

**TOWN OF UNION
LOCAL LAW NO. ___ OF THE YEAR 2019**

RENEWABLE ENERGY SYSTEMS LAW

SECTION I. TITLE

This Chapter shall be known as “Renewable Energy Systems Law.”

SECTION II. PURPOSE, INTENT, AND FINDINGS

- A. Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce a municipality’s energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.
- B. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is beneficial to the Town and its residents.
- C. This local law is intended to facilitate the installation of solar energy systems and equipment.
- D. It is the intent of this law: a) to promote energy efficiency and conservation, and the use of renewable energy in the Town; b) to support “green” energy generating systems; and c) to support New York State in meeting its renewable energy goals.

SECTION III. DEFINITIONS

For the purpose of this Section, the following terms shall have the meanings indicated:

ACCESSORY STRUCTURE

A structure, the use of which is customarily incidental and subordinate to that of the principal building and is attached thereto, and is located on the same lot or premises as the principal building.

ALTERNATIVE ENERGY SYSTEMS

Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS

A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the relief of the roof.

COLLECTIVE SOLAR

Solar installations owned collectively through subdivision homeowner associations, college student groups, “adopt-a-solar-panel” programs, or other similar arrangements.

FLUSH-MOUNTED SOLAR PANEL

Photovoltaic panels and tiles that are installed flush to the surface of a roof and which cannot be angled or raised.

GROUND-MOUNTED OR FREESTANDING SOLAR ENERGY SYSTEM

A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure.

LARGE-SCALE SOLAR ENERGY SYSTEM

Any solar collector system that generates greater than 25 kilowatts hours. All ground-mounted or freestanding solar energy systems that are designed primarily to generate electricity for resale are Large-Scale Solar Energy Systems. All Solar Farms and Collective Solar Systems which are designed on a scale to generate energy for sale are Large-Scale Solar Energy Systems. Large-Scale Solar Energy Systems include Large-Scale Solar Thermal Systems.

NET-METERING

A billing arrangement that allows a solar customer to get credit for excess electricity that the customer generates and delivers back to the grid so that the customer only pays for net electricity usage.

PERMIT GRANTING AUTHORITY

The Town of Union (the “Town”) authority or official charged with granting permits for the operation of solar energy systems.

PHOTOVOLTAIC (PV) SYSTEMS

A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic (PV) cells that generate electricity whenever light strikes the PV cells. In this law, the term “Solar Collector” refers to a photovoltaic system for energy production.

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. Persons who are not on NYSEDA’s list of eligible installers or NABCEP’s list of certified installers may be deemed to be qualified solar installers if the Town determines such persons have had adequate training to determine the degree and

extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

REMOTE NET METERING

An arrangement with an electric utility that allows for the kilowatt hours (kWh) generated from a solar PV system located at a specific site to be credited towards kWh of consumption at a different location.

ROOFTOP OR BUILDING-MOUNTED SOLAR ENERGY SYSTEM

A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

SMALL-SCALE SOLAR ENERGY SYSTEMS

The term “Small-Scale Solar” refers to any of the following list of solar energy collector systems and solar thermal systems that produce up to 25 kilowatts per hour of energy: **(1)** any rooftop or building mounted solar system; **(2)** any round-mounted or freestanding solar energy system that is (a) an accessory use to a principal, residential use; and (b) is designed on a scale to serve primarily the electrical needs/demands of the principal use or building on the same lot; or **(3)** any ground mounted or freestanding solar energy system that is (a) an accessory use to a principal, commercial use; and (b) is designed on a scale to serve primarily the electrical needs/demands of the principal use or building on the same lot.

SOLAR COLLECTOR

A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR ENERGY EQUIPMENT/SYSTEM

Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from dissipation and distributed. Solar systems include solar thermal, photovoltaic and concentrated solar.

SOLAR PANEL

A device for the direct conversion of solar energy into electricity.

SOLAR STORAGE BATTERY

A device that stores energy from the sun and makes it available in an electrical form.

SOLAR-THERMAL SYSTEMS

Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating

pool water.

