

## MEETING, TOWN BOARD OF GENOA

May 5, 2021

The regular meeting of the Town Board of Genoa, Cayuga County, State of New York was held at the Town Hall, 1000 Bartnick Road, Genoa NY on May 5, 2021

Present	Lorie Sellen-Gross, Supervisor	Paul Wheeler
	Cheryl Shields, Board Member	Heather Garner
	Don Slocum, Board Member	
	Brandon White, Board Member	
	Chris Stout, Board Member	
	Sue Moss, Clerk	

The Regular Board meeting was called to order at 7 p.m. by Supervisor Lorie Sellen-Gross with the Pledge of Allegiance to the Flag.

### RESOLUTION 35-2021 APPROVAL OF March 25 MINUTES WITH CORRECTION

On a motion of Board member Shields, seconded by Board member Slocum, the following resolution was

ADOPTED    Ayes    5    Sellen-Gross, Shields, Slocum, Stout and White  
                  Nays    0

Resolved to adopt the March 25, 2021 minutes with correction

### RESOLUTION 36-2021 APPROVAL OF April 14 MINUTES

On a motion of Board member Slocum, seconded by Board member Shields, the following resolution was

ADOPTED    Ayes    5    Sellen-Gross, Shields, Slocum, Stout and White  
                  Nays    0

Resolved to adopt the April 14, 2021 minutes with correction

### RESOLUTION 37-2021 APPROVAL OF SUPERVISOR'S FINANCIAL REPORT

On a motion of Board member White, seconded by Board member Shields, the following resolution was

ADOPTED    Ayes    5    Sellen-Gross, Shields, Slocum, Stout and White  
                  Nays    0

Resolved to approve the April 2021 Supervisor's Financial Report

### RESOLUTION 38-2021 APPROVAL OF BILLS

On a motion of Board member Stout, seconded by Board member Shields, the following resolution was

ADOPTED    Ayes    5    Sellen-Gross, Shields, Slocum, Stout and White  
                  Nays    0

Resolved to approve the bills as presented

**CLERK'S REPORT**

**Report on Revenues from Clerk's Office for April 2021**

Certified Copies	10.00	
Dog Licenses	80.00	(\$90 total - \$103 Ag & Markets population control fund)
Building Permits	290.00	
<b>Disbursements for March 2021</b>		
Paid to Supervisor	\$ 380.00	

**RESOLUTION 39-2021 CLERK'S REPORT**

On a motion of Board member Shields, seconded by Board member Stout, the following resolution was

ADOPTED Ayes 5 Sellen-Gross, Shields, Slocum, Stout and White  
Nays 0

Resolved that the April 2021 Clerk's Report be approved

**CODE ENFORCEMENT REPORT**

My report for May Board Meeting is as follows,

April 13

- Inspection 507 Mahaney Rd
- Delta Construction set up time for inspection Fire Ln 5 (Fessenden)

April 14

- Meet with King Ferry Chief Shaw Traveled all the fire lanes and asked if there were any problems or concerns that needed to be addressed.
- Office Hours
- Footer Inspection Fire Ln 5.
- Follow up on questions 10080 State Rt 90
- Answer questions for Mary Burns 10089 Rt 90 about door requirements
- Answer questions for Malcom Underwood 9979 Rt 90 on trailers
- Answer questions for Mike Rose 1821 Atwater Rd on permit and lot sizes

April 16

- Phone calls and set up appointments

April 21

- Office Hours
- Meeting with Raymond Harquail Electrical service
- Answered questions about a proposed renovation in King Ferry
- Phone call Bruce Stotts about Shed permit
- Meeting and questions reference Maple Street
- Questions on subdivision

After Hours code meeting with Cayuga county code Officers.

April 22

- Email updated information to County Code officials

April 25

- Stop and talk with Mr. McLaughlin about working without a permit

April 28

## TOWN BOARD MEETING

May 5, 2021 Page 3

- Issued Permit 21-15 with late fee for roof @2948 Blankley Rd J. Freisinger
- Final on permit 20-56 160 Mahaney Rd Willet Dairy
- Final on Permit 20-57 162 Mahaney Rd Willet Dairy
- Framing Inspection 507 Mahaney Rd
- Issued Permit 21-16 Maple Street Foundation Work McLaughlin

April 29

- Office Genoa
- Certificate of Occupancy for 160 and 162 Mahaney Rd
- Look for permit 830 East Genoa Rd Underwood
- Check on Permit 20-52 Sherman
- Check conditions of Ferguson Rt 90

May 3

- Call from Shane Warner about permit 2675 Hill Road
- Respond to email for report as meeting changed

Kevin Foster  
Code Enforcement Officer  
[codes.genoa@gmail.com](mailto:codes.genoa@gmail.com)

315-364-5505  
315-730-8908

## **HIGHWAY REPORT**

Brandon White

The men are still hauling material for this summer's road repairs. Placed cold patch on cross culverts on Atwater and Powers Roads and swept loose stone and sand off roads and intersections. Filled some more of the ditch on Hill Road with gabion stone and chunks of concrete to help with erosion. Mowed the land fill for the first time this summer. We are working on a drain at the Town Hall parking lot.

Regarding the Bakers Bridge project, Paul received the following letter:



April 28, 2021

Paul Wheeler, Highway Superintendent  
The Town of Genoa  
1000 Bartnick Rd  
Genoa, NY 13071

Re: Bid Analysis and Recommendation  
Bakers Bridge Painting and Steel Repair BIN 2206780  
HUNT 3069-006

Dear Mr. Wheeler:

Hunt Engineers, Architects, Land Surveyors & Landscape Architect DPC (HUNT) has reviewed the three (3) bids received at the office of the Town of Genoa on Tuesday, April 27, 2021 at 1:00 PM for the above referenced project and wish to report the following.

#### Recommendation

Based on our review and analysis of the bids HUNT recommends award to the low bidder, Erie Painting and Maintenance Inc in the amount of their bid, \$139,152. A summary of our analysis and award justification follows.

#### Review Summary

- The project was advertised and made available to contractors Friday, April 2, 2021.
- Zero addendums were published.
- Following the bid opening, bids were opened and read aloud as advertised.
- Three bids were received with appropriate bonds with the results as summarized below.

<u>Engineer's Estimate</u>	\$128,871	
<u>Bidders Name</u>	<u>Bid Amount</u>	<u>Corrected Bid Amount</u>
Erie Painting and Maintenance, Inc	\$139,152	N/A
Amstar of WNY, Inc	\$159,999	N/A
Southern Road & Bridge, LLC	\$564,520	N/A

#### Bidder Responsibility

The low bidder, Erie Painting and Maintenance, Inc, is well known to the engineer. They have completed numerous projects for New York State Municipalities and Counties, the NYSDOT and local clients and have completed projects under the federally funded procedures in multiple regions in New York State. We have reviewed the bidder responsibility in conformance with Governor's Executive Order #170 and found no reason to deem them not responsible.

