of the recommendation of the County § 239 reviews (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Town Board may approve, approve with conditions, or deny the applications, in accordance with this local law.

### ARTICLE 3

**SECTION 7 - Large Scale Solar Energy System Standards.** The following standards shall apply, unless specifically waived by the Town Board as part of a Solar Energy Site Approval.

- A. Large-Scale Solar Energy Systems
- B. Any Solar Energy Equipment and any related fencing or other enclosures of a Large-Scale Solar
- C. Large-Scale Energy Systems shall be located on lots
- D. To the extent reasonably practicable, all utility connections for any Large-Scale Solar Energy Systems shall be placed underground, depending upon the appropriate soil conditions, shape and topography of the Site and any requirements of the utility provider.
- E. All Solar Panels shall have anti-reflective coatings. Any glare produced shall not impair or make unsafe the use of contiguous properties and their Structures, vehicles on or off the road, air traffic, or uses by other possible impacted persons or uses as determined by the Town Board.
- F. Solar Energy Systems shall be surrounded by a fence sufficient to protect the public and prevent unauthorized access, and high enough to be visible in deep snow cover.
- G. The Town Board may allow motion-activated or staff-activated security lighting around the equipment of a Large-Scale Solar Energy System or accessory Structure. Such lighting should only be activated when the area within the fenced perimeter has been entered. Lighting shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
- H. For Sites where the Large-Scale Solar Energy System is the primary use, equipment and vehicles not used in direct support, renovations, addition or repair shall not be stored or parked on the Site.
- I. A locked gate at the intersection of the access way and a public road shall be required to prevent unauthorized vehicle entry. Such gate shall be located entirely upon the lot and not on the public right-of-way. Adequate emergency access shall be provided, as determined by the Town Board after consultation with the Applicant, and relevant law enforcement and first responder agencies.
- J. The Project Site shall be maintained in safe, neat, and orderly condition and a maintenance and inspection plan is required.
- K. The Town Board may require screening by landscaping to avoid adverse aesthetic impacts. Landscape screening shall be provided through the use of architectural features, earth berms, or other screening which is harmonious with the character of the property and surrounding areas. Owner shall develop, implement, and maintain native vegetation pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. Non-invasive ground cover under and between the rolls of Solar Panels shall be low-maintenance, drought resistant and non-fertilizer or chemical weed-killer dependent. Debris, materials, and mulch generated by Site clearing or construction shall not be stockpiled on-Site.
- L. Vehicular paths within the Site shall be designed to minimize the extent of impervious materials and soil compaction. Roadways within the Site shall be built along field edges and along elevation contours where practical, constructed at grade and have a maximum width of 16 feet.

- M. In order to determine whether environmental contamination is present and to establish a baseline prior to construction, the following environmental testing is required prior to the commencement of any project:
1. Applicant/Owner/Operator must test for chemicals exhibiting a toxicity characteristic, as found in 40 CFR 261.24 (D-Listed Contaminants).
  2. Applicant/Owner/Operator must test for discarded commercial chemical products, off-specification species, container residues, and spill residues thereof as described in 40 CFR 261.33 (P-Listed and U-Listed Contaminants) except if (i) previous testing on these contaminants has been completed in the previous 5 years, or (ii) the landowner can attest that no such contaminants have ever been present on the property.
  3. If any contaminant is found to be above permissible levels, NYS DEC and US EPA will be notified to determine proper remediation actions.
- N. Large-scale Energy Systems shall be designed and constructed in a manner which preserves natural vegetation and has the minimum negative visual effect practicable on the environment, as determined by the Town Board based on-Site specific conditions, including topography, use of contiguous properties, location of Structures, proximity to vehicles on or off the road, visibility to air traffic, and use of adjacent land by other possible impacted entities.
- O. No advertising signage or graphic content shall be displayed on the Solar Energy Systems or fencing except the manufacturer's name, said information shall be depicted within an area no more than 8 square feet.
- P. Safety Signage. Safety signage shall include equipment specifications information, safety information, and 24-hour emergency contact information including a toll-free telephone number. 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. The marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated. Solar Energy Systems and Equipment shall be marked to provide emergency responders with appropriate warning and guidance with respect to isolating the Solar Energy System. Materials used for marking shall be weather resistant. The marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover.
- Q. Guy wires shall not be used to support any component of any Solar Energy System.
- R. The developer of a Large-Scale Solar Energy System shall provide proof of liability insurance with a minimum coverage requirement of \$1 million per occurrence and a \$2 million aggregate coverage, that names the Town of Genoa as an additional named insured party during the construction period of the project. The owners and operators of a Large-Scale Solar Energy System shall also provide annual proof of liability insurance with a minimum coverage requirement of \$1 million per occurrence and a \$2 million aggregate coverage, that names the Town of Genoa as an additional named insured party, during the operational period of the project.
- S. Siting applications shall be deemed Type I projects under SEQRA for whenever the Town is the Lead Agency.
- T. The project must be installed by a Qualified Solar Installer. The project shall be built, operated and maintained to acceptable Industry standards, including but not limited to the most recent, applicable standards of the Institute of Electric and Electronic Engineers ("IEEE") and the American National Standards Institute ("ANSI").
- U. The Town Board may impose such other and related requirements for applications, and conditions on its approval, under this local law as to enforce the standards referred to herein