TOWN OF UNION

The Town of Union outside of the Villages of Endicott and Johnson City.

SECTION IV: APPLICABILITY

1. The requirements of Section V, Part I of this Law apply to all Small-Scale Solar Energy Systems (residential, commercial, etc.) approved or installed after the effective date of this law.
2. The requirements of Section V, Part II of this Law apply to all Large-Scale Solar Energy Systems and all other solar projects.
3. Solar Collectors and Solar Energy Systems for which a valid permit has been properly issued or for which installation has commenced prior to the effective date of this article shall not be required to meet the requirements of this Law.
4. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and standards set forth in this Law and any applicable federal, state, and county laws.
5. This Law shall apply to the Town of Union outside of the Villages of Endicott and Johnson City.
6. Upon completion of installation and satisfaction of any approval requirements a Certificate of Compliance will be issued prior to energization.

SECTION V.

PART I. SMALL-SCALE SOLAR ENERGY SYSTEMS

A. Permitting Small-Scale Solar Energy Systems

1. No Small-Scale Solar Energy System or device shall be installed or operated in the Town of Union outside of the Villages of Endicott and Johnson City except in compliance with this law.
2. To the extent practicable, the accommodation of solar energy systems and equipment and the protection of access to sunlight for such equipment shall be encouraged in the application of the various review and approval provisions of the Town Code.

B. Rooftop and Building-Mounted Solar Energy Systems

1. Rooftop and Building-Mounted Solar for Small-Scale Solar Energy Systems are permitted in all zoning districts in the Town subject to the following conditions:
 - a. Building permits, or Unified Solar Permits, shall be required for installation of all rooftop and building-mounted solar collectors.
 - b. Any height limitations of the Town Code shall not be applicable to solar collectors provided that such structures are erected in accordance with the requirements of this law, and can only extend 2 feet above a flat roof or above the parapet wall if higher than 2 feet will accomplish the purpose for which they are intended to serve, and that such structures do not obstruct solar access to neighboring properties.
 - c. Placement of solar collectors on flat roofs shall be allowed as of right provided that panels do not extend horizontally past the roof line.
2. Unified Solar Permit Process/Application. An applicant for an eligible Rooftop-Mounted or Building-Mounted Solar Energy System may apply for a Unified Solar Permit.
 - a. Provided the rooftop-mounted solar energy system meets the requirements for a Unified Solar Permit set forth in this Section of this Law, an applicant shall submit the Unified Solar Permit application to the Code Enforcement Officer as follows:
 - i. Unified Solar Permit Eligibility Checklist. The applicant shall complete the application form provided by the Town Code Enforcement Office. The application form contains a checklist to determine eligibility for a uniform solar permit. The application must be accompanied by:
 - ii. A site plan showing the location of major components of the solar energy system and other equipment on the roof or legal accessory structure. This plan should represent relative locations of components at the site, including, but not limited to, location of arrays, existing electrical service locations, utility meters, inverter locations, system orientation and tilt angles. This plan should show access and pathways that are compliant with New York State Uniform Fire Prevention and Building Code, if applicable.
 - iii. One-line or three-line electrical diagram. The electrical diagram required by the then current and published by the New York State Energy Research and Development Authority (“NYSERDA”) for an incentive application and/or utilities for an interconnection agreement may also

be provided here.

- iv. Specification sheets for all manufactured components. If these sheets are available electronically, a web address will be accepted in place of an attachment, at the discretion of the Town.
 - v. All diagrams and plans must be prepared by a professional engineer or registered architect as required by New York State law and include the following:
 - a. Project address, section, block and lot number of the property;
 - b. Owner's name, address and phone number;
 - c. Name, address and phone number of the person preparing the plans; and
 - d. System capacity in kW-DC.
 - b. Permit review and inspection timeline for Unified Solar Permit. Unified Solar Permit determinations will be issued within 14 days upon receipt of complete and accurate applications. The Town will provide feedback within seven days of receiving incomplete or inaccurate applications. If an inspection is required, a single inspection should be sufficient and will be provided within seven days of inspection request.
3. Building-Integrated Photovoltaic (BIPV) System for Small-Scale Solar Energy Systems are permitted as of right in all zoning districts.
4. Placement of Small-Scale Solar Energy Systems on Non-Conforming Buildings or Structures. Notwithstanding the area, lot and bulk requirements of this Law or the Zoning Law of the Town, building-mounted and building-integrated Small-Scale Solar Energy Systems may be installed:
- a. On the roof of a non-conforming structure or building that exceeds the maximum height restriction, provided the building-mounted solar collector does not extend above the peak or highest point of the roof to which it is mounted.
 - b. On a structure or building that exceeds the maximum lot coverage requirements, provided there is no increase in the extent or degree of non-conformity with said requirement.