## TOWN BOARD MEETING

May 5, 2021 Page 5

Bid Analysis and Recommendation  
Bakers Bridge Painting and Steel Repair BIN 2206780  
HUNT 3069-006

Further, we have reviewed:

- The General Services Administration's website System for Award Management (SAM) to confirm the Contractor is not debarred, suspended, or excluded.
- The New York State Department of Labor's website to determine the Contractor is not debarred.
- The Department of State's website to determine the Contractor has the authority to do business in New York State.
- The OSHA website and found no open violations for the firm.

Based on the above, Erie Painting and Maintenance, Inc has been determined to be a responsible bidder.

### **Bid Price Analysis**

HUNT reviewed the bids for mathematical errors and inconsistencies, and there were none in the contractor bids submitted. There were no deviations in unit prices or total bid amounts.

### **Recommendation**

Based on our review and analysis of bids, we feel that it would be in the Town of Genoa's best interest to award this project to Erie Painting and Maintenance, Inc.

Sincerely,

HUNT ENGINEERS, ARCHITECTS, LAND SURVEYORS & LANDSCAPE ARCHITECT, DPC



Christopher J. Bond, PE  
President/CEO

### **RESOLUTION 40-2021 APPROVE BID FROM ERIE PAINTING & MAINTENANCE, INC.**

On a motion of Board member White, seconded by Board member Stout, the following resolution was

ADOPTED Ayes 5 Sellen-Gross, Shields, Slocum, Stout and White  
Nays 0

Resolved that the bid from Erie Painting & Maintenance Inc. be approved

The contract from the Finger Lakes Dog Protection Agency for 2021 was approved  
There was an increase in CHIP money from the County

### **WATER REPORT**

Sue Moss

Total - 2,893,600 gallons

Average - 96,453 gallons

Assessor was asked to attend the Board Meeting should town residents come to discuss their assessment notice. No Assessor Report other than very busy with appointments. The Town Supervisor requested that Heather prepare an article for the Genoa King Ferry Tribune which is due 6/11<sup>th</sup>. This article would contain information on aspects of the reval, processes thereof, etc.

RESOLUTION 41-2021 **APPROVE PERMISSION FOR SUPERVISOR TO SIGN AMENDMENT**

On a motion of Board member Shields, seconded by Board member White, the following resolution was

ADOPTED Ayes 5 Sellen-Gross, Shields, Slocum, Stout and White  
Nays 0

Resolved to grant permission to sign an amendment to renew the original contract with Municipal Solutions (a Municipal Financial Advisor Firm) from 4/19/2019 for our Genoa King Ferry Water Project. The current project plans, scope, and timeline is estimated to be an aggregate of \$6,500 until it is finished which most likely will be 9 months.

There will be no Swim Program this year due to COVID-19, with hopes of starting it back up in 2022

**The Rev Theatre Company  
Presents Summer Outreach Tour 2021:**

*The Golden*

*Goose*

THIS SUMMER, THE REV THEATRE COMPANY (FORMERLY MERRY-GO-ROUND YOUTH THEATRE) WILL TOUR *THE GOLDEN GOOSE*! BASED ON THE CLASSIC BROTHERS' GRIMM STORY, *THE GOLDEN GOOSE* FOLLOWS YOUNG HANS, AN INEXPERIENCED WOODCUTTER TRYING TO SUPPORT HIS FAMILY. WHEN HANS SHOWS KINDNESS TO AN INJURED OLD MAN IN THE WOODS, HE IS GIVEN THE REWARD OF A GOLDEN GOOSE! HANS VENTURES INTO THE

## TOWN BOARD MEETING

May 5, 2021 Page 7

KINGDOM IN SEARCH OF THE OLD MAN TO THANK HIM. ALONG THE WAY HE MEETS SEVERAL TOWNSPEOPLE, AND WHEN THEY TRY TO TOUCH THE GOOSE TO TAKE ONE OF THE BEAUTIFUL GOLDEN FEATHERS, THEY BECOME STUCK AND NOTHING THEY TRY BREAKS THEM FREE. EVENTUALLY THE ENTIRE KINGDOM IS STUCK TO THE GOOSE. MEANWHILE, A YOUNG, GLOOMY PRINCESS SITS HIGH IN HER CASTLE. THE KING OFFERS A HUGE REWARD TO ANYONE WHO CAN MAKE THE PRINCESS LAUGH. HANS HEADS TO THE CASTLE TO SEE IF HE CAN GET HELP WITH HIS STICKY SITUATION, AND WHEN THE PRINCESS LOOKS OUT HER WINDOW TO SEE WHAT ALL THE COMMOTION IS ABOUT, SHE CAN'T HELP BUT BURST INTO A FIT OF LAUGHTER. HANS IS GIVEN A HUGE REWARD AND IS ABLE TO HELP SUPPORT HIS FAMILY. THEY ALL LEARN THAT KINDNESS IS A VIRTUE NOT TO BE OVERLOOKED.

TOURING JULY 19 - AUGUST 7, OUR 45-MINUTE SHOW IS PERFECT FOR ANY OUTDOOR SETTING. DUE TO COVID-19 SAFETY PROTOCOLS, WE WILL NOT PERFORM INDOORS THIS SUMMER. HOWEVER, COVERED SPACES SUCH AS OPEN-AIR TENTS, CANOPIES, AND GAZEBOs ARE ACCEPTABLE VENUES. OUR TALENTED AND ENGAGING ACTING COMPANY COMES COMPLETELY SELF-CONTAINED, ONLY REQUIRING AN OPEN AREA OF APPROXIMATELY 25'X25'X15'. THE GOLDEN GOOSE WILL MAKE A *GREAT ADDITION TO THE COLLABORATIVE SUMMER LIBRARY PROGRAM: TAILS AND TALES!*

COST:

- \$500 PER PERFORMANCE
- \$600 PER PERFORMANCE OUTSIDE A 100-MILE RADIUS OF AUBURN, NY.

PLEASE NOTE: A LIMITED AMOUNT OF FINANCIAL ASSISTANCE MAY BE AVAILABLE. PLEASE VISIT OUR WEBSITE AT [WWW.THEREVTHEATRE.COM](http://WWW.THEREVTHEATRE.COM) FOR AN APPLICATION.

