SITE PLAN REVIEW LOCAL LAW

LAW 100

For the

Town

of

DEPOSIT, NEW YORK

Original Code Prepared by:

Planit Main Street, Inc.
Shepstone Management Company

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ARTICLE I

General Provisions

§100-1 GENERAL PROVISIONS

§100-1.1. Enactment.

The Town Board of the Town of Deposit, Delaware County, New York, does hereby ordain and enact the Town of Deposit Site Plan Review Law pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law and Section 274-a of Town Law.

§100-1.2. Short title.

This local law shall be known as the "Town of Deposit Site Plan Review Law." The Town of Deposit is hereinafter referred to as the "Town."

§100-1.3. Intent and purpose.

It is the intent of this local law to ensure optimum overall conservation and use of the natural and man-related resources of the Town, by regulating land use activity within the Town of Deposit through review and approval of site plans. It is not the specific intent of this local law to prohibit any land use activity but to allow all land use activities the will meet the standards set forth in this local law for land development. Through site plan review, it is the intent of this local law to promote the health, safety and general welfare of the Town.

§100-1.4. Authorization of Planning Board to review site plans.

The Planning Board is hereby authorized to review and approve or disapprove site plans for land uses within the Town of Deposit in accordance with the standards and procedures set forth in this local law.

§100-1.5. Applicability of review requirements.

All new land use activities within the Town shall require site plan review and approval before being undertaken, except for the following:

A. Construction of a one-family or two-family dwelling and the placement of an individual manufactured home along with ordinary accessory structures and related land use activities.

B. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this local law.

C. Ordinary repair or maintenance or interior alterations to existing structures or uses.

D. Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25%; and having a cost value of less than $5,000.

E. Growing or harvesting of crops.

F. Signs under ten (10) square feet.

G. All agriculture, timbering and mining activities, excepting permanently constructed processing facilities.

H. Garage, lawn and porch sales not exceeding three (3) days. If such sales take place more often than three (3) times in any calendar year, site plan approval will be

required.

l. Home occupations that occupy less than 25% of the floor area or no more than 500 square feet of a one or two-family house or accessory building.

Any person uncertain of the applicability of this local law to a given land use activity may apply in writing to the Planning Board for a written jurisdictional determination.

§100-1.6. Relationship of this law to other laws and regulations.

This local law in no way affects the provisions or requirements of any other federal, state, or local law or regulations. Where this local law is in conflict with any other such law or regulation, the more restrictive provisions and requirements shall apply. The Town Board hereby supersedes the New York State Town Law pursuant to the Municipal Home Rule Law to establish a $350 per day fine for violations of this local law and establish a Board of Appeals for granting area variances."

§100-1.7. Further regulations by Planning Board.

The Planning Board may, after a public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this local law.

§100-1.8. Integration of procedures.

Whenever the circumstances of proposed development require compliance with this Site Plan Review Law and with any other local law, ordinance or requirement of the Town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this local law with the procedural and submission requirements for such other compliance.

§100-1.9. Severability.

The provisions of this local law are severable. If any article, section, paragraph or provision of this local law shall be invalid, such invalidity shall apply only to the article, section, paragraph or provision(s) adjudged invalid, and the rest of this local law shall remain valid and effective.

§100-1.10. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.

ARTICLE II
Definitions

§100-2. DEFINITIONS

§100-2.1. Word Usage.

Unless otherwise listed below, the numbers, abbreviations, terms and words used herein shall have the meanings of common usage as set forth in the latest edition of Merriam-Webster's Collegiate Dictionary.

§100-2.2. Definitions.

ABANDONMENT: Abandonment of a commercial solar energy facility accurs when deconstruction has not been completed within twelve (12) months after the commercial solar energy facility reaches the end of its useful life, or upon the failure of the facility to function in accordance with its stated purposes for a period of twelve (12) months. For purposes of this definition, a commercial solar energy facility shall be presumed to have reached the end of its useful life if the commercial solar energy facility owner fails, for a period of six (6) consecutive months, to pay the landowner amounts owed in accordance with the underlying agreement or produces less than 50% of the energy in accordance with the terms set forth in the application for its use over a period on more than twelve (12) months. Solar company is to provide their annual output documentation from the Power Company as a part of their annual permit review process.

ACCESSORY STRUCTURE: A structure, the use of which is incidental and subordinate to the principal building and is located on the same lot or premises as the principal building.

AGRICULTURAL SOLAR: For purposes of this law, the term "Agricultural solar" refers to solar photovoltaic systems that produce up to 100 kilowatts (kW) power and are installed on a working farm as defined in Subdivision 11 of Section 301 of the Agriculture and Markets Law to serve the electrical requirements of the farm on which they are installed.

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 which may be attached to or separate from the principal structure.

BASAL AREA: The average amount of an area occupied by tree stems. Defined as the total cross-sectional area of all stems in a stand measured at breast height and expressed as per unit of land area.

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

COLLECTIVE SOLAR: Solar installations owned collectively through subdivision homeowner associations, college student groups, "adopt-a-solar-panel" programs, or other similar arrangements.

CROSS ACCESS DRIVE - A service drive providing vehicular access between two or more contiguous sites so that the driver need not reenter the public street system.

DECOMMISSIONING: The process for removing an abandoned solar panel system and remediating the land.

DIAMTER AT BREAST HEIGHT (DBH): Tree diameter measured at 4.5 feet from the ground.

FAMILY - A person or persons related to each other by blood, marriage or adoption, or any number of persons, irrespective of any such relationship, which nonetheless functions as the equivalent of such a family, living together as a single housekeeping unit.

FARMLAND OF STATEWIDE IMPORTANCE: Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of state wide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

FLUSH-MOUNTED SOLAR PANEL: A photovoltaic panel or tile that is installed flush to the surface of a roof and which cannot be angled or raised.

FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered freestanding or ground-mounted solar energy systems for purposes of this law.

GLARE: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GRID (POWER): A network of synchronized electrical power providers and consumers that are connected by transmission and distribution lines and operated by one or more control centers.

JOINT ACCESS DRIVEWAY - A common driveway connecting two or more contiguous sites to the public street system.

LAND USE ACTIVITY - Any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure. "Land use activity" shall explicitly include, but not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, and driveways.

LARGE-SCALE SOLAR ENERGY SYSTEM: A Solar Energy System that is ground mounted and produces energy primarily for the purpose of offsite sale or consumption.

LOT COVERAGE - The proportion of a lot area covered by impervious surface including buildings and off-street parking areas.

LOT FRONTAGE - The minimum lot frontage of any lot shall be measured along the street line as required pursuant to this Law.

MANUFACTURED HOME – A transportable single-family dwelling unit intended for permanent occupancy which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed on a chassis so that it might be towed, not including a modular or sectional dwelling, recreational vehicle or

travel trailer.

MANUFACTURED HOME LOT – A designated site of specific total land area which is located within a manufactured home park for the accommodation of one manufactured home and its occupants.

MANUFACTURED HOME PARK – A parcel or contiguous parcels or land which has been designated and improved for the purpose of placing three (3) or more manufactured homes for occupancy as single-family dwellings.