C. Ground-Mounted and Free-Standing Small-Scale Solar Energy Systems

1. Ground-Mounted and Free-Standing Solar Energy Systems and Solar Thermal Systems for Small-Scale Solar. In all zoning districts, a special permit and site plan approval is required for: (i) any ground-mounted or freestanding Small-Scale Solar Energy System or (ii) any ground-mounted or freestanding Small-Scale Solar Thermal System. The type of review required is determined by the size of the lot. The following regulations and conditions apply to all ground-mounted or freestanding Small-Scale Solar Energy Systems and Small-Scale Solar Thermal Systems:
 - a. An applicant for a ground-mounted or freestanding Small-Scale Solar Energy System or Small-Scale Solar Thermal System on any lot that is three (3) acres or less must apply to the Planning Board for a special use permit.
 - b. An applicant for a ground-mounted or freestanding Small-Scale Solar Energy System or Solar Thermal System on any lot that is greater than three (3) acres must apply to the Planning Board for site plan approval.
 - c. Ground-mounted or freestanding Small-Scale Solar Energy Systems or Solar Thermal Systems are only permitted as accessory uses.
 - d. All ground-mounted Small-Scale Solar Energy Systems and Solar Thermal Systems must be installed in the side or rear yards. No freestanding or ground-mounted Small-Scale Solar Energy System or Solar Thermal System shall be located in the front yard of any lot, including the front yard of any corner lot. The location of the solar collector must meet all applicable setback requirements for accessory structures in the zoning district in which it is located.
 - e. The height of the solar collector and any mounts shall not exceed 15 feet when oriented at maximum tilt.
 - f. Solar energy collectors and equipment shall be located in a manner to minimize (i) visual impacts and view blockage for surrounding properties, and (ii) shading of property to the north, while still providing adequate solar access for collectors.
 - g. The application shall include a plan and description of the method of screening of the ground-mounted or freestanding Small-Scale Solar Energy System or Solar Thermal System. The Planning Board shall have discretion to determine the method and location of screening required. Solar energy collectors shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping, or other screening which will harmonize the proposed structure with the character of the property and surrounding area.

- h. Upon applying for a permit, the applicant shall provide the Planning Board with information to demonstrate that the size and scale of the proposed freestanding or ground-mounted Small-Scale Solar Energy System is designed to generate electricity for the existing or proposed residence or the existing or proposed use on the lot, and not designed to generate electricity for sale or resale. If requested by the Planning Board, the applicant must provide a report from a qualified third-party to establish that the size and scale of the facility is consistent with the existing or proposed principal use on the lot. If the Planning Board determines that the size and scale of the proposed facility is not consistent with: (i) the energy usage history of the existing residence or use, or (ii) the projected energy needs of the proposed structure or use, the Planning Board may deny the site plan or special use permit. If the size and scale of the proposed solar collector facility will generate more than 150% of the existing or projected energy usage of the principal use/structure, the Planning Board may determine that the proposed solar collector facility is not designed primarily to meet the energy needs of the existing or proposed principal use on the lot.
- i. The applicant shall provide a detailed plan (handwritten sketch plans are acceptable) showing the proposed location of the ground-mounted or freestanding Small-Scale Solar Energy system or Solar Thermal System in relation to all property lines and all structures (existing and/or proposed) on the lot. If the applicant proposes to use landscaping to screen the facility, the landscaping must be maintained and/or replaced, as necessary.
- j. Any ground-mounted or freestanding Small-Scale Solar Energy System or Solar Thermal System shall be situated on a lot in one location, with a maximum of one such facility per lot. A single facility may include multiple photovoltaic panels.
- k. Small-Scale Solar Energy Systems or Solar Thermal Systems and equipment shall be permitted only if they are determined by the Town not to present any unreasonable safety risks, including, but not limited to, the following:
 - i. Weight load.
 - ii. Wind resistance.
 - iii. Ingress or egress in the event of fire or other emergency.