GRANTS MAY BE AVAILABLE! CONTACT YOUR LOCAL GRANT INFORMATION CENTER FOR RESOURCES. FOR MORE INFORMATION CONTACT: ERIN KATZKER EDUCATIONAL THEATRE MANAGER 315-255-1305 EXT. 126

[126revtour@therevtheatre.com](mailto:126revtour@therevtheatre.com)

### **OLD BUSINESS/UPDATES**

The Food Drive will happen on Saturday, May 22 at the Genoa Town Hall with participation from the Towns of Venice and Scipio.

### **New Business**

The Town of Genoa Supervisor, the Environmental Facilities Corporation, and the Department of Health are commencing work together provide long-term bond financing from funds received for the Genoa-King Ferry Water District Improvement Project. Financial closure from this short-term debt financing should occur on 12/8/21 providing the long-term bond financing that was planned for at the very beginning of this project.

Anton Parseghian has been added to the Variance Board for the Town. Kenneth Manzari resigned, and Anton is his replacement. His term expires in 2024. Other members are Sue Bower (2025), Joel Meade (2024), Dale Sellen (2023) and Chris Wilbur (2021).

### **Environmental Incident at Ridgecrest Farm**

On April 20, 2021, the Cayuga County Health Department received a report from the New York State Department of Environmental Conservation (NYSDEC) that on April 19, 2021, Ridgecrest Farm in the Town of Venice in Cayuga County was found to be discharging discolored water that had collected on the cover of their manure lagoon onto the ground surface and this water made its way into Big Salmon Creek. The farm

stopped pumping the water after being notified by Town Highway Department staff that evening. The DEC Environmental Conservation Officer responded to a complaint regarding this discharge. It is not believed that manure was discharged with the dirty water and the quantity of water discharged is not known. The NYSDEC is investigating the incident.

There was no damage to the Town's water system and a bill will be sent to the responsible farm for Paul's time.

### **Grant Opportunity for Waterfront Septic System Replacements**

New York State's Environmental Facilities Corporation (EFC), has opened Round 2 of the State Septic System Replacement Fund Program which provides funds to replace old or substandard septic systems located on or near lakefront properties. Cayuga County is participating in this program and eligible properties include those located within 250 feet of Owasco Lake, Lake Como, Cayuga Lake and Skaneateles Lake.

This funding provides reimbursement of 50% of costs, up to \$10,000, for design and installation of a new septic system. All designs must be approved by the County Health Department prior to construction. Funding will be available for three years, or until exhausted. To apply for the program complete and return the application form which can be found at the following link: [Septic-Grant-Program-PDF \(cayugacounty.us\)](https://cayugacounty.us/septic-grant-program-pdf) or on the Cayuga County website.

Property owners with aging or substandard septic systems are encouraged to apply to help improve water quality.

Individuals with questions may contact the Cayuga County Health Department at 315-253-1560.

## **TIRE ROUND-UP FOR CAYUGA COUNTY RESIDENTS**

Date: Saturday, June 12, 2021

Time: 8:30 am until NOON

Location: **Pre-registration is required at:**

[https://reg.cce.cornell.edu/TireRound-Up2021\\_205](https://reg.cce.cornell.edu/TireRound-Up2021_205)

or by going to CCE Cayuga County's website with arrival times starting at 8:30 am through Noon.

Please bring exact amount of money. No change will be given.

Contactless unloading. Please remain in your vehicle.

Have questions?

Are you a farm or business with more than 40 tires?

Contact CCE of Cayuga County

315.255.1183

*Cornell Cooperative Extension*

*Cayuga County*

- Recycle your old tires.
- Up to 40 tires per household.



## TOWN BOARD MEETING

May 5, 2021 Page 9

- Tires on and off rims are accepted.
- **Cost: \$1.00 per tire \*\***
- Size limit: 30 inches\* TALL (outside diameter)
- Reduce the risk of fire, West Nile Virus and EEE!
- No Businesses Please!
- 31" to 36" TALL are **\$5 each \*\***

\*\* Price subject to change; call or email for more information.

**Sponsored by** Cayuga County Soil and Water Conservation District, Cornell Cooperative Extension of Cayuga County (CCE), Nucor - Auburn Bar Mill, Cayuga County Department of Planning & Economic Development, and Cayuga County Solid Waste Management Program.

The Town received a request from the Cayuga Economic Development Agency for office space two to three times a month for small business outreach. The Board decided against this as there would have to be someone at the Town Hall to open and close the building while the Small Business Development Specialist is there.

Sales tax was received from the County for the second quarter in the amount of \$203,590.66 in which \$150,000 was directed to the Highway Fund and the remaining \$53,590.66 placed in the General Funds.

The Board proceeded with adoption of Local Law 1 of 2021, the SOLAR SITING REVIEW LAW and Local Law 2 of 2021, the WIND POWER SITING LAW

- The Town Supervisor reviewed, with the Board, the FEAF resolutions from the Public Hearing of 3/25/21 on the two local laws we are about to adopt tonight.
- They reviewed the process and analysis of FEAF Part 1 and FEAF Part 2 on the Solar Siting Review from 3/25. They also reviewed the FEAF Part 3 form that was filled out on that date as well indicating its approval once hearing back from the Notice of Intent sent to numerous agencies and towns.
- The Town Supervisor only received two comments back from agencies that were notified regarding the Town of Genoa's Notice of Intent to be lead agency. They were from NYS Ag & Markets and Cayuga County Planning Office.
- Therefore, the Town Supervisor asked for a board motion to approve FEAF Part 3 with the comments already made 3/25 noting no further responses were received.

**RESOLUTION 42-2021 APPROVE MOTION TO APPROVE FEAF PART 3 AND A MOTION MAKING NEGATIVE DECLARATION OF ENVIRONMENTAL SIGNIFICANCE AND APPROVING AND ADOPTING LOCAL LAW 1 OF 2021 ENTITLED: TOWN OF GENOA SOLAR POWER SITING REVIEW LAW**

On a motion of Board member Sellen-Gross, seconded by Board member Shields, the following resolution was

ADOPTED Ayes 5 Sellen-Gross, Shields, Slocum, Stout and White  
Nays 0

Roll Call:

Supervisor Sellen-Gross aye  
Board Member Shields aye  
Board Member Slocum aye  
Board Member Stout aye  
Board Member White aye

- The Board proceeded and reviewed the process and analysis of FEAF Part 1 and FEAF Part 2 on the Town of Genoa Wind Power Siting Review Law from 3/25. They also reviewed the FEAF Part 3 form that was filled out on that date as well indicating its approval once hearing back from the Notice of Intent sent to numerous agencies and towns.
- The Town Supervisor only received two comments back from agencies that were notified regarding the Town of Genoa's Notice of Intent to be lead agency. They were from NYS Ag & Markets and Cayuga County Planning Office.
- Therefore the Town Supervisor asked for a board motion to approve FEAF Part 3 with the comments already made 3/25 noting no further responses were received.