MANUFACTURED HOME BASE – A permanent base located on a manufactured home lot which is capable of supporting and which is used for placement of a manufactured home. Such base shall consist of concrete pad.

NATIVE PERENNIAL VEGETATION: native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

NET-METERING: A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

NEW YORK INDEPENDENT SYSTEM OPERATOR (NYISO) - NYISO is a not-for-profit organization formed in 1998 as part of the restructuring of New York State's electric power industry. Its mission is to ensure the reliable, safe and efficient operation of the State's major transmission system and to administer an open, competitive and nondiscriminatory wholesale market for electricity in New York State.

NONCONFORMING STRUCTURE - Any structure which is in existence within the Town on the effective date of this Local Law which is not in conformance with the dimensional regulations herein.

ONE FAMILY DWELLING - A complete self-contained residential unit for permanent habitation by only one family and containing one or more rooms and facilities for living including cooking, sleeping, and sanitary needs.

PERVIOUS SURFACE. A surface that allows stormwater to be absorbed by the land.

PHOTOVOLTALIC (PV) SYSTEM: A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever sunlight strikes them.

POLLINATOR: bees, birds, bats, and other insects or wildlife that pollinates flowering plants, and includes both wild and managed insects.

PRIME FARMLAND: Land, designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

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.

REFLECTIVE - Any surface which bends, casts or throws back light in such a manner as to cause glare.

RESIDENCE - Any dwelling suitable for habitation existing in the Town of Deposit on the date an application is received. A residence may be part of a multi-family dwelling or multipurpose building but shall not include buildings such as hotels or motels, hospitals, day care centers, dormitories, sanitariums, nursing homes, municipal buildings, schools or other educational buildings or correctional institutions.

ROAD USE AGREEMENT (RUA) – A legally binding agreement executed between the Town and any individual, business, corporation, LLC or like owner for extraordinary road use, road access points, approach or road crossings, public right-of-way setbacks, building rules, physical addressing, dust control measures, or road maintenance and any repair mitigation plans.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

SETBACK: The distance from a lot line of a parcel within which a structure is installed.

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. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has a wind energy facility or has entered into an agreement for said facility or a setback agreement shall not be considered off-site.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

SOLAR ARRAY: A collection of multiple solar panels that generate electricity as a system.

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 EASEMENT: An easement recorded pursuant to New York Real Property Law §335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

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

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as Tier 1, Tier 2, or Tier 3 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

   a. Roof-Mounted Solar Energy Systems

   b. Building-Integrated Solar Energy Systems

B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with system capacity up to 20 kW AC and that generate no more than 110%of the electricity consumed on the site over the previous 12 months.

C. Tier 3 Solar Energy Systems are systems with a capacity above 20 kW AC and that are not included in the list for Tier 1and Tier 2 Solar Energy Systems.

SOLAR ENERGY STORAGE: A method that stores energy from the sun and makes it available at a later time in the form of electrical, mechanical, thermal or chemical energy.

SOLAR FARM OR SOLAR POWER PLANT: Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

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

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.

SOUND PRESSURE LEVEL - According to the NYSDEC Program Policy on Assessing and Mitigating Noise Impacts, a measure of sound pressure in the atmosphere which can be determined according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11), or other accepted procedure. Also, the perceived loudness of a sound as expressed in decibels (db) or A-weighted decibel scale dB(A). For example, an L_{10} - 30 dBA indicates that in any hour of the day 30 dBA can be equaled or exceeded only 10% of the time, or for 6 minutes.

STONE PROCESSING FACILITY – An industrial facility where bluestone, landscaping stone and wall stone products are sawed out of large blocks of raw stone material to be sold wholesale but excluding facilities processing or finishing less than 5,000 tons per year of product and activities at quarry sites.

STORAGE BATTERY: A device that stores energy and makes it available in electrical form.

STRUCTURE - Any object constructed, installed, or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, tanks, and any fixtures, additions and alterations thereto.

STRUCTURE, ACCESSORY - Any structure designed to accommodate an accessory use but detached from the principal structure, such as, a free-standing garage for vehicles accessory to the principal use, a storage shed, garden house or similar facility.

SURETY: The purpose of obtaining a surety bond or a bank letter of credit is to ensure that the owner will have the financial ability to company with the terms of this article, and to ensure that there will be sufficient financial ability to deconstruct a facility and dispose of its parts. The amount of the surety bond or bank letter of credit will be determined by numerous factors that include but are not limited to environmental liabilities,

decommissioning costs, and reclamation costs. The bank or bond company must be located within Delaware County or an immediately adjacent county and must be approved by the Town of Deposit Town Board. The amount of surety required will be revised annually, as a part of the annual permit renewal process.

TOTAL HEIGHT - The height of the tower and the furthest vertical extension of the wind turbine.

TRANSMISSION OWNER - The owner of the electric distribution networks. Examples include New York State Electric & Gas, Niagara-Mohawk, and Con Edison.

TRIP-ENDS - Represent the total number of vehicular trips entering and leaving a specific land use or site for a designated period of time.

TWO FAMILY DWELLING - Two complete, but separate, self-contained residential units each intended for permanent habitation by one family only in a single structure having a common wall roof, wall or ceiling and containing separate rooms and facilities for living including cooking, sleeping, and sanitary needs.

TOWNHOUSE - A one-family dwelling in a row of at least three such units in which each has its own front and rear access to the outside, is set on its own lot, is separated from adjoining units by one or more vertical common firewall, and in which no unit is located over another.

VACATION RENTAL CABIN (s) - A cabin or group of cabins on a single parcel in which temporary or seasonal recreational lodging is provided for compensation.

VARIANCE, AREA - The authorization by the Board of Appeals for the use of the land in a manner which is not allowed by the dimensional or physical requirements of the applicable regulations.

WIND ENERGY FACILITY - Any wind turbine, small wind turbine or wind measurement tower or combinations of these, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

WIND ENERGY FACILITY PERMIT- A permit pursuant to this law granting the holder the right to construct, maintain and operate a wind energy facility.

WIND MEASUREMENT TOWER - A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

WIND TURBINE - A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of more than 100 kW and which is intended to produce power for distribution on the utility grid.

WIND TURBINE (SMALL) - 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 primarily to reduce consumption of utility power at that location.

YARD, FRONT - An open space extending across the entire width of the lot between the building line or front main wall of a building and the front property line, (street or road right-of-way line) and into which space there shall be no extension of building parts other than steps, porches, eaves, cornices and similar fixtures.

YARD, REAR - An open space extending across the entire width of the lot between the rear wall of the principal building and the rear line of the lot, and unoccupied except for accessory buildings and open porches.

YARD, SIDE - An open unobstructed space on the same lot with a principal building between the principal building and the sideline of the lot and extending through from the front yard to the rear yard.

Any term used in this local law which is not defined hereinabove shall carry its customary meaning unless the context otherwise dictates.

SITE PLAN REVIEW
ARTICLE III
Procedures

§100-3. PROCEDURES

§100- 3.1. General procedures.

Prior to undertaking any new land use activity, except for a one or two-family dwellings and other uses specifically excepted in Section 100-1.5 of this local law, site plan approval by the Planning Board is required. Applicants for site plan approval should follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of this Law.