D. Installation Requirements, Inspection, and Decommission

1. All Small-Scale Solar Energy Systems must be performed by a qualified solar installer.
2. Prior to operation, electrical connections must be inspected by a Town Code Enforcement Officer or Building Inspector and by an appropriate electrical inspection person or agency, as determined by the Town.
3. Any connection to the public utility grid must be inspected by the appropriate public utility.
4. Small-Scale Solar Energy Systems shall be maintained in good working order.
5. Rooftop and building-mounted solar collectors or systems shall meet the current version of the New York Uniform Fire Prevention and Building Code standards in effect at the time permit is issued.
6. If solar storage batteries are included as part of the Small-Scale Solar Energy System, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use, and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations.
7. Abandonment and Decommissioning. If a solar collector or system ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector or system, mount(s) and associated equipment by no later than 120 days after the end of the 12-month period. If the Building Inspector or Code Enforcement Officer receives a complaint, or requests access to inspect a Small-Scale Solar Energy System or Solar Thermal System, to assess whether the system is operating as originally designed, the property owner shall allow access to the property and facility for testing. If it is determined after testing or inspection that the solar collector or system is not producing at least 50% of the energy it was originally designed to generate, the solar collector or system shall be removed or replaced within 120 days of notice from the Building Inspector or Code Enforcement Officer.

E. Appeals

1. If a building permit for a Small-Scale Solar Energy System or Solar Thermal System is denied because of a conflict with other laws of the Town, the applicant may appeal to (or apply for relief from) the Zoning Board of Appeals, which shall regard solar energy as a factor to be considered, weighed and balanced along with other factors.

PART II. LARGE-SCALE SOLAR ENERGY SYSTEMS

A. Permitting Large-Scale Solar Energy Systems.

1. All Large-Scale Solar Energy Systems, including Large-Scale Solar Thermal Systems, require a Special Use Permit and site plan approval. Except as provided in Part I of this law entitled “Small-Scale Solar Energy Systems,” no solar energy system or solar thermal system shall be constructed or installed without first obtaining a special use permit and site plan approval from the Town Planning Board. Solar Energy Systems or Solar Thermal Systems requiring a special use permit and site plan approval shall include, but not be limited to:
 - a. Ground-mounted or freestanding Large-Scale Solar Energy Systems that do not meet the definition of a Small-Scale Solar Energy System.
 - b. Large-Scale Solar Energy Systems that are not roof-mounted, and designed to generate and provide electricity, through a remote net metering agreement or other arrangement, to an off-site user or users located on a lot(s) other than the lot on which the solar energy system is located.
 - c. Collective solar projects.
 - d. Solar collector systems mounted on carports or canopy structures covering parking facilities at commercial or industrial properties.
2. Special Use Permit Application Requirements. Applications for the installation of a Large-Scale Solar Energy System shall be reviewed by the Code Enforcement Officer prior to referral of the application to the Planning Board. For a special permit application, the following must be included:
 - a. If the property of the proposed project is to be leased, legal consent between all parties, including the landowner, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
 - b. Blueprints showing the layout of the Large-Scale Solar Energy System signed by a Professional Engineer or Registered Architect shall be required.
 - c. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