**RESOLUTION 43-2021 APPROVE MOTION TO APPROVE FEAF PART 3 AND A MOTION MAKING NEGATIVE DECLARATION OF ENVIRONMENTAL SIGNIFICANCE AND APPROVING AND ADOPTING LOCAL LAW 2 OF 2021 ENTITLED: TOWN OF GENOA WIND POWER SITING REVIEW LAW**

On a motion of Board member Shields, seconded by Board member White, the following resolution was

ADOPTED Ayes 5 Sellen-Gross, Shields, Slocum, Stout and White  
Nays 0

Roll Call:

Supervisor Sellen-Gross aye  
Board Member Shields aye  
Board Member Slocum aye  
Board Member Stout aye  
Board Member White aye

Local Law 1 and 2 of 2021 are included below.

With no further business, on a motion of Board Member Shields, seconded by Board Member Slocum, the regular meeting was adjourned at 8:15 p.m. Carried unanimously

---

Susan B. Moss, Town Clerk

**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 Power Siting Review 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/Facility 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/Facilities.

- 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 nor in nature of 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 Solar Energy Systems/Facilities are not exempt, but the Town Board shall consider the rules for Agricultural Districts and apply waivers as are or may 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 United 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/Facility: 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/Facility 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/Facility: 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/Facility shall include any Solar Thermal Energy Systems that meet the definition in the preceding sentence.

**Large-Scale Solar Energy System/Facility:** A Solar Energy System/Facility 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/Facility per each lot or per adjacent lots under common ownership or under common operation. A Large-Scale Solar Energy System/Facility 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 System/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 System/Facility or has entered an agreement for said System/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 Siting Review 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/Facility- Solar photovoltaic systems/facilities 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/Facility 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 Review with Solar Panels and with the production of electrical energy.

Solar Energy System/Facility: 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 System/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 System/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 System/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 System/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 System/Facility Site.
  - 3. Location and elevation of each proposed Solar Energy System/Facility.
  - 4. Location of the nearest residential Structure located off the Site, and the distance from the proposed Solar Energy System/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/Facilities.
  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/Facility 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, a three (3) year re-estimate by a licensed engineer, that the decommissioning cost will be kept current.
  10. The manner in which the Solar Energy System/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 System/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 System/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. Notice shall be given by first class mail to property owners within 500 feet of the boundary of the parcel on which the proposed Site is located. 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/Facility 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/Facilities shall not exceed 20' in height unless a waiver is approved by the Town Board. Structures associated with the Solar Energy System/Facility shall also have a maximum height of twenty 20'.
- B. Any Solar Energy Equipment and any related fencing or other enclosures of a Large-Scale Solar Energy System/Facility shall be setback at least 50' from the side and back lines of the property owner's lot, and at least 125' feet from the centerline of any road bordering on such lot. In the event the property has no road frontage or is a flag lot, the setback shall be at least 50' from all sides of the lot.
- C. Large-Scale Solar Energy Systems/Facilities shall be located on lots with a minimum lot size of 5 acres, and the enclosed or fenced in area of a Large-Scale Solar Energy System/Facility shall not exceed 70% coverage of the lot on which it is installed, not counting roadways or accessways and their facilities when located outside of any fence.
- D. To the extent reasonably practicable, all utility connections for any Large-Scale Solar Energy Systems/Facilities shall be placed underground, depending upon the appropriate soil conditions, shape and topography of the Site and any requirements of the utility provider. Any authorized above-ground utility lines shall be affixed to utility poles tall enough to provide 20' of clearance from the shortest distance between the lowest electrical or utility line mounted on the pole and the topmost portion of any facilities or panels within 50' of any overhead

crossing. Electrical transformers for utility interconnections may be above ground if required by 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/Facilities 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/Facility 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/Facility 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 Solar Energy Systems/Facilities 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/Facilities 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/Facilities and the Equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the Solar Energy System/Facility. 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/Facility.
- R. The developer of a Large-Scale Solar Energy System/Facility 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 Power Energy System/Facility 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 Power Energy Systems/Facilities 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/Facilities. 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/Facilities, 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/Facility to be abandoned, thereby creating a negative visual and other impacts on the Town. Abandoned commercial Solar Energy Systems/Facilities 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/Facility 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/Facility also shall be deemed

abandoned if following Site Plan approval construction of the Solar Energy System/Facility 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/Facility 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/Facility abandoned and commence action to revoke the Solar Siting Approval and require removal of the Solar Energy System/Facility.
3. Being so notified, if the Solar Energy System/Facility 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/Facility owner, operator, landowner and Applicant, by certified mail, that the Large-Scale Solar Energy System/Facility 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/Facility 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/Facility 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/Facility in service or back in service within the time period of the extension. An application for

- an extension of time shall be made to the Town Board by the Large-Scale Solar Energy System/Facility owner or operator prior to abandonment as defined herein. Extenuating circumstances as to why the Large-Scale Solar Energy System/Facility 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/Facility which has been abandoned shall be decommissioned and removed. The Large-Scale Solar Energy System/Facility owner and the owner of the land upon which the Solar Energy System/Facility is located shall be held responsible to physically remove all components of the Solar Energy System/Facility within one year of abandonment. Removal of the Large-Scale Solar Power Energy System Facility 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/Facility, including legal costs and expenses, shall be reimbursed either from the decommissioning security bond (or other security agreement) posted by the Solar Energy System/Facility owner or landowner.
- C. Decommissioning and removal of a Large-Scale Solar Energy System/facility 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/Facility.
  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/Facility 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 System/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 of 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. In the event that 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/Facilities' owner or operator and any and all lessees, renters, or operators of the Solar Power Energy System/Facility place, construct, modify and maintain the Solar Energy System/Facility 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/Facility 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/Facilities and Solar Energy Equipment shall be certified under the applicable electrical, fire, and building codes, as required.
- B. Solar Energy Systems/Facilities 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/Facility, 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 Systems/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 Systems/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 System/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 System/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/Facilities or related improvements will be located.

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

- A. A Large-Scale Solar Energy Systems/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 System/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 System/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 System/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 System/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, as long as 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/Facilities, are permitted as accessory Structures for residential use and, shall be shall be exempt from Site Plan review under this Local Law, except as provided in paragraph 2 below.