§100-3.2. Sketch plan.

A sketch plan conference shall be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his proposal prior to the preparation of a detailed site plan; and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following:

A. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations.

B. An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets, rights-of-way, easements, and other pertinent features within 200 feet of the boundaries of the parcel; and

C. A topographic or contour map of adequate scale and detail to show site topography.

§100-3.3. Application requirements.

An application for site plan approval shall be made in writing to the chairman of the Planning Board and shall be accompanied by information contained on the following checklist. Where the sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined necessary by the Planning Board at said sketch plan conference.

Site plan checklist:

A. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;

B. North arrow, scale and date;

C. Boundaries of the property plotted to scale;

D. Existing buildings;

E. Grading and drainage plan, showing existing and proposed contours, rock outcrops, depth to bedrock, soil characteristics, and watercourses;

F. Location, design, type of construction, proposed use and exterior dimensions of all buildings;

G. Location, design and type of construction of all parking and truck loading areas, showing access and egress;

H. Provision for pedestrian access;

I. Location of outdoor storage, if any;

J. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;

K. Description of the method of sewage disposal and location, design and construction materials of such facilities;

L. Description of the method of securing public water and location, design and construction materials of such facilities;

M. Location of fire and other emergency zones, including the location of fire hydrants;

N. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;

O. Location, size and design and type of construction of all proposed signs;

P. Location and proposed development of all buffer areas, including existing vegetative cover;

Q. Location and design of outdoor lighting facilities;

R. Identification of the location and amount of building area proposed for retail sales or similar commercial activity;

S. General landscaping plan and planting schedule;

T. An estimated project construction schedule;

U. Record of application for and status of all necessary permits from other governmental bodies;

V. Identification of any permits from other governmental bodies required for the project's execution; and

W. Other elements integral to the proposed development as may be considered necessary in the particular case by the Planning Board.

§100-3.4. Required fee.

An application for site plan review shall be accompanied by a fee that is established by the Town Board and modified by the Town Board by resolution or waived for good cause.

§100-3. 5. Reimbursable costs.

Cost incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant.

§100-3.6. Referrals to other agencies and boards.

A. Coordinated Review. The Planning Board may refer the site plan for review and comment to local, and County officials or their designated consultants, and to representatives of federal, state, and County agencies, including but not limited to,

the New York State Department of Transportation, the State Department of Environmental Conservation, and the County Department of Public Works, whichever has jurisdiction.

B. Required Referral. Whenever any site plan involves real property in an area described in Section 239-m of the General Municipal Law, said site plan shall be referred to the Delaware County Planning Board for their review and approval pursuant to Section 239-m of the General Municipal Law.

§100-3.7. SEQR compliance.

The applicant shall demonstrate compliance for any actions subject to the New York State Environmental Quality Review Act (SEQR) prior to site plan approval. The Planning Board shall, after the site plan has been accepted as complete, classify the application according to SEQR, review the Environmental Assessment Form (EAF) and take one of the following actions:

A. If additional information is needed to render a determination of significance, the Planning Board shall specify exactly what the applicant needs to supply, OR

B. If the information is provided and the project is determined to have only small to moderate impacts with little significance on the environment, then a negative declaration may be given, OR

C. If an action has been identified as having a large and significant impact, then a positive declaration shall be determined and a full Environmental Impact Statement (EIS) will be provided.

§100-3.8. Public hearing.

The Planning Board may, at its discretion, hold a public hearing on the application. Said hearing shall be held within sixty-two (62) days of receipt of the accepted site plan application. The Planning Board shall mail notice of the public hearing to the applicant at least ten (10) days before the public hearing and shall give public notice of said hearing in a newspaper of general circulation in the Town at least five (5) days prior to the date of the hearing.

§100-3.9. Planning Board Decision.

Within sixty-two (62) days of receipt of the application for site plan approval or if a public hearing is held within sixty-two (62) days of public hearing, the Planning Board shall render a decision. In its decision the Planning Board may approve, approve with modifications or disapprove the site plan. The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and the Planning Board.

A. Approval. Upon approval of the site plan, and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Town clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

B. Approval with modifications. The Planning Board may conditionally approve the final site plan. A copy of written statement containing the modifications required by the conditional approval will be mailed to the applicant by certified mail, return

receipt requested. After adequate demonstration to the Planning Board that all conditions have been met, and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Town clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

C. Disapproval. Upon disapproval of the site plan the decision of the Planning Board shall immediately be filed with the Town clerk and a copy thereof mailed to the applicant by certified mail, return receipt requested, along with the Planning Board's reasons for disapproval.

§100-3.10. Waivers.

The Planning Board may waive, subject to appropriate conditions, the provisions of any or all standards set forth if in the special circumstances of a particular application such standards are not in the interest of the public health, safety, and general welfare or strict adherence to such standards would cause unnecessary hardships for the applicant without achieving public benefit objectives. The Planning Board must state its reasons for granting any waivers in writing and file the same along with the site plan application and supporting documents.

§100-3.11. Guarantee of Site Improvements.

The Planning Board may use the Town Subdivision Regulation performance guarantee procedures in the event of any project subject to this Site Plan Review Law where improvements will be phased.

SITE PLAN REVIEW
ARTICLE IV

Design Standards

§100-4 DESIGN STANDARDS

§100-4.1. General standards and considerations.

The Planning Board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:

A. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs;

B. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls;

C. Location, arrangement, appearance and sufficiency of off-street parking and loading;

D. Adequacy and arrangement of traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

E. Adequacy of stormwater and drainage facilities;

F. Adequacy of water supply and sewage disposal facilities;

G. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation;

H. Adequacy of fire lanes and the provision of fire hydrants;

I. Adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion; and

J. Overall impact on the neighborhood including compatibility of design consideration.

§100-4.2. Lot development standards.

A. Lot standards. The following development standards shall apply to all new lots hereafter created in the Town for purposes of placing principal structures or uses.

Description	Standards
Minimum Lot Area:	
On-site sewer and water	1 acre
Central sewer & water	½ acre
Central sewer or water	¾ acre
Minimum Lot Frontage	150 feet (100' on turn-around)
Maximum Lot Coverage	50%
Minimum Side/Rear Yard	25 feet

Setback from Road Centerline	100 feet
Maximum Building Height	45 feet
Minimum Stream Setback	100 feet
Accessory Structure Setback	10 feet side/rear yards

B. Corner lots.

1) Obstruction of vision at street intersections. The front/side yards at the street intersection shall be kept free of vegetation and other structures that would obstruct the view of drivers between the height of 3 ½ to ten (10) feet above the average grade of each street on the center line thereof. The following site distances shall be maintained:

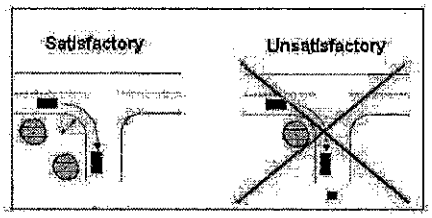


Table 2 Sight Distance for Various Street Widths	
Street Right-of-Way	Distance from Intersection
50 Feet or more	90 Feet
40-49 Feet	80 Feet
30-39 Feet	70 Feet

2) Rear and side yards. On a corner lot, front yards are required on both street frontages, and one yard other than the front yard shall be deemed to be a rear yard and the other or others, side yards.