or in order to discharge its obligations under SEQRA, and Large-Scale Solar Energy Systems shall not be located in the following areas unless otherwise approved by the Town Board:

1. Prime farmlands soils as identified by the USDA-NRCS, or alternative available resources.
2. Areas of potential environmental sensitivity, including Flood Plains, historic sites, airports, state-owned lands, conservation easements, trails, parkland, and wetlands as identified the New York State Department of Environmental Conservation or the United States Army Corps of Engineers.
3. On slopes of greater than 15% unless the Applicant can demonstrate through engineering studies and to the satisfaction of the Town Board that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated.

**SECTION 8 - Abandonment and Decommissioning.** This section governing abandonment and decommissioning shall apply to Large-Scale Solar Energy Systems. It is the purpose of this section to provide for the safety, health, protection and general welfare of persons and property in the Town of Genoa, by the Town requiring abandoned Large-Scale Solar Energy Systems to be removed pursuant to a decommissioning and restoration plan. The anticipated useful life of such Solar Energy Systems, as well as the volatility of the recently emerging solar industry where multiple solar companies have filed for bankruptcy, closed or been acquired creates an environment for Solar Energy System to be abandoned, thereby creating a negative visual and other impacts on the Town. Abandoned commercial Solar Energy System may become unsafe by reason of their energy-producing capabilities, serve as an attractive nuisance, and may create an environmental hazard.

- A. Abandonment. A Large-Scale Solar Energy System shall be deemed abandoned if the system fails to generate and transmit electricity over a continuous period of one year at a rate of at least 25% of its projected production based on the application approved by the Town Board for the project. A Large-Scale Solar Energy System also shall be deemed abandoned if following Site Plan approval construction of the Solar Energy System is not completed within 36 months of issuance of the first Siting approval for the project.
1. In the event the solar energy facility is not so removed, the Town Board, upon notice from the Code Enforcement Officer, shall give written notice to the owner of such facility (i) stating that the solar energy facility is considered abandoned, and (ii) setting a time, date and place for a public hearing. Such public hearing shall be on not less than 30 days' notice to such owner.
  2. Upon a determination by the Town Board that a Large-Scale Solar Energy System has been abandoned, the Code Enforcement Officer shall notify the Solar Energy System owner, landowner and Applicant by certified mail: (a) in the case of a facility under construction, to complete construction and installation of the facility within 180 calendar days; or (b) in the case of a fully constructed facility that is operating at a rate of less than 25% of its projected production level as outlined in the application approved by the Town Board, to restore operation of the facility to no less than 80% of rated capacity within 180 calendar days, or the Town Board will deem the Solar Energy System abandoned and commence action to revoke the Solar Siting Approval and require removal of the Solar Energy System.
  3. Being so notified, if the Solar Energy System owner, operator, landowner, or Applicant fails to perform as directed by the Code Enforcement Officer within the 180-day period, the Code Enforcement Officer shall notify the Solar Energy System owner, operator, landowner and Applicant, by certified mail, that the Large-Scale Solar Energy System has been deemed abandoned and the Town intends to revoke the Solar Siting Approval within 60 calendar days of mailing said notice. The notice shall also state that the Applicant is entitled to appeal the decision of the Town Board to the Town Board. The Town Board