2. Ground-Mounted Solar Energy Systems shall require a Site Plan review by the Town Board pursuant to Article 2 of this local law if such Ground-Mounted Solar Energy System would exceed 20' feet in height from finished grade when orientated at maximum tilt.
3. Setback. Any Solar Energy Equipment and any related fencing or other enclosures shall be setback at least 20' feet from the side and back lines of the property owner's lot and at least forty 40' from the centerline of any road bordering on such lot. In the event the property has no road frontage or is a flag lot, the setback shall be at least 20' from all sides of the lot.
4. Ground-mounted solar energy Solar Energy System installations shall incorporate, when feasible, the following design requirements:
  - i. Solar energy collectors and equipment shall be located 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 Systems/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 Systems/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. Fees for Small-Scale Solar Energy Systems and Large-Scale Solar Energy Systems/Facilities may be set from time-to-time by resolution of the Town Board. Initial fees for Small-Scale Solar Energy Systems is set at \$75, and Large-Scale Solar Energy System/Facility fees are set at \$500.
- 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 Systems/Facilities are superseded by this Local Law. This local law shall take effect immediately.

Town of Genoa  
Local law # 2 of 2021  
Wind Energy 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 “Wind Energy Siting Review 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 wind 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 but not limited to:

- 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. Reducing potential aesthetic impacts because of their large size, lighting, vibration, noise, and shadow flicker effects;
- D. Protecting the environment and resources for future generations by minimizing the impacts of Wind 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 the environment and respect for the Town’s rural agricultural landscape; and
- F. Reduce noise disturbances for local residents, as well as reduce potential traffic problems and damage to local roads.

### SECTION 3 - Applicability.

- A. The requirements of this local law shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this local law.
- B. Wind Energy Facilities upon which construction has commenced prior to the effective date of this local law, shall not be required to meet the requirements of this local law; provided that:
  - 1. Any such preexisting Wind Energy Facility which does not provide energy for a continuous period of 12 months shall meet the requirements of this local law prior to recommencing production of energy.
  - 2. No modification or alteration to such existing Wind Energy Facility shall be allowed without full compliance with this local law.
- C. No WECS, Wind Measurement Tower, or Small WECS shall be constructed, reconstructed, modified, or operated in the Town of Genoa except with a Wind Energy Facility Site Approval pursuant to this local law.
- D. Notwithstanding the requirements of this Section, replacement in kind or modification of a  
Wind Energy Facility may occur without Town Board approval when (i) there will be no increase in Total Height; (ii) no change in the location of the WECS; (iii) no additional lighting or change in facility color; (iv) no increase in noise produced by the WECS, and (v) the WECS is not currently in violation of any condition or approval or provision of this local law.

SECTION 4 – Definitions. As used in this local law, the following terms shall have the meanings indicated:



**Applicant:** Any person or entity responsible for submitting a Site Plan application for review by the Town Board, 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.

**Residence:** Any dwelling suitable for habitation existing in the Town of Genoa on the date an application is received. A Residence may be part of a multi-dwelling or multipurpose Building, but shall not include Buildings such as hunting camps, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other Buildings used for educational purposes, or correctional institutions.

**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.

**Sound Pressure Level:** The level which is equaled or exceeded a stated percentage of time. A 50 dBA Leq indicates that in any hour of the day 50 dBA can be equaled or exceeded only 10% of the time, or for 6 minutes. The measurement of the Sound Pressure Level can be done according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11), or other accepted procedures when approved by the Town Board.

**Site:** The parcel(s) of land where a Wind 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. When lots or parcels are adjacent, the combined lots shall be considered as one for purposes of applying setbacks and yardage, height, bulk, and density requirements and, generally, the shared property line may be disregarded. Any property which has a Wind Energy Facility, or which has entered an agreement for a Wind Energy Facility, or a setback agreement or other agreement, waiver, consent, shall not be considered off-Site for Siting and other purposes under this local law.

**Site or Siting Approval(s)** (also sometimes Site Planning applications, reviews, or approvals): A Site Plan application approved by the Town Board pursuant to this Wind Energy Siting Review Law and Town Law § 274-a. This includes any decision upon an application, but principally includes a conditional, partial, limited, or application approval, as issued by the Town Board upon a Site Plan for a Wind Energy Facility of any size submitted by any Applicant, including but not limited to any Siting Approvals, other approvals, consents, or resolutions or motions authorizing any Wind Energy Facility, or change therein, including those issued for any waivers referenced in this local law.

**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.

**Small Wind Energy Conversion System (or “Small WECS”):** A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce consumption of utility power at that location.

**Total Height:** The height of the tower and the furthest vertical extension of the WECS.

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

**Town Board:** The Town Board of the Town.

**Wind Energy Conversion System (or “WECS”):** A machine that converts the kinetic energy in the wind into a usable form (commonly, a “wind turbine” or “windmill”). For all height and setback calculations, this includes all parts and extensions, including blades, pitch bearing devices, vertical axes, nacelles, generators, and attached devices and extensions of any kind or nature.

**Wind Energy Facility:** A development project, consisting of an integrated system of WECS, including Small WECS and Wind Measurement Towers, and all associated Wind Energy Related Infrastructure.

**Wind Energy Related Infrastructure:** The components of a Wind Energy Facility, excluding WECS and Wind Measurement Towers, that are necessary or convenient for the construction or operation of the Wind Energy Facility, including electric collection lines, substations, interconnection lines, switchyards, access roads, communication facilities, operation and maintenance Buildings and facilities, and laydown yards, staging yards, concrete batch plants, and all related improvements and appurtenances that support the construction or operation of a Wind Energy Facility.

**Wind Measurement Tower (sometimes called a Met Tower):** A tower used for the measurement of meteorological data such as temperature, wind speed, and wind direction.

## ARTICLE 2

**SECTION 5 - Applications for Wind Energy Facility Siting Approvals.** An application for a Wind Energy Facility Siting Approval 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 Wind 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 WECS location, including address and tax map section, block, and lot number.
- D. A description of the project, including the number and maximum rated capacity of each WECS.
- 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 any setback distances specified in this local law.
  - 3. Location and elevation of each proposed WECS.
  - 4. Location of all above ground utility lines on the Site or within a one-mile radius of the Total Height of the WECS, transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.
  - 5. Location and size of structures above 35' in height within any setback distances specified in this local law. For purposes of this requirement, electrical transmission and distribution lines, antennas, and slender or open lattice towers are not considered structures.
  - 6. To demonstrate compliance with the setback requirements of this local law, circles drawn around each proposed tower location equal to the applicable setback distances specified herein.
  - 7. Location of the nearest residential structure located off the Site, and the distance from the proposed WECS.
  - 8. All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.
- F. Vertical drawing of the WECS showing Total Height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each WECS of the same type and Total Height.
- G. Lighting Plan showing any FAA-required lighting and other proposed lighting. The application should include a copy of the determination by the Federal Aviation Administration to establish required markings or lights for the structure, but if such determination is not available at the time of the application, no Siting Approval for any lighted facility may be issued until such determination is submitted.
- H. List of property owners, with their mailing addresses, within 500' 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.
- I. Decommissioning Plan: The Applicant shall submit a decommissioning plan, which shall include:
  - 1. The anticipated life of the WECS
  - 2. The estimated decommissioning costs in current dollars;
  - 3. How said estimate was determined;
  - 4. The supporting documentation used to substantiate the cost estimates;