C. Yard regulations.

1) Side yard width may be varied. Where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular, the side yard may be varied. In such case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such yard shall not be narrower at any point than 1/2 the otherwise required minimum width.

2) Front yard exception. When an unimproved lot is situated between two improved lots, each having a principal building within twenty-five (25) feet of any side lot line of such unimproved lot, the front yard may be reduced to the greatest depth of the front yard of the two adjoining improved lots but shall be not less than ten (10) feet.

D. Height exceptions.

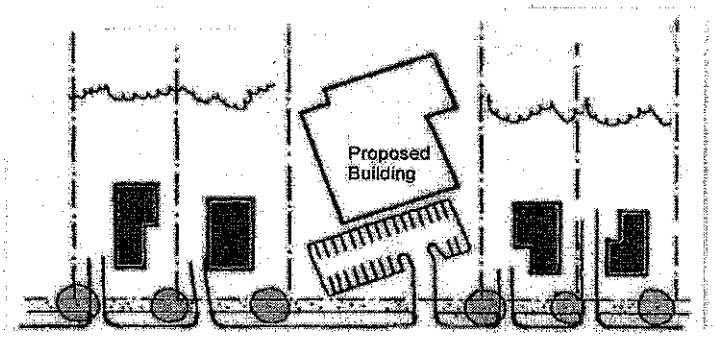
1) Water towers, chimneys, smokestacks, flagpoles, communication towers, masts and aerials, and heating, ventilation, air-conditioning and other accessory utilities shall be exempted from height restrictions except as

specifically regulated herein.

2) Farm buildings and structures on farms, e.g., silos, are also excluded.

E. Accessory structures. Accessory structures may be placed in side or rear yards only and shall not be placed within ten (10) feet of any property line. No accessory structure shall be placed in the required front yard. Accessory structures shall not cover more than 25% of the required rear yard.

F. Building placement. Buildings shall be oriented parallel to the public right-of-way and respect the building placement on adjoining properties.



INAPPROPRIATE ORIENTATION

§100-4.3. Off-Street Parking & Loading Requirements.

Any proposed use within the Town of Deposit shall provide sufficient parking to accommodate the traffic generated by the proposed use and associated on-site traffic improvements that are deemed necessary to mitigate potential impacts on the level of service on public roads in the vicinity of the proposed development. The following specific requirements shall be followed:

A. Number of spaces required. Off-street parking, loading and unloading facilities shall be provided in connection with every use and be located on the same lot as the use to which they are accessory. Parking needs with respect to all uses shall be determined in conjunction with site plan review. The amount of parking required shall be based on the following factors:

1) General off-street parking standards. The Planning Board shall use the following specific off-street parking requirement standards for the specific land uses listed below.

Table 3 - General Off-Street Parking Standards	
Commercial uses	1 space per 250 sq. ft. floor area
Home-occupations	2 space, plus required residential spaces
Hotels/motels	1 space per rental room
Industrial uses	1 space per 400 sq. ft. floor area
Places of public assembly	1 space per 5 seats

Offices	1 space per 300 sq. ft. floor area
Restaurants	1 space per 50 sq. ft. floor area
Vacation Rental Cabin	2 spaces per cabin
Vehicle service establishments	4 spaces plus 1 per employee

2) Industry studies. For uses not specifically listed above, the Planning Board may require the applicant to provide industry studies of parking needs for the type of use proposed or actual case-study comparisons for projects of similar character.

3) New York State DOT and County DPW Review. The Planning Board shall also take into consideration recommendations from other public agencies which suggest, based on experience, the appropriate amount of parking required in connection with a given use.

4) Opportunities for shared parking. The Planning Board may allow for a reduction in the amount of parking on a given site where the applicant can document that the shared parking arrangement will meet the parking needs of the proposed use without causing any parking shortage.

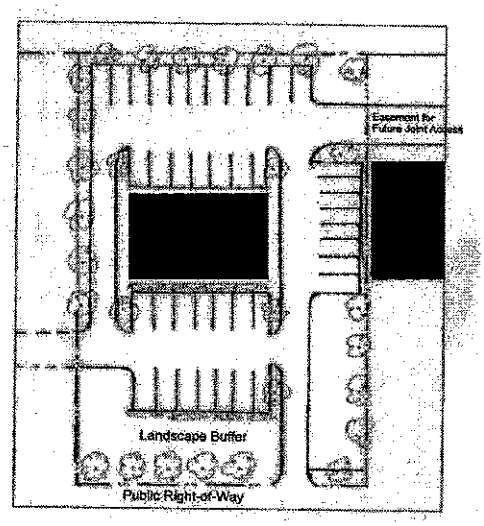
B. Parking lot layout and construction standards.

1) No designated parking area shall be designed such that a vehicle might directly back out onto a public highway or through road within the development.

2) Traffic flows through a parking area should be minimized and limited to connections from one lot to another and to the public highway or through road. Circular drives shall be discouraged.

3) Each parking space shall be a minimum of ten (10) feet in width and twenty (20) feet in depth (exclusive of aisles, access and driveways).

4) Each entrance and exit shall be clearly defined with curbing, fencing or vegetative screening so as to prevent access to the area from other than the defined entrance and exits.



5) All access drives shall be subject to the requirement of obtaining a driveway permit from the Town of Deposit Highway Superintendent, the Delaware County Department of Public Works or the New York State Department of Transportation, as the case may be, and approval of any permits hereunder may be conditioned upon the application for and/or receipt of such permits from these authorities.

6) Off street parking and loading areas shall be surfaced with a minimum of an 8" base of crushed aggregrate and a minimum 2" base course of bituminous material topped by 2" of bituminous wearing surface (or 4" of concrete) and shall be properly graded and drained to dispose of all surface water. They shall also be arranged and marked for the orderly and safe movement, loading, parking, and storage of vehicles.

C. Off-street loading. Any building erected, converted or enlarged for commercial, office, manufacturing, wholesale, institutional or similar uses shall, in addition to the off-street parking spaces required above, shall provide adequate off-street areas for loading and unloading of vehicles. Public rights-of-way shall, under no circumstance, be used for loading or unloading of materials. The minimum size loading space shall be sixty (60) feet in depth and twelve (12) feet in width, with an overhead clearance of fourteen (14) feet. It shall be accessible by driving in and not require backing in from off the public right-of-way.

§100-4.4. Landscaping, Screening and Buffering.

The following standards are intended to enhance the appearance and natural beauty of the Town and to protect property values through preservation and planting of vegetation, screening and landscaping material. Specifically, these standards are intended to improve the appearance of major travel corridors and business areas; to reduce excessive heat, glare and accumulation of dust; to provide privacy from noise and visual intrusion; and to prevent the erosion of the soil, excessive stormwater runoff and the consequent depletion of the groundwater table and the pollution of water bodies.