- d. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
 - e. Decommissioning Plan. Such plan shall provide details for the decommissioning of the project including removal of the solar equipment and restoration of the property back to its original state to be performed by the lessor and/or landowner or any successors in interest thereof at the lessor and/or landowner's expense and provide a letter of credit for the cost of the decommissioning should any lessor and/or landowner fail to perform the decommissioning of the project. The lessor and landowner shall be required to enter into a decommissioning agreement with the Town.
3. Classification: Large-Scale Solar Energy Systems requiring a special use permit may be classified as either an accessory use or a principal use as set forth below:
- a. Principal use. (i) A Large-Scale Solar Energy System constructed on a lot and providing electricity to an off-site user or users through a remote net metering agreement or other arrangement, shall be considered a principal use. (ii) All ground-mounted Large-Scale Solar Energy Systems classified as a principal use shall conform to the area, yard and bulk requirements of the zoning district in which the system is located, unless such regulations are modified by other provisions of this Section.
 - b. Accessory use/accessory structure. A ground mounted Large-Scale Solar Energy System shall be considered an accessory use/accessory structure when generating electricity for the primary consumption of a commercial or industrial principal use(s) or building(s) located on the same lot as the system. Notwithstanding the location and maximum coverage provisions for accessory uses/accessory structures found elsewhere in the Town Code and Zoning Laws, all ground-mounted Large-Scale Solar Energy Systems that are classified as an accessory use/accessory structure shall adhere to the minimum area, yard and bulk requirements for principal uses within the zoning district in which the system is located, unless modified by other provisions of this Section.
4. Standards for Large-Scale Solar Energy Systems Requiring a Special Use Permit.
- a. Ground-mounted Large-Scale Solar Energy Systems classified as a principal use shall comply with the following standards and criteria:
 - i. Setbacks. Ground-mounted Large-Scale Solar Energy Systems are subject to a 50-foot setback from all property lines in commercial, industrial and planned unit development districts. No part of a

Large-Scale ground-mounted system shall extend into the required setbacks.

- ii. Ground-mounted Large-Scale Solar Energy Systems located in a residential district shall be set back an additional 200 feet from the minimum yard setback along all property lines that abut a lot located in a residential district, residential use or planned unit development district. This additional setback dimension shall also apply to the front yard setback when the lot on the opposite side of the street is located in a residential district.
- iii. Ground-mounted Large-Scale Solar Energy Systems located in commercial and mixed-use districts shall be set back an additional 200 feet from the minimum yard setback along all property lines that abut a lot located in a residential district, residential use or planned use development district. This additional setback dimension shall also apply to the front yard setback when the lot on the opposite side of the street is located in a residential district.
- iv. Utility Connections. Utility lines and connections from a ground-mounted Large-Scale Solar Energy System shall be installed underground, unless otherwise determined by the Planning Board for reasons that may include poor soil conditions, topography of the site, and requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- v. Fences. The Planning Board shall determine whether a ground-mounted Large-Scale Solar Energy System requires a fence, and the type and size of the fence. Generally, fences not exceeding the height allowed in the appropriate zoning district, including open-weave chain link fences and solid fences, shall be permitted for the purpose of screening or enclosing a Large-Scale Solar Energy System.
- vi. Height. Large-Scale Solar Energy Systems may not exceed 20 feet in height.
- vii. Lot Coverage Requirements. Large-Scale Solar Energy Systems shall adhere to the maximum lot coverage requirement for principal uses within the zoning district in which they are located.
- viii. Signs. A safety sign shall be attached to the fence at the main gate of any ground-mounted or freestanding Large-Scale Solar Energy System that contains a warning about high voltage and the Broome

County Emergency Services telephone number. Any sign for a Large-Scale Solar Energy System classified as a principal use shall adhere to the sign requirements for the zoning district in which it is located. A solar energy system shall not be used to display permanent or temporary advertising, including signage, streamers, pennants, spinners, reflectors, banners or similar materials.

ix. Location in Front Yard Prohibited. Notwithstanding the requirements regulating location of accessory structures found elsewhere in this Chapter, Large-Scale Solar Energy Systems classified as an accessory use shall be prohibited in a front yard, including location in any front yard of a corner lot.

b. Building-Mounted Large-Scale Solar Energy Systems.

i. For a building-mounted Large-Scale Solar Energy System installed on a sloped roof, the highest point of the system shall not exceed the highest point of the roof to which it is attached. Solar panels shall be parallel to the roof surface or tilted with no more than an 18-inch gap between the module frame and the roof surface.

ii. For a building-mounted system Large-Scale Solar Energy System installed on a flat roof, the highest point of the system shall not extend more than five feet above the height of the roof.

c. Siting Considerations – Floodplains and Other Environmentally Sensitive Areas.