5. The estimated decommissioning cost shall not incorporate any salvage value that may be realized with the sale of materials, facility structures, or equipment, land, or other assets associated with the Large-Scale Energy System at the time of decommissioning;
  6. The method of ensuring that funds will be available for decommissioning and restoration;
  7. the-method, such as by annual re-estimate by a licensed engineer, that the decommissioning cost will be kept current; and
  8. The manner in which the WECS will be decommissioned and the Site restored, which shall include removal of all structures and debris to a depth of 3', 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.
- J. Complaint Resolution: The application shall 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.
- K. An application shall include information relating to the construction/installation of the Wind 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.
- L. Applications for Wind Energy Facility Site Approval for Wind Measurement Towers subject to this local law may be jointly submitted with the Wind Energy Facility application.
- M. For each proposed WECS, include make, model, picture, and manufacturers' specifications, including noise decibel data, and also include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
- N. A landscape plan depicting all existing all-natural land features, 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 and geotechnical test data if such data is necessary to judge the adequacy of design or soil capacity and loading.
- P. Completed Part I of the SEQRA Full Environmental Assessment Form, including, when required by the Town, the following test and study data:
1. Shadow Flicker: The Applicant shall conduct a study on potential shadow flicker. The study shall identify locations where shadow flicker may be caused by the WECSs and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with Residences and describe measures that shall be taken to eliminate or mitigate the problems.
  2. Visual Impact: Applications shall include a visual impact study of the proposed WECS as installed, which may include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed Site from at least two locations accurately depicting the existing conditions shall be included. The visual analysis shall also indicate

the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence. Balloon testing and photographic analyses of visual impacts based upon such testing may also be required.

3. Safety Plan: A fire protection and emergency response plan created in consultation with the fire department(s) and first and emergency responders having jurisdiction over, or responding to events near, the proposed Site. A safety Plan must also analyze and consider WECS failures, ice throw, and other potential accidents and events that can cause material harm to Buildings and persons.
  4. Noise Analysis: A noise analysis by a competent acoustical consultant documenting the noise levels associated with the proposed WECS. The study shall document noise levels at property lines and at the nearest Residence not on the Site (if access to the nearest Residence is not available, the Town Board may modify this requirement). The noise analysis shall include low frequency noise and multi-spectrum analyses across A-, C-, and Z-weighted fields.
  5. Market Value Impact Analysis: Property value analysis prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact on values of properties neighboring WECS Sites.
  6. EMI Studies: An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems, and other wireless communications.
- Q. The Applicant shall, prior to the receipt of 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 the applicable Transmission Owner.
- R. 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 an 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.
- 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. 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 WECSs proposed is increased or the application materially amended.
- E. Upon submission of a complete application, including any applications for any waivers, 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. Notice shall be given by first class mail to property owners within 2,500' of the boundary of the parcel on which any proposed Site is located. The Town Board shall also have a notice printed in a newspaper of general circulation in the Town, no less than 10 nor more than 20 days before any hearing, but, where any hearing is adjourned by the Town Board 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, and all publication shall be at the expense of the Applicant.
- G. The public hearing may be combined with public hearings under SEQRA or upon requested waivers.
- H. Notice of the project shall also be given to Cayuga County per the requirements of General Municipal Law §§ 239-l through 239-n.
- I. Applications for WECS are deemed Type I projects under SEQRA whenever the Town Board is the lead agency, and the Town shall participate as and interested or involved agency, as applicable, when it is not the permitting or reviewing authority or the lead agency under SEQRA.
- J. 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.
- K. Upon receipt of the recommendation of the County under said § 239-l, et seq., when 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 the standards in this local law.

SECTION 7 - Standards for Wind Energy Facilities and WECS. The following standards shall apply, unless specifically waived by the Town Board as part of a Siting Approval.

- A. All power transmission lines from the tower to any Building or other structure shall be located underground to the maximum extent practicable.
- B. No television, radio, or other communication antennas may be affixed or otherwise made part of any WECS unless mandated by FCC or other laws regarding collocation.
- C. No advertising signs are allowed on any WECS, including fencing and support structures. Nothing in this provision shall prohibit identification information or safety notifications.
- D. No tower shall be lighted, illuminated, or lit except to comply with FAA requirements or for safety/security needs at the tower entrance. Minimum security lighting for ground level facilities shall be allowed as approved on the Wind Energy Facility development plan.
- E. All Applicants shall use measures to reduce the visual impact of WECSs to the extent possible. WECSs shall use tubular towers. All structures in a project shall be finished in a single color or a camouflage scheme. WECSs within a Wind Energy Facility shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the Project. No lettering, company insignia, or advertising, shall be

visible on any part of the tower, hub, or blades, except for tower identifier numbers near the tower base and safety signage.

- F. Guy wires shall not be used unless all details are set forth in any Site Plan application, and guying and guy wires are specifically approved for the specific facility or WECS where installed or utilized.
- G. No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would materially degrade signal transmission or reception without mitigation. No WECS shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a WECS is causing material electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of the issue with the affected parties. Failure to remedy material electromagnetic interference is grounds for modifying the Siting Approval for the specific WECS or related structure(s) or improvement(s) causing, or contributing to, the interference.
- H. All solid waste and hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all appropriate rules and regulations.
- I. Wind Energy Facilities shall be designated to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas will be given priority wherever possible. WECS shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity, particularly bird and bat species.
- J. Stormwater run-off and erosion control shall be managed in a manner consistent with all applicable laws, regulations, and permits, including for decommissioning events.
- K. The maximum Total Height of any WECS shall be 300'.
- L. Construction of the WECS shall be limited to the daylight hours, unless the Siting plan is approved for night installations to avoid daytime wind events.
- M. The standards for restoration and preservation of farmland of the New York State Department of Agriculture and Markets' "Guidelines for Agricultural Mitigation for Windpower Projects" shall be followed.
- N. The operator of a wind facility shall provide reasonable mitigation to the owner of any off-Site Residence, including after-built Residences, where annual expected combined flicker and shadow hours are more than 30 hours per year or 30 minutes per day.