A. General requirements. The following provisions shall apply:

1) All lots shall be graded and seeded and all other applicable requirements of these landscaping regulations imposed by the Planning Board shall be fully met prior to the Code Enforcement Officer granting a Certificate of Occupancy for a new building or use subject to these regulations. An irrevocable letter of credit or cash bond shall be posted in an amount sufficient to cover the cost of such grading and seeding when the applicant cannot perform this work due to seasonal impracticalities.

2) Landscaping, trees and plants required by these regulations shall be planted in a growing condition according to accepted horticultural practices and they shall be maintained in a healthy growing condition. Any landscaping, trees and plants which are in a condition that does not fulfill the intent of these regulations shall be replaced by the property owner during the next planting season. An irrevocable letter of credit or cash bond shall be posted in an amount sufficient to cover the cost of such landscaping when the applicant cannot perform this work due to seasonal impracticalities.

3) A screening fence or wall required by these regulations shall be maintained by the property owner in good condition throughout the period of the use of the lot.

4) The preservation of mature shade trees, ridgelines, vegetation and unique site features, such as stone walls, shall be required to the maximum practical extent. These, however, may be used to meet requirements of this section

provided the Code Enforcement Officer or Planning Board, as the case may be, determines the purpose of this section is achieved.

5) Where lot size and shape or existing structures make it infeasible to comply with the requirements for a front landscaped area or landscaped parking area, the Planning Board may approve planters, plant boxes or pots containing trees, shrubs and/or flowers to comply with the intent of these regulations.

6) Buffer area. A landscaped buffer area may be required to protect neighboring residential properties and soften the impacts of facilities, buildings, and parking areas on such adjoining properties:

   a) A minimum permanent vegetated buffer of a width of not less than ten (10) feet nor more than thirty (30) feet shall separate non-residential uses from adjacent residential properties. Plantings shall be indicated on the site plan and shall meet the following standards:

      i) Plant materials shall be a minimum of five (5) feet in height when planted and shall be spaced to form a continuous, solid screen at maturity. Generally, plants/trees shall be spaced apart at distances suitable for the proper maturation of such planting and shall be properly maintained to afford an effective screen between the non-residential and residential uses.

      ii) Where appropriate, a wall fence, or earthen berm of location, height, and design approved by the Planning Board, may be substituted for the required planting.

7) Modifications. Where the existing topography and/or landscaping provide adequate screening, the Planning Board may modify the planting and/or buffer area requirements. The Planning Board may also require an increase or permit a decrease in these requirements if the Board believes that said variation will better accomplish the objectives of this section.

B. Landscape Plan. The Planning Board may require a landscape plan be prepared as part of any site plan application. Where it is determined that a proposed use would not have a significant impact on the natural environment, adjoining landowners or the view from a public highway, these requirements may be appropriately modified by the Planning Board. The landscape plan, if required, shall specify locations of all mature shade trees or other species of six (6) inch caliper or greater and indicate existing vegetation to be removed or preserved. Specific locations, varieties, sizes, winter hardiness, and schedules for all proposed plantings shall be provided as part of the plan. The Planning Board shall also specifically consider the following before approving, approving with modifications or disapproving a site plan application:

1) The plan should promote attractive development, preserve existing vegetation to the maximum extent possible, enhance the appearance of the property and complement the character of the surrounding area.

2) The plan should use landscaping to delineate or define vehicular and pedestrian ways and open space.

3) The plant material selected should be of complementary character to buildings, structures and native plant species and be of sufficient size and quality to accomplish its intended purposes.

4) The plan should effectively buffer the activity from adjoining land uses as may be necessary and soften the impact of other site development as contrasted with the natural environment.

5) The plan should be realistic in terms of maintenance and use materials which, as a minimum, are winter hardy to Zone 4.

§100-4.4.1. Landscaping of Parking Areas.

All parking areas which are designed to accommodate twelve (12) or more vehicles shall be landscaped using materials of sufficient growth and height to aesthetically balance the impact of the open paved area and provide effective stormwater control. The following are guidelines the Planning Board may apply:

A. All uses required to provide twelve (12) or more off-street parking spaces shall have at least ten (10) square feet of interior landscaping within the paved portion of the parking area for each parking space and at least two (2) trees with a minimum 2 ½ inch caliper for every ten (10) parking spaces or fraction thereof.

B. A landscape area shall be provided along the perimeter of any parking area except that portion of the parking area which provides access.

C. A hedge consisting of shrubs that are two (2) feet in height shall be planted three (3) feet on center between the off-street parking area and the public right-of-way. Shrubs shall be planted a minimum of two (2) feet off the back of curbs or from the edge of the off-street parking area.

D. Rows of parking shall be separated with landscape islands so that no row contains more than twelve (12) parking spaces. All landscaping, trees and planting material adjacent to parking areas shall be protected by barriers, curbs or other means from damage by vehicles and from stormwater runoff.

E. Landscape islands shall be at least one-hundred (100) square feet in size and landscaped with shrubbery, flowering plants, mulch and at least two (2) trees that are at least 2 ½ inch caliper at breast height.

F. Time of Completion. All tree plantings and plantings screens required by this Law shall be installed prior to occupancy or commencement of use. Where this compliance is not possible because of time of year, the Planning Board may grant an appropriate delay.

§ 100-4.5. Lighting of Non-Residential Properties.

Site lighting should be sufficient to facilitate the safe and convenient circulation of motorists and pedestrians, but not too bright so as to produce excessive light and glare. Given the rural nature of the Town, coupled with the close proximity of residences in the vicinity of the Town's commercial and industrial areas, lighting shall be designed, directed and shielded in such a manner that direct light does not leave the perimeter of the site. All outdoor lighting, including the fixture, pole, and other supporting elements, shall be designed to complement the overall design of the site and prevent excessive glare. To

minimize excessive lighting, entry points and pedestrian crosswalks can be lit with accent lighting that helps to define these areas rather than using brighter lights throughout the site. Lower level lighting can then be used in other areas of the site where less lighting is required. Shorter lighting poles can also be used to light pedestrian walkways and/or lighted bollards. The following additional standards shall be required.

A. Spillover of light. All lighting shall be designed so as to avoid unnecessary or unsafe spillover of light and glare onto operators of motor vehicles, pedestrians and land uses in proximity to the light source.

B. Timing mechanisms. Timing mechanisms and photo cells to reduce light levels and conserve energy during non-operational hours.

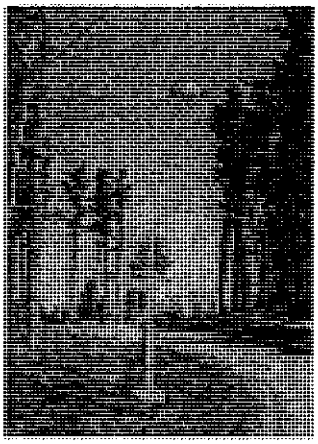
C. Lighting on building. Light that is mounted on the building shall also be down-lit and integrated as an architectural component of the building.