No Large-Scale Solar Energy Systems shall be installed in a floodplain or other environmentally-sensitive area without the following:

i. Approval and acceptance of an engineering plan;

ii. Approval and acceptance of documentation showing proper installation including a maximum tilt with the entire panel(s) at least two feet above the base flood elevation;

iii. Approval and acceptance of plans for battery storage;

iv. Approval and acceptance of plans for utility connections;

v. Approval and acceptance of safety measures in the event of a flood.

5. Special Use Permit Conditions. The following conditions shall apply to all

Special Use Permits issued for a Large-Scale Solar Energy Systems including Solar Thermal Systems. No Special Use Permit shall be issued unless the Planning Board finds that the following conditions have been or will be met.

- a. Decommissioning plan. All applications for Large-Scale Solar Energy Systems shall be accompanied by a decommissioning plan to be implemented upon abandonment and/or in conjunction with removal of the system. The decommissioning plan shall address those items listed in this Section and shall include:
 - i. An estimate of the anticipated operational life of the system,
 - ii. Identification of the party(ies) responsible for decommissioning,
 - iii. A copy or description of any agreement with the landowner regarding decommissioning,
 - iv. A schedule showing the time frame over which decommissioning will occur and for completion of site restoration work,
 - v. A cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the Large-Scale Solar Energy System,
 - vi. A financial plan to ensure that financial resources will be available to fully decommission the site.
- b. All responsible parties shall enter into a decommissioning agreement with the Town reflecting the decommissioning plan agreed to by the parties and the timeframe for completion.
- c. Financial Plan. The party(ies) responsible for decommissioning must provide a letter of credit or financial surety in an amount sufficient to fully cover the cost of decommissioning and implement the decommissioning plan. Prior to the issuance of a Building Permit and every 3 years thereafter the Large-Scale Solar Energy System owner and/or landowner shall file with the Town a renewed letter of credit or financial surety to provide for the full cost of decommissioning and removal of the solar collector system in the event the system is not removed by the system owner and/or landowner. Letters of credit or financial surety shall remain in effect throughout the life of the system and shall be in the form acceptable to the Planning Board and the Town Attorney. In the event ownership of the system is transferred to another party, the new owner (transferee) shall file a letter of credit or financial surety with the Town at the time of transfer, and every three years thereafter, as provided herein. The amount of the letter of credit or financial surety shall be determined

by the applicant's engineer based upon a current estimate of decommissioning and removal costs as provided in the decommissioning plan and subsequent annual reports. The amount of the letter of credit or financial surety may be adjusted by the Town upon receipt of an annual report containing an updated cost estimate for decommissioning and removal.

- d. Report. Upon request of the Town, the owner of the Large-Scale Solar Energy System shall provide the Town Code Enforcement Officer a report showing the rated capacity of the system, and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve month period. The report shall be submitted no later than 45 days after a written request. Failure to submit a report as required herein shall be considered a violation subject to the penalties and remedies set forth in this Chapter and the Town Code.
- e. Transfer of Ownership. Any special permit issued and all restrictions or obligations under such permit shall transfer in full force and effect to any new owner of the land and/or owner or operator of the Large-Scale Solar Collector System.