## SECTION 8 - Required Safety Measures.

- A. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
- B. Appropriate warning signs shall be posted, visible in all directions upon approaching the tower, warning of electrical shock or high voltage and containing emergency local contact information. The Town Board may require additional signs based on safety needs.
- C. No climbing pegs or tower ladders shall be located closer than 12' to the ground level at the base of the structure for towers.

- D. The minimum distance between the ground and any part of the rotor or blade system shall be 50'.
- E. WECSs shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.

#### SECTION 9 - Traffic Routes.

- A. Construction of WECSs 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 WECSs and associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include (i) minimizing traffic impacts from construction and delivery vehicles; (ii) minimizing WECS related traffic during times of school bus activity; (iii) minimizing wear and tear on local roads; and (iv) minimizing impacts on local business operations. Siting Approval conditions may limit WECSrelated 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 Wind Energy Facility. A public improvement bond shall be posted prior to the start of construction of a Wind Energy Facility in an amount, determined by the Town Board, sufficient to compensate the Town for any damage to local roads, or any damage left improperly repaired or unrepaired.

#### SECTION 10- Setbacks for Wind Energy Conversion Systems.

- A. The statistical Sound Pressure Level generated by a WECS shall not exceed 50 dBA Leq measured at the nearest existing Residence located off the Site. Sites can include more than one piece of property and the requirement shall apply to the combined properties and each nearest existing Residence. When, due to topography or other factors, additional residential Residences merit testing, the Applicant shall have appropriate measurements undertaken and studies completed. If the ambient Sound Pressure Level exceeds 45 dBA, the standard shall be ambient noise level plus no more than 5 dBA. Independent certification shall be provided before and after construction demonstrating compliance with this requirement. This is a minimum standard, and for good cause shown the Town Board may require greater or lesser the noise and Sound Pressure Levels upon a project or per tower basis, including taking into account sensitive receptors and the effects of cyclical or patterned and repeating sound impacts.
- B. In the event audible noise due to Wind Energy Facility operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in above in this Section shall be reduced by 5 dBA. A pure tone is defined to exist if the 1/3 octave band Sound Pressure Level in the band, including the tone, exceeds the arithmetic average of the Sound Pressure Levels of the two contiguous 1/3 octave bands by 5 dBA for center frequencies of 500 Hz and above, by 8 dBA for center frequencies between 160 Hz and 400 Hz, or by 15 dBA for center frequencies less than or equal to 125 Hz.



- C. In the event the ambient noise level (exclusive of the development project in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number Sound Pressure Level in dBA, which is exceeded for more than 5 minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing Residences and ambient noise level measurement techniques shall employ all practical means of reducing the effect of naturally generated wind noise at the microphone. Ambient noise level measurements may be performed when natural wind velocities at the proposed project Site are sufficient to allow wind turbine operation, provided that the wind velocity does not exceed 30 mph at the ambient noise measurement location.
- D. Any noise level falling between two whole decibels shall be the lower of the two.
- E. Each WECS shall be setback as follows, as measured from the center of the WECS:
  - 1. 1.2x tip height or Total Height (whichever is greater), or more as determined by the Town Board, from the nearest Site boundary property line.
  - 2. 1.2x tip height or Total Height (whichever is greater), or more as determined by the Town Board, from any right of way of public roads.
  - 3. 1,200' or more, as determined by the Town Board, from the nearest off-Site Residence, measured from the exterior of such Residence.
  - 4. 1.2 x tip height or Total Height (whichever is greater), or more as determined by the Town Board, from any structure visited daily by one or more people (e.g., dairy barns) or any above-ground utilities, unless waived by the utility companies.
  - 5. 1,200' or more, as determined by the Town Board, from the property line of any school, church, hospital, or nursing facility.
- F. Wind energy conversion facilities shall be located in a manner consistent with all applicable state and Federal wetlands laws and regulations.

## SECTION 11 - Noise and Setback Easements

A. In the event a Wind Energy Facility does not meet a setback requirement, or exceeds noise or other criteria established in this local law, as existed at the time the Siting approval is granted, a waiver may be granted from such requirement by the Town Board in the following circumstances:

- 1. Written consent from the affected property owners has been obtained stating that they are aware of the Wind Energy Facility and the noise and setback limitations imposed by this local law, and that consent is granted to (i) allow noise levels to exceed the maximum limits otherwise allowed or (ii) allow setbacks less than required; and
- 2. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, has been recorded in the County Clerk's Office describing the benefited and burdened properties.

B. Waivers granted under this Section differ from waiver requests for waivers under Article 5 of this local law, and no Article 5 waiver is required if a waiver is given under this Section. Further, if a waiver is not obtained under this Section, no waiver under Article 5 may be granted for any Site relating to the subject matter of waivers in this Section.

## SECTION 12 - Issuance of Wind 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 any Siting Approval, conditions of Siting Approvals, or denials of application and other disapprovals 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 Wind Energy Facility is not substantially commenced within 2 years of issuance of the Siting Approval, the Siting Approval shall expire, unless renewed by the Town Board after payment of a renewal fee equal to the original application fee.

## SECTION 13 - Abatement.

- A. If any WECS remains non-functional or inoperative for a continuous period of 1 year, the Applicant agrees that, without any further action by the Town Board, the Applicant shall remove said system at its own expense. Removal of the system shall include at least the entire above ground structure, including, without limitation, transmission equipment and fencing, from the property. This provision shall not apply if the Applicant demonstrates to the Town that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after public hearing.
- B. Non-functionality or a lack of operation may be proven by reports to the Public Service Commission, NYSEERDA, New York Independent System Operator, or by lack of income generation. The Applicant shall make available (subject to a non-disclosure agreement, when required by law) to the Town Board all reports to and from the purchaser of energy from the Wind Energy Facility, if requested, necessary to prove the Wind Energy Facility is functioning, which reports may be redacted as necessary to protect proprietary information. However, if redaction removed information necessary for the Applicant to sustain its case, such shall have no effect upon any determination as may be made by the Town Board, which shall be based upon the record, and not what could have been in the record.
- C. The Applicant, or successors, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town for the removal of non-functional towers and appurtenant facilities, 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 14 - Limitations upon Siting Approvals; Easements upon Town Property.

- A. Nothing in this local law shall be deemed to give any Applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind

flow to the Wind Energy Facility. Removal of trees, flora, and any Site preparation activities shall be part of a Site application.

- 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 wind flow to any Wind Energy Facility. It shall be the sole responsibility of the Facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.
- C. Pursuant to the powers granted to the Town to manage its own property, the Town may enter into noise, setback, or wind flow easements on such terms as the Town Board deems appropriate, as long as said agreements are not otherwise prohibited by state or local law.