shall schedule an appeal hearing no later than 60 calendar days from the receipt of any such written request for an appeal hearing. A final determination regarding such appeal shall be made by the Town Board no later than 60 calendar days following such hearing, which determination can be further appealed pursuant to Article 78 of the New York Civil Practice Laws and Rules.

4. Upon recommendation of the Code Enforcement Officer, the Town Board may waive or defer the requirement that a solar energy facility be removed if it determines that retention of such facility is in the best interest of the town or if an extension of time is deemed warranted. The time at which a Large-Scale Solar Energy System shall be deemed abandoned may be extended by the Town Board for additional periods of up to one year each, provided the Solar Energy System owner presents to the Town Board a viable plan, reasonably acceptable to the Town Board, outlining the steps and schedules for placing the Solar Energy System in service or back in service within the time of the extension. An application for an extension of time shall be made to the Town Board by the Large-Scale Solar Energy System owner or operator prior to abandonment as defined herein. Extenuating circumstances as to why the Large-Scale Solar Energy System has not been operating or why construction has not been completed may be considered by the Town Board in determining whether to grant any extension.
- B. A Large-Scale Solar Energy System which has been abandoned shall be decommissioned and removed. The Large-Scale Solar Energy System owner and the owner of the land upon which the Solar Energy System is located shall be held responsible to physically remove all components of the Solar Energy System within one year of abandonment. Removal of the Large-Scale Solar Energy System shall be in accordance with a decommissioning and restoration plan approved by the Town Board. Any costs and expenses incurred by the Town in connection with any proceeding or work performed by the Town or its representatives to decommission and remove a Large-Scale Solar Energy System, including legal costs and expenses, shall be reimbursed either from the decommissioning security bond (or other security agreement) posted by the Solar Energy System owner or landowner.
- C. Decommissioning and removal of a Large-Scale Solar Energy System shall consist of:
1. Physical removal of all above ground and below ground equipment, Structures and foundations, including but not limited to all solar arrays, Buildings, security barriers, fences, electric transmission lines and components, roadways and other physical improvements to the Site related to the Large-Scale Solar Energy System.
  2. Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.
  3. Restoration of the ground surface and soil.
  4. Stabilization and revegetation of the Site with native seed mixes and plant species to minimize erosion.
- D. After decommissioning and restoration of any solar project, the following environmental testing must be completed:
1. Applicant/Owner/Operator must test for chemicals exhibiting a toxicity characteristic, as found in 40 CFR 261.24 (D-Listed Contaminants).
  2. Applicant/Owner/Operator must test for discarded commercial chemical products, off-specification species, container residues, and spill residues thereof as described in 40 CFR 261.33 (P-Listed and U-Listed Contaminants) except if: (i) previous testing on these contaminants has been completed in the previous 5 years, or (ii) the landowner can attest that no such contaminants have ever been present on the property.
  3. If any contaminant is found to be above permissible levels, DEC and EPA will be notified to determine proper remediation actions.

- E. Upon petition to the Town Board, the Town Board shall permit the Solar Energy System owner or landowner to leave certain underground or above ground improvements in place, provided the owner can show that such improvements are part of a plan to redevelop the Site, are not detrimental to such redevelopment, and do not adversely affect community character or the environment.
- F. The Applicant, or its successors, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town, for the removal of all facilities and appurtenances, in an amount to be determined by the Town, for the period of the life of the facility. This fund may consist of an irrevocable letter of credit, payable by demand notice, from a State of New York licensed financial institution, in form approved by the Town. All costs of the financial security shall be borne by the Applicant. All decommissioning bond requirements shall be fully funded before a Siting approval is issued. The Town may enter into an agreement to maintain security for a multiple jurisdiction project without further action by the Town Board.