B. Abandonment and Decommissioning Regulations for Large-Scale Solar Energy Systems.

- 1. Applicability and purpose. This section governing abandonment and decommissioning shall apply to Large-Scale Solar Energy Systems including Solar Thermal Systems. It is the purpose of this section to provide for the safety, health, protection and general welfare of persons and property in the Town by requiring abandoned commercial solar collector systems to be removed pursuant to a decommissioning plan. The anticipated useful life of such systems, as well as the volatility of the recently emerging solar industry where multiple solar companies have filed for bankruptcy, closed or been acquired creates an environment for systems to be abandoned, thereby creating a negative visual impact on the Town. Abandoned Large-Scale Solar Energy Systems may become unsafe by reason of their energy producing capabilities and serve as an attractive nuisance.
- 2. Abandonment. A Large-Scale Solar Energy System shall be deemed "abandoned" if the system fails to generate and transmit electricity at a rate of more than fifty percent (50%) of its rated capacity over a continuous period of one year. If requested by the Building Inspector or Code Enforcement Officer, the property owner and/or operator of the system shall provide the Building Inspector, within forty-five (45) days of a written request, a report certified by a qualified consultant demonstrating that the system is operating at a rate of at least 50% of its rated capacity. Failure to provide a report within 45 days of a written request shall create a presumption that the solar collector facility is not operating at the

rate of at least 50% of its rated capacity. A Large-Scale Solar Energy System also shall be deemed abandoned if, following site plan approval, construction of the system has commenced but is not completed within eighteen (18) months of issuance of the first Solar Permit for the project. The time at which a Large-Scale Solar Energy System shall be deemed abandoned may be extended by the Planning Board for one additional period of one year, provided the system owner presents to the Planning Board a viable plan outlining the steps and schedules for placing the system in service or back in service, at no less than eighty percent (80%) of its rated capacity, within the time period of the extension. Any application for an extension of time shall be made to the Planning Board by the owner (and/or operator) prior to abandonment as defined herein. Extenuating circumstances as to why the Large-Scale Solar Energy System has not been operating or why construction has not been completed may be considered by the Planning Board in determining whether to grant an extension.

3. Removal required. Any Large-Scale Solar Energy System or Small-Scale Solar collection system which has been abandoned shall be decommissioned and removed. The owner of the facility and owner of the land upon which the system is located shall be jointly and severally responsible to physically completely remove all components of the system within one year of abandonment. Removal of a Large-Scale Solar Energy System shall be in accordance with a decommissioning plan approved by the Planning Board.
4. Decommissioning and removal. Decommissioning and removal of all ground-mounted solar energy systems shall consist of:
 - a. Physical removal of all above 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.
 - b. Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.
 - c. Restoration of the ground surface and soil to previous site conditions.
 - d. Stabilization and re-vegetation of the site with native seed mixes and /or plant species (excluding invasive species) to minimize erosion.

Upon application to the Planning Board, the Board may permit the system owner and/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.

5. Decommissioning and removal by Town. If a Large-Scale or Small-Scale Solar Energy System owner and/or landowner fails to decommission and remove an abandoned facility in accordance with the requirements of this Section, the Town may enter upon the property to decommission and remove the system at the cost of the landowner.
6. Removal by Town and reimbursement of Town expenses. All costs and expenses incurred by the Town in connection with any proceeding or work performed by the Town or its representatives to decommission and remove a Large-Scale Solar Energy System, including legal costs and expenses, shall be reimbursed from the letter of credit or surety posted by the system owner or landowner as provided in this Section. Any costs incurred by the Town for decommissioning and removal that are not paid for or covered by the required letter of credit or surety, including legal costs, shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become part of the taxes to be levied and assessed thereon, and shall be enforced and collected with interest by the same officer and in the same manner, by the same proceedings, at the same time and under the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town.

C. Reimbursement for Costs of Review of Large-Scale Solar Energy Systems by Town Designated Engineer.

1. The Applicant for a special use permit for a Large-Scale Solar collector system shall be responsible for reimbursing the Town for all costs associated with the issuance of the special permit and for engineering review by the Town Designated Engineer and for any other professional services required by the Town. The amount of the escrow shall be commensurate with the scale of the project.
2. The Planning Board may use the Town Designated Engineer (TDE) and retain consultants and/or experts necessary to assist the Town in reviewing and evaluating the Application.
3. An Applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of TDE and consultant evaluation and consultation in connection with the review of any Application. An initial deposit of \$5,000 (the "Initial Deposit") shall be filed with the Application. The Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall invoice the Town for their services in reviewing the Application. If at any time during the process the escrow account has a balance of less than \$2,500, the Applicant shall immediately, upon notification by the Town, replenish

said escrow account so that it has a balance of at least \$5,000. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded within 45 days to the Applicant.