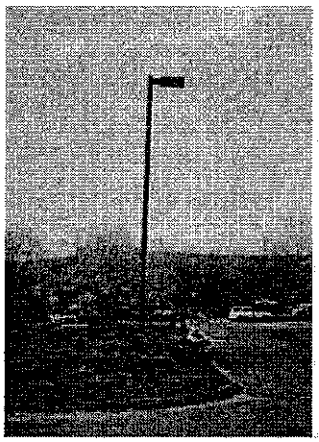
D. Height of light poles. Light pole heights shall not exceed building heights and none shall exceed twenty-five (25) feet in height.

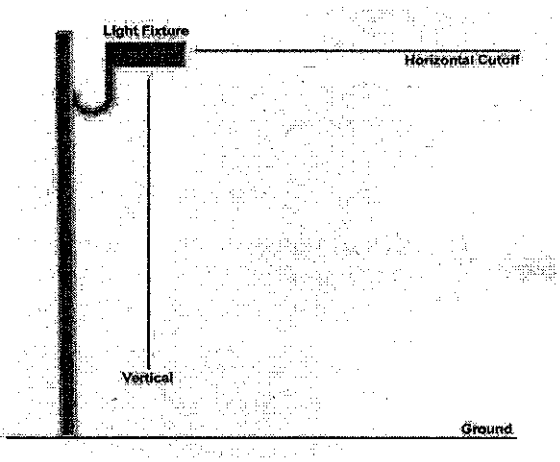
E. Type of bulb. Low pressure or high pressure sodium lights, metal halide, florescent and compact florescent lights are encouraged. All lighting over 2,000 lumens in strength shall meet the full cut-off standard of the Illuminating Engineering Society of North America (IESNA).

F. Cut-off lens. All pole mounted lighting [as shown below] shall have a full cut-off lens that does not allow light to shine above a 90 degree angle measured from the vertical line from the center of the lamp.

G. Type of fixture. Appropriate lighting fixtures are illustrated below.







H. Prohibited lighting. Globe lights shall not be permitted.

I. Gas station canopy lighting. All gasoline canopy lighting shall be fully recessed and the maximum light level under the vehicular canopy shall not exceed twenty (20) horizontal maintained foot candles.

J. Off-street parking. Any lighting used to illuminate any off-street parking shall be so shielded as to deflect the light away from adjoining premises and public right-of-ways and avoid light spillage onto adjacent properties.

§100-4.6. Signs.

A. General provisions.

1) A permit issued by the Code Enforcement Officer shall be required for the erection, alteration or maintenance of all signs except as may otherwise be set forth in Section 100-4.6 A (3) below.

2) In general, and unless otherwise specified in this Section, signs shall be located on the premises they advertise and shall not flash or move, or have the appearance of flashing or moving.

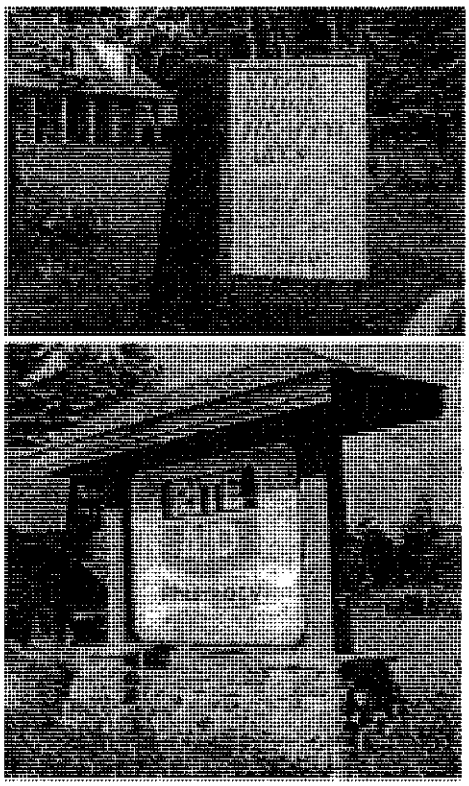
3) Unless otherwise set forth in this Section, no sign shall be erected within a public right-of-way or within twenty (20) feet of the center line of any travelway. This provision shall not apply to those signs needed for public safety and traffic control.

4) No sign shall be placed in such a position that it causes danger to traffic on a street by obscuring view or shining a light directly on the street. Flashing or oscillating lights shall not be allowed.

5) Ground signs are permitted provided the top edge of the sign face is not higher than seven (7) feet above grade. The graded area surrounding the ground sign shall be landscaped with shrubs and other vegetative cover. Where a ground sign is placed between two wood or masonry columns, at least one foot of clear space between the sign board and the ground shall be maintained.

6) Signs must be constructed of durable material, maintained in good condition and not allowed to become dilapidated.

7) Temporary signs erected for forty-five (45) days or less shall not require a permit and shall be removed immediately at, or before, the end of such forty-five (45) day period. Temporary signs, banners, pennants, movable signs, etc., erected for a period of time no longer than forty-five (45) days, shall be by permit only and shall be removed immediately when circumstances leading to their erection no longer apply. An extension may be granted by the Code Enforcement Officer.



Above: Examples of ground signs.

B. Signs permitted without a permit. The following types of signs are permitted without a permit when no more than one (1) in number faces each street line.

1) Temporary signs as set forth in Section 100-4.6 A (7) above

2) Nameplate and identification signs not larger than three (3) square feet.

3) Home occupation or office sign not exceeding six (6) square feet.

4) Real estate signs not larger than six (6) square feet each in area but not exceeding two (2) in number.

5) Signs required by law or needed for governmental business or public safety.

6) Announcement signs for schools, churches and other institutions, not exceeding two (2) per property and not larger than six (6) square feet.

C. Signs permitted by permit. The following signs shall be permitted under the conditions set forth in this Section as follows:

Signs by permit under the conditions set forth in this Section as follows:

1) One unlighted sign, not exceeding ten (10) square feet in area, advertising the sale or rent of the property upon which such sign is located, provided that such sign shall be set back from the road line not less than one-half (l/2) the required front yard depth.

2) An identification sign, not exceeding four (4) square feet related to an accessory office or home occupation permitted on the premises.

3) For bed & breakfasts, one ground sign not exceeding twelve (12) square feet. Such signs may be lit with up or down lighting.

4) One bulletin board, not exceeding twenty (20) square feet in area, for public, charitable, and religious institutions.

5) Identification signs for a non-residential land use when such signs do not exceed two (2) in number for each premises identified and do not have a total (aggregate) area larger than forty (40) square feet. Such signs may be both free-standing ground signs and attached to, or part of, the building and shall be located no less than twenty (20) feet from any property line. These signs may be up lit or down lit; however, interior illuminated plastic signage shall not be permitted.

6) Non-illuminated signs identifying a residential development and located at the entrance to such development, not exceeding one (1) per entrance and thirty-two (32) square feet each.

7) Advertising signs associated with non-residential uses that are incidental to the identification signs.

8) Incidental signs that are required to be displayed by gasoline service stations such as fuel price signs and signs that are necessary for public safety.

D. Off-premises Signs. Off-premises signs include signs, graphics and other displays for commercial, industrial, institutional, service or entertainment purposes, products, uses, or services conducted, sold or offered elsewhere than upon the same premises where the sign is located. These signs are allowed but subject to the following.