### **SECTION 9 - Ownership Changes.**

- A. The Owner and Operator of the Large-Scale Solar Energy Facility shall give written notice to the Town Board of any proposed change in ownership or change in operation of the project as soon as possible, but not later than 90 days prior to the change in ownership operation. Such notice shall contain:
  - 1. A statement signed by the successor owner or operator that such person/entity assumes all the obligations of the Site Plan approval and the decommissioning plan.
  - 2. Acknowledgement that the obligations shall continue despite the proposed change in ownership or operation.
  - 3. In the event of failure to give notice, the Siting approval shall be deemed terminated and the project shall be deemed abandoned. The Town may immediately give notice to commence decommissioning pursuant to the Decommissioning plan and any bond or security therefor.
  - 4. If such notice is given, and all applicable conditions in this law have been met, then the site approval shall remain in effect.

### **SECTION 10 - Right to Inspect.**

- A. In order to verify that the Solar Energy System's owner or operator and any and all lessees, renters, or operators of the Solar Energy System place, construct, modify and maintain the Solar Energy System in accordance with all applicable technical, safety, fire, building, and codes, laws, ordinances, regulations and other applicable requirements, the Town may inspect all facets of the Solar Energy System's placement, construction, modification, and maintenance.
- B. Any inspections required by the Town that are beyond the Town's technical expertise or ability shall be conducted by third parties selected by the Town at the expense of the Applicant/owner/operator.
- C. The Town Board will hire a third-party technical consultant at the owner/operator's expense to set up a regular audit schedule and to monitor production activity and report findings to the Town Board on an annual or biennial basis.

## **SECTION 11 - Safety.**

- A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical, fire, and building codes, as required.
- B. 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.
- C. When Storage Batteries are included as a part of the Solar Energy System, they must be placed in a secure container or enclosure when in use. Storage Batteries no longer in use must be disposed of in a timely manner in accordance with law and may not be housed or stored on-Site.

## **SECTION 12 - Traffic Routes.**

- A. Construction of Large-Scale Solar Energy Facilities poses potential risks because of the large-size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for Solar Energy Facilities and associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include: (1) minimizing traffic impacts from construction and delivery vehicles; (2) minimizing related traffic during times of school bus activity; (3) minimizing wear and tear on local roads; and (4) minimizing impacts on local business operations. Solar Energy Site Approval conditions may limit solar energy related traffic to specified routes and include a plan for disseminating traffic route information to the public.
- B. The Applicant is responsible for remediation of damaged roads during and upon completion of the installation or maintenance of a Solar Energy Facility. A public improvement bond shall be posted prior to the start of construction of a Solar Energy whenever deemed necessary by the Town Board. Facilities in an amount, determined by the Town Board, sufficient to compensate the Town for any damage to local roads, shall be established as part of, and a condition upon, any approval.

## **SECTION 13 - Issuance of Solar Energy Siting Approval.**

- A. Upon completion of the review process, the Town Board shall, upon consideration of the standards in this Local Law and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval, or disapproval fully stated.
- B. The decision of the Town Board shall be filed within 5 days in the office of the Town Clerk and a copy mailed to the Applicant by first class mail.
- C. If any approved Solar Energy Facility is not substantially commenced within 2 years of issuance of the Solar Energy Siting Approval, the Solar Energy Site Approval shall expire, unless renewed by the Town Board after payment of a renewal fee equal to the original application fee, and a re-review of any conditions or approvals as may then exist or be required, including an examination of any changes in plans, new issues in environmental impacts, and any changes to any Site where any Solar Energy Systems or related improvements will be located.