#### SECTION 15 – Siting Approval Revocation.

- A. Siting Approvals shall contain a requirement that the Applicant fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as biennially, or more frequently upon request of the Town Board in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Siting Approval and this local law and shall also include an evaluation of any complaints received by the Town. 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. All WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other approval conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate any Siting 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.
- C. Notwithstanding any other abatement provision under this local law, if the WECS is not repaired or made operational or brought into a compliance after said notice, the Town may, after a public hearing at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (i) order either remedial action within a particular timeframe, or (ii) order modification of the Siting Approval so as to eliminate the unrepaired WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the Town Board shall have the right to use the security posted as part of the Decommission Plan to remove the WECS.

### ARTICLE 3

SECTION 16 - Wind Site Assessment. The Town Board acknowledges that prior to construction of a Wind Energy Facility, a wind Site assessment is conducted to determine the wind speeds and the feasibility of using particular Sites. Installation of Wind Measurement Towers, also

known as anemometer (“Met”) towers, shall be permitted on the issuance of a Siting Approval in accordance with this local law.

SECTION 17 - Applications for Wind Measurement Towers. An application for a Wind Measurement Tower shall include:

- 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 property owner. 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 applications and (ii) authorizing the submission of the application.
- C. Address of each proposed tower location, including tax map section, block, and lot number
- D. Proposed Development Plan and Map.
- E. Decommissioning Plan, including a security bond (or other security) for removal.

SECTION 18 - Standards for Wind Measurement Towers. The distance between a Wind Measurement Tower and the property line shall be at least 1.5x the Total Height of the tower. Sites can include more than one piece of property, and if contiguous properties, then this requirement does not apply to any shared boundary line whenever the owners thereof have so agreed or consented in writing.

#### ARTICLE 4

SECTION 19 - Purpose and Intent. The purpose of this Article is to provide standards for Small Wind Energy Conversion Systems designed for home, farm, and small commercial use on the same parcel; those primarily used to reduce consumption of utility power at that location. The intent of this Article is to encourage the development of Small Wind Energy Conversion Systems and to protect the public health, safety, and community welfare.

SECTION 20 - Applications. Applications for Small WECS Siting Approvals shall include:

- A. Name, address, and telephone number of the Applicant. If the Applicant will be represented by an agent, the name, address, and telephone number of the agent as well as an original signature of the Applicant authorizing the agent to represent the Applicant.
- B. Name, address, and telephone number of the property owner. 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 applications and (ii) authorizing the submission of the application.
- C. Address of each proposed tower location, including tax map section, block, and lot number.
- D. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.

- E. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Uniform Fire Prevention and Building Code.
- F. Sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location.
- G. Written evidence that the electric utility service provider that serves the proposed Site has been informed of the Applicant's intent to install an interconnected customer-owned electricity generator, unless the Applicant does not plan, and so states so in the application, to connect the system to the electricity grid.
- H. A visual analysis of the Small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

SECTION 21 - Development Standards. All Small WECS shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this local law that are not in conflict with the requirements contained in this Section.

- A. A system shall be located on a lot a minimum of one acre in size, however, this requirement can be met by multiple owners submitting a joint application.
- B. Only one Small WECS tower per legal lot or per acre, whichever is less, shall be allowed.
- C. Small WECS shall be used primarily to reduce the on-Site consumption of electricity.
- D. Tower heights may be allowed as follows:
  - 1. 65' or less on parcels between one and two acres.
  - 2. 120' or less on parcels of two or more acres.
  - 3. The allowed height shall be reduced, if necessary, to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with § 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.
- E. The maximum turbine power output is limited to 100 kW.
- F. The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.
- G. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas.
- H. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
- I. All on-Site electrical wires associated with the system shall be installed underground except for "tie- ins" to a public utility company and public utility company transmission poles, towers, and lines. This standard may be modified by if the project terrain is determined to be unsuitable due to reasons of subsurface conditions, excessive grading, biological impacts, or similar factors.
- J. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the

system operator shall promptly mitigate the harmful interference, submit an application to relocate the system, or cease operation of the system.

- K. Signs shall be posted, visible from all directions, on the tower at a height of 5' warning of electrical shock or high voltage and harm from revolving machinery, and giving a local contact number in case of emergency. No brand names, logo, or advertising shall be placed or painted on the tower, rotor, generator, or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.
- L. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
  - 1. Tower-climbing apparatus located no closer than 12' from the ground.
  - 2. A locked anti-climb device installed on the tower.
  - 3. A locked, protective fence at least 6' in height that encloses the tower.
- M. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence 6' high or sheathed in bright orange or yellow covering from 3' to 8' above the ground.
- N. Construction of on-Site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.
- O. To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any traditional turbine blade or a horizontal axis wind turbine blade shall be at least 30' above the highest structure or tree within a 250' radius of the WECS. Modification of this standard may be made when the Applicant demonstrates that a lower height or less clearance will not jeopardize the safety of the wind turbine or structure.
- P. All Small WECS tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Prevention and Building Codes.
- Q. All Small WECS shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

SECTION 22 - Standards. A Small WECS shall comply with the following standards:

- A. A Small WECS shall not be located closer to a property line than 1.5x the Total Height of the facility.
- B. Except during short-term events, including utility outages and severe wind storms, a Small WECS shall be designed, installed, and operated so that noise generated by the system shall not exceed 50 decibels (dBA), as measured at the closest neighboring, inhabited dwelling.

SECTION 23 - Abandonment of Use.

- A. Small WECS which is not used for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

B. All Small WECS shall be maintained in good condition and in accordance with all requirements of law and Building codes, as well as safe building practices.

## ARTICLE 5

### SECTION 24 - Waivers.

- A. The Town Board may, after a public hearing (which may be combined with other public hearings on Wind 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 Wind 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 25 – Fees and Escrow

- A. An application fee, as determined by the Town Board, shall accompany any application for a Site Plan review. Fees for Small WECS and Large-Scale Wind Energy System may be set from time-to-time by resolution of the Town Board. Initial fees for Small WECS are set at \$75 per tower, and Large-Scale Wind Energy System fees are set at \$1,000 per tower.
- 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 or hearings. Following any 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 26 - 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 Tax (“PILOT”) agreements with any Applicant to compensate the Town for expenses of or impacts to or upon the community.

## SECTION 27 – 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 28 – Transfer, Sale or Assignment of Wind Energy Facility and related Siting Approvals.

- A. The Owner and Operator of the Large-Scale Wind 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 of the obligations of the Siting Approval(s) and the decommissioning plan(s).
  - 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. In the event that such notice is given, and all applicable conditions in this law have been met, then the Siting Approval shall remain in effect.

SECTION 29 – 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 30 - 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.