1) Engineering Certification. An engineering certification, as provided above, shall accompany the application for an off-premises sign permit as to the structural integrity of the proposed sign and its ability to withstand high winds and other natural hazards.

2) Site Plan Review. All off-premises signs shall be subject to site plan review by the Planning Board. Such review shall ensure the signs are constructed and landscaped so to minimize any safety hazards and blend with both the natural and built landscape of the surrounding area. Landscaping and sign design and placement shall, wherever possible, preserve and take advantage of natural backdrops.

3) Sign Separation Distance. The minimum distance required between all off-premises signs shall be five-hundred (500) feet as measured along the centerline of the abutting roadway. Also, such signs shall be located on parcels of at least five-hundred (500) feet frontage. Signs located on the opposite sides of the road or in an adjacent municipality are subject to this distance requirement. No off-premises sign shall be erected within two-hundred and fifty (250) feet of any existing freestanding on-premises sign. No off-premises sign shall be erected within five-hundred (500) feet of any existing residential dwelling.

4) Sign Setbacks. Off-premises signs shall be located in accordance with the building setbacks for non-residential structures as outlined in Section 100-4.2 (A) of this local law.

5) Sign Area. The maximum area for any off-premises sign shall be three hundred (300)) square feet per side. Single sided side by side signs of three hundred (300) square feet each may be permitted as conditional uses where the sign and site design ensures maximum preservation of the existing natural landscape as a backdrop and buffer for the signage.

6) Sign Height. No portion of any off-premise sign shall be more than thirty-five (35) feet above the average elevation of the surrounding natural grade

7) Tri-Vision Signs. Tri-Vision or equivalent signage (with rotating, triangular cross-section members that changes the sign display in its entirety) may be used.

8) Landscaping. The provisions of Section 100-4.4 shall also apply to off-premises signs. Additionally, trees greater than four (4) inches in diameter removed for construction of the sign shall be replaced with new landscaping providing an effective natural backdrop and buffering for the new signage.

§100-4.7 Noise and Odors.

The following standards are intended to mitigate potential nuisances between non-residential and residential land uses within the Town of Deposit.

§100-4.7.1 Noise Standards.

A. Excessive noise shall be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness or volume.

B. The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by these regulations shall be established by the time period and proximity to residential land uses as shown in Table 4 below. Sound pressure levels shall be measured at all major lot lines, at a height of at least four (4) feet above the ground surface.

1) The levels specified may be exceeded by 10 decibels for a single period, no longer than 15 minutes, in any one day.

2) Both dB (A) and dB(C) scales shall be used, and a violation of either standard shall be deemed to constitute a violation of these regulations.

Table 4 – Sound Pressure Levels

Type of Use and Proximity to Residential Development	Sound Pressure Limits (Decibels)			
	7 a.m. – 9 p.m.		9 p.m. – 7 a.m.	
	dB(A)	dB(C)	dB(A)	dB(C)
Commercial/Industrial Uses	60	72	50	62
Within 500 feet Residences	55	67	45	57

C. Noise shall be measured with a sound level meter meeting the standards of the American National Standards Institute (ANSI S1.401961), *American Standard Specification for General Purpose Sound Level Meters*. The instrument shall be set to the appropriate weight response scales and the meter to the slow response. Measurements shall be conducted in accordance with ANSI S1.2-1962, *American Standard Method for the Physical Measurement of Sound*.

D. No person shall engage in, cause, or permit to be engaged in very loud construction activities on a site abutting any residential use between the hours of 9 p.m. one day and 6 a.m. of the following day. Construction activities shall be subject to the maximum permissible sound level specified for business use for the periods within which construction to be completed pursuant to any applicable building permit. The following uses and activities shall be exempt from the sound pressure level regulations:

1) Noises created by construction and maintenance activities between 7 a.m. and 9 p.m. (Monday – Friday) and 8 a.m. and 5 p.m. (Saturday & Sunday).

2) The noises of safety signals, warning devices and emergency pressure relief valves and any other emergency activity.

3) Traffic noise on existing public roads, railways or airports.

E. Activities of a temporary nature unable to meet these requirements, upon approval following development review by the Planning Board.

F. Exemptions. The maximum permissible sound levels of this Section shall not apply to any of the following noise sources:

1) Sound needed to alert people about an emergency or building, equipment, or facility security alarms.

2) Repair or construction work to provide electricity, water or other public utilities between the hours of 7:00 a.m. and 9:00 p.m., except for emergency repairs which shall not be restricted by time.

3) Construction operations (including occasional blasting in construction) and repairs of public facilities between the hours of 7:00 a.m. and 9:00 p.m., except for emergency repairs which shall not be restricted by time.

4) Agricultural activities, but not exempting kennels.

5) Motor vehicles when used on public streets in accord with state regulations.

6) Railroads and aircraft.

7) Public celebrations, specifically authorized by the Town, the County, state or federal government body or agency.

8) Unamplified human voices.

9) Routine ringing of bells or chimes by a place of worship or municipal clock.

§100-4.7.2 Odors and Other Emissions.

A. Any activity or operation which results in the creation of odors of such intensity and character as to be detrimental to the health, safety or welfare of the public, or to interfere with the normal use and enjoyment of property, shall be removed, stopped, or modified so as to eliminate the odor. Farming operations are exempt under the Delaware County Right-To-Farm Laws.

B. The Planning Board may request quantitative measurement for the determination of both content and concentration of emissions not readily identifiable or suspected to be hazardous in nature. The municipality may seek to recover the cost of such testing if a violation has occurred or the emitter refuses to disclose either the contents or source of the emission.

C. Emission of dust, dirt, fly ash, fumes, vapors or gasses which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property at any point beyond the lot line of the use creating that emission shall be prohibited.

D. Air pollution control and abatement shall comply with applicable minimum Federal, State and local requirements, including receipt of all required permits. The maximum permitted density of smoke, dust and other particulate emissions during normal operations of any activity shall not exceed the maximum allowable under Federal and State regulations.

§100-4.8 Traffic Access Management.

These regulations are intended both to protect the rights of abutting landowners to reasonable street access, and promote efficient traffic flow through important transportation corridors. They also serve to promote the public health, safety and welfare of the residents of Deposit by reducing the potential for vehicular accidents at access points along the corridors and avoiding future degradation of arterial street capacity.

§100-4.8.1. Access Management Requirements.

A. Nonconforming driveways. Driveways that do not conform to the regulations in this section and that were constructed before the adoption of this Law shall be considered legal nonconforming driveways. Nonconforming driveways may remain in use until such time as the use of the property is changed in such a way as to impact the use of the driveway. Nonconforming driveways shall be reconstructed to comply with this Law if a change in the intensity of use of a property results in increased trip generation, as follows:

1) A change in use for purposes of this regulation shall be any change that requires subdivision or site plan approval.

2) A change in intensity of use is established when the use of the access increases peak hour or Average Daily Traffic volume by ten (10) percent or more, based on the latest edition of Trip Generation published by the Institute of Transportation Engineers, provided that no use generating less than fifty (50) trips per day shall be subject to this requirement.