## **SECTION 14 - Siting Approval Revocation.**

- A. A Large-Scale Solar Energy Facilities shall be always maintained in operational condition, subject to reasonable maintenance and repair outages. Operational condition includes meeting all Site approval requirements. Should the facility become inoperable, or should any part of the facility be damaged, or should a facility violate an approval condition, the owner or operator shall remedy the situation within 90 days after written notice from the Town Board. The Applicant shall have 90 days after written notice from the Town Board, to cure any deficiency. An extension of the 90-day period may be considered by the Town Board, but the total period may not exceed 180 days.
- B. Notwithstanding any other abatement provision under this Local Law, if the Large-Scale Solar Facility is not repaired or made operational or brought into Siting approval compliance after said notice, the Town may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (1) order either remedial action within a particular timeframe, or (2) order modification of the Solar Energy Site Approval so as to eliminate the unrepaired facility and require the removal or partial removal of the Solar Energy Facility within 90 days. If the facility is not removed and the Site decommissioned and restored, the Town Board shall have the right to use the security posted as part of the Decommission Plan to remove the facility.

## **SECTION 15 - Limitations on Approvals; Easements on Town Property.**

- A. Nothing in this Local Law shall be deemed to give any Applicant the right to a clear line of sight to the sun. It is the responsibility of the Applicant, installer, or developer to gain any and all permits, waivers, easements or agreements to maintain a line of sight to the sun, if necessary. Further, this Local Law does not give any Applicant the right to cut down surrounding trees and vegetation on any property to create a clear line of sun to the Solar Energy Facility, and all tree and other flora removal plans shall be considered as part of the review referenced by this Local Law.
- B. Nothing in this Local Law shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the clear line of sun to any Solar Energy Facility.
- C. Pursuant to the powers granted to the Town to manage its own property, the Town may enter into setback agreements, and other limited licenses or easements on such terms as the Town Board deems appropriate, if said agreements are not otherwise prohibited by state or local law.

## ARTICLE 4

**SECTION 16 - Small-Scale Solar Energy System or Solar as an Accessory Use or Structure.** The purpose of this Article is to provide standards for Small-Scale Solar Energy Systems. The following rules apply to Scale Solar Energy Systems as based upon the installation type:

- A. Building-Mounted Solar Energy Systems.
  - 1. Building-Mounted Solar Energy Systems that use the energy on-Site or off-Site shall be exempt from Site Plan review under this Local Law, except as provided in paragraph 3 below.
  - 2. Building-Mounted Solar Energy Systems that use the electricity on-Site or off-Site are permitted as an accessory use when attached to any lawfully permitted Building or primary Structure.
  - 3. Building-Mounted Solar Energy Systems shall require a Site Plan review by the Town Board pursuant to Article 2 of this local law if such Solar Energy System would result in an increase of the overall Structure height by 6' or more.
  - 4. Building-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements:
    - i. Solar Panels on pitched roofs shall be mounted parallel to the roofing surface and not higher than 12" from the roof surface.
    - iv. Solar Panels on flat roof shall not extend above the top of the surrounding parapet, nor more than 12" above the flat surface of the roof, whichever is higher.
  - 5. Glare: All Solar Panels shall have anti-reflective coating(s).
- B. Ground-Mounted Solar Energy Systems.
  - 1. Ground-Mounted Solar Energy Systems, other than Large-Scale Solar Energy Systems, are permitted as accessory Structures for residential use and, shall be exempt from Site Plan review under this Local Law, except as provided in paragraph 2 below.
  - 2. Ground-mounted solar energy Solar Energy System installations shall incorporate, when feasible, the following design requirements:
    - i. Solar energy collectors and equipment shall be in a manner to reasonably minimize light blockage and shading of surrounding properties and Structures.
    - ii. Ground-mounted solar energy collectors shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping, vegetation and other screening that will harmonize with the character of the property and surroundings.