4. The total amount of the funds needed as set forth in subsection (3) of this section may vary with the scope and complexity of the project, the completeness of the Application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. In the event the Planning Board determines that the Initial Deposit will be insufficient for review of the Application, the Planning Board shall notify the Applicant, and the Applicant shall supplement the escrow fund within thirty (30) days of notice from the Building Inspector of the estimated amount of the review fees necessary to process the Application.

D. Solar Easements.

1. Where a subdivision or land development involves the use of solar energy systems, solar easements may be provided. Any such easements shall be in writing, and shall be subject to the same conveyance and instrument recording requirements as other easements.
2. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easement shall include, but not be limited to:
 - a. A description of the dimensions of the easement including horizontal and vertical angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed.
 - b. Restrictions on the placement of vegetation, structures and other objects which may impair or obstruct the passage of sunlight through the easement.
 - c. Enumeration of the terms and conditions, if any, under which the easement may be revised or terminated.
 - d. An explanation of the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

E. Penalties for Violations

1. In the event of a violation of this chapter, the Town Board may impose and collect, and the holder of the special permit or site plan approval for solar collection systems shall pay to the Town, fines and penalties as set forth below:
2. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$250 per day or imprisonment for a period not to exceed six months, or both, for a conviction of a first offense; for a conviction of a second offense, both of which were committed within a period of two years, punishable by a fine of \$500 per day or imprisonment for a period not to exceed six months, or both; and upon conviction of a third or subsequent offense, all of which were committed within a five year period, punishable by a fine of \$750 per day or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this ordinance shall be deemed misdemeanors and, for such purpose only, all provisions relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute separate additional violations.
3. Notwithstanding anything in this chapter, the owner/operator of a Large-Scale Solar energy production facility may not use the payment of fines or any other penalties to avoid compliance with this chapter or any section of this chapter. An attempt to do so shall subject the owner/operator of the Large-Scale Solar Energy System to termination and revocation of its certificate of compliance. The Town may also seek injunctive relief to prevent the continued violation of this chapter, without limiting other remedies available to the Town.

F. Default and/or Revocation

1. If a Large-Scale Solar Energy System is repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this chapter, then the Code Enforcement Office shall notify the owner/operator of the system and/or the land owner in writing of such violation. Such notice shall specify the nature of the violation or noncompliance and that the violation(s) must be corrected within 120 days of the date of the postmark of the notices, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this Section or any other Section of this Chapter, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Code Enforcement Office may, at its sole discretion, order the violation remedied within 24 hours.

2. If the Building Inspector or Code Enforcement Officer receives a complaint, or requests access to inspect a Large-Scale Solar Energy System or Solar Thermal System, to assess whether the system is operating as originally designed or assess if the system or property is not in compliance with any other Town Code provisions, the property owner and system owner/operator shall allow access to the property and facility for inspection.
3. If, within the period set forth in Subsection 1 above, the system is not brought into compliance with the provisions of this Chapter, or substantial steps are not taken in order to bring the affected system into compliance, then the Code Enforcement Office may revoke the Certificate of Compliance and shall notify the owner/operator and/or land owner within 48 hours of such action.

SECTION VI. SEVERABILITY

Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

SECTION VII. CONFLICT WITH OTHER LAWS

Where this Law differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or Federal government, the more restrictive or protective law of the Town and the public shall apply.

SECTION VIII. REPEAL OF OTHER LAWS

All local laws in conflict with provisions of this Local Law are hereby superseded.

SECTION IX. EFFECTIVE DATE

This Local Law shall take effect immediately, as provided by law, upon filing with the Secretary of State.

SECTION X. AUTHORITY

This Local Law is enacted pursuant to the Municipal Home Rule Law. This Local Law shall supersede the provisions of Town Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.