## ARTICLE 5

### **SECTION 17 - Waivers.**

- A. The Town Board may, after a public hearing (which may be combined with other public hearings on Solar Energy Facilities, so long as the waiver request is detailed in the public notice), grant a waiver from the strict application of the provisions of this Local Law if, in the opinion of the Town Board, the grant of said waiver is in the best interests of the Town. The Town Board may consider as reasonable factors in evaluating the request, which may include, when applicable, the impact of the waiver on the neighborhood, including the potential detriment to nearby properties, the benefit to the Applicant, feasible alternatives, and the scope of the request. Waivers so granted run with the land, and Solar Energy Facilities granted a waiver are deemed to be in compliance with the relevant provision of this local law.
- B. The Town Board may attach such conditions as it deems appropriate to waiver approvals as it deems necessary to minimize the impact of the waiver.

## ARTICLE 6

### **SECTION 18 - Enforcement**

- A. The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce this Local Law, and each such person shall be deemed an Enforcement Officer under this local law.
- B. All provisions of New York State law generally applicable to misdemeanors shall apply to any criminal proceeding brought under this local law, and for such purposes the violation of this local law is hereby declared an unclassified misdemeanor. The Town's justice court is hereby vested and imbued with jurisdiction to issue administrative and other warrants in compliance with the New York Criminal Procedure Law and administrative codes of the State of New York, as well as to hear and adjudicate allegations relating to the criminal or civil violation of this chapter and thereafter, if appropriate, impose any fine, penalty, or sanction.
- C. Any person or entity that violates any of the provisions of this local law shall be guilty of a criminal violation and subject to a fine of not more than \$500, or subject to a civil penalty of not more than \$1,000, to be recovered by the Town in a civil action. Each week that any noncompliance or violation continues is and may be charged as a separate violation.
- D. The application or pursuit of any civil or criminal fine, sanction, or penalty shall not preclude the pursuit of any other lawful remedy by the Town, including, but not limited to, the right to seek equitable relief. The remedies provided by this local law shall not be in lieu of, and shall be in addition to, any other right or remedy available to the Town, whether sounding in enforcement or otherwise.
- E. Whenever the Town shall believe from evidence satisfactory to it that there is a violation of this chapter, the Town may also bring an action to enjoin and restrain the continuation of such violation and in any such action preliminary relief may be granted under Article 63 of the Civil Practice Law and Rules and the Town shall not be required to post any bond or undertaking, and need not prove that there is there is or will likely be irreparable harm or that the Town has no adequate remedy at law. In such action, the court may also award any damages or other relief requested, including declaring the rights and interests of any parties and imposing any civil penalties.

## **SECTION 19 - Fees and Escrow.**

- A. An application fee, as determined by the Town Board, shall accompany any application for a Site Plan review.
- B. The Applicant shall deliver with its application an amount as determined by the Town Board from time to time by resolution or as specifically agreed upon between the Town and the Applicant to be held in escrow during the application review process. The sum shall be held by the Town in a non-interest-bearing account and these funds shall be available to the Town to pay for the costs of reviewing the application, including, but not limited to, the costs of consultants engaged by the Town to assist in any review of the application as well as any costs related to any related notices and/or hearings. Following grant or denial of the application, the Town shall return to the Applicant any excess remaining in escrow. If the escrow account has been depleted prior to grant or denial of the application, the Applicant shall deposit such funds as are then necessary for the Town to pay any outstanding fees before the Town is required to proceed with any further review of the project.

**SECTION 20 - Host Community or PILOT Agreement.** Nothing in this Law shall be read as limiting the ability of the Town Board to enter into host community agreements or Payment in Lieu of Taxes ("PILOT") agreements with any Applicant to compensate the Town for expenses or impacts on the community.

**SECTION 21 - Severability.** If any clause, sentence, paragraph, or section of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or article thereof directly involved in the controversy in which such judgment shall have been rendered.

**SECTION 22 - Repealer; Effect on Other Laws; Effective Date.** All resolutions, ordinances, and local laws, or parts thereof in conflict herewith, or which in any manner, in the absence of this Local Law, would address or apply to the approval, construction, operation, or decommissioning of Solar Energy Facilities are superseded by this Local Law. This local law shall take effect immediately.