B. Driveway spacing.

Minimum driveway separations are based on average vehicular acceleration and deceleration rates and are considered necessary to maintain safe stopping distances and traffic operations. The spacing of driveways shall be according to the following Minimum Driveway Spacing Schedule:

Table 5 - Minimum Driveway Spacing Schedule

Posted Speed (Mph)	Minimum Spacing (feet)
30	125
35	150
40	185
45	230

Note: Spacing will be measured from the midpoint of each driveway or intersecting roadway.

Table 6 - Minimum Distance of Driveway to Street Intersection

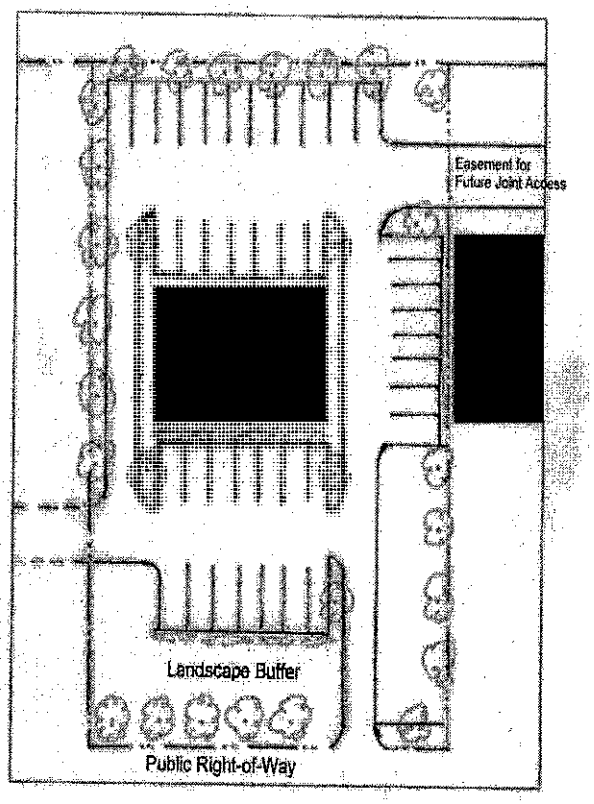
Posted Speed (Mph)	Minimum Distance to Street Intersection (feet)
30	325
35	425
40	525
45	600
50	750
55	875

Note: Spacing will be measured from the midpoint of each driveway to intersecting roadway.

C. Driveway alignment. Driveways shall be aligned with driveways across the road where possible or offset by a minimum of 150 feet where feasible.

D. Access points.

1) Joint access driveways, cross access drives and linked or shared parking lots are strongly encouraged. All land owners submitting a site plan shall address the feasibility of the use of joint access driveways, cross access drives and linked or shared parking lots. Use of such techniques shall be required wherever feasible.



2) Retail and service businesses may; where feasible, parking is adequate and fencing requirements do not conflict; be required to provide pedestrian connections to adjoining retail and service properties along the frontage of regulated routes. Landowners of retail and service businesses shall be encouraged to provide pedestrian and bicycle connections to adjacent residential or commercial developments to the rear of the regulated routes where feasible.

3) Access points may be restricted to right-turn in, right-turn out if determined to be in the best interest of traffic operations.

§100-4.8.2 Traffic Impact.

A. Purpose. The purpose of this section shall be to identify any traffic problems associated with a proposed land use as it relates to the existing transportation network and to ensure that proposed developments do not adversely affect the transportation network of the Town of Deposit.

B. Traffic impact study requirement. The Planning Board, at its discretion, may require a traffic impact study by an independent engineer with any application involving an activity likely to generate more than five-hundred (500) trip-ends per day based on the following daily rates:

Table 7 – Trip Generation	
Land Use	Trip Ends
Car wash	108.0 trip-ends per car stall
Convenience market	605.6 trip-ends per 1,000 sq. ft. gross floor area
Industrial uses	3.3 trip-ends per employee

Institutional uses	4.0 trip-ends per employee
Fast-food restaurant	23.9 trip-ends per seat
Offices	6.0 trip-end per employee
Other commercial uses	50.0 trip-ends per 1,000 sq. ft. gross floor area
Residential uses	9.6 trip-ends per dwelling unit
Restaurants	7.9 trip-ends per seat
Supermarket	177.6 trip-ends per 1,000 sq. ft. gross floor area
Other uses	See *Trip Generation.* Institute of Transportation Engineers

The study shall examine existing and projected traffic flows before and after development and generally follow the guidelines set forth for such studies by the Institute of Transportation Engineers (ITE). It shall identify solutions to potential problems and any improvements needed. The scope of the study shall be approved in advance by the Planning Board with the final product incorporated into the State Environmental Quality Review Act (SEQRA) submission. This requirement shall apply in the case of County or State, as well as Town roads.

C. Professional requirements.

1) The Traffic Impact Study shall be prepared by a registered professional traffic engineer or other qualified traffic professional with verifiable experience in preparing such studies. The Traffic Impact Study shall be generally in accordance with the ITE.

2) The study area for the traffic study shall be based on engineering criteria and an understanding of existing traffic conditions at the site. It shall represent that area likely to be affected by the development, where highway users are likely to experience a change in the existing level of service. The study limits shall be initially agreed upon by the developer, his engineer and the Town.

3) The Traffic Impact Study shall ordinarily contain the following elements:

a) The study area boundary and identification of the roadways included within the study area.

b) A general site description, including:

i) Size, location, existing and proposed land uses and dwelling types, construction staging, and completion date of the proposed development.

ii) Existing land uses, approved and recorded subdivision and land developments and subdivisions and land developments proposed but not yet approved and recorded in the study area that are agreed upon by the Town, developer, and traffic engineer as having bearing on the development's likely impact shall be described and considered.

iii) Within the study area, the applicant must describe existing roadways and intersections (geometrics and traffic signal control) as well as improvements contemplated by government agencies or

private parties.

c) Analysis of existing conditions, including:

i) Daily and Peak Hour(s) Traffic Volumes. Schematic diagrams depicting daily and peak hour(s) traffic volumes shall be presented for roadways within the study area. Turning movement and mainline volumes shall be presented for the three peak hour conditions (AM, PM and site generated).

ii) Volume/Capacity analyses at critical points. The analysis shall be performed for existing conditions (roadway geometry and traffic signal control) for the appropriate peak hours.

iii) Level of Service at critical points. Based on the results obtained in the previous section, levels of service (A through F) shall be computed and presented. Included in this section shall also be a description of typical operating conditions at each level of service.

iv) Accident locations. A tabulation of accident locations during the most recent three-year period shall be provided.

d) Analysis of future conditions without the proposed development.

e) Trip generation. Based upon the ITE Trip Generation (latest edition).

f) Trip distribution. The direction of approach for site generated traffic shall be presented in this section for the appropriate time periods.

g) Traffic assignment. This section shall describe the utilization of study area roadways by site generated traffic.

h) Analysis of future conditions with development. Shall describe the adequacy of the roadway system to accommodate future traffic.

i) Recommended improvements. Should the analysis indicate that unsatisfactory levels of service will occur on area roadways, a description of improvements to remedy deficiencies shall be provided.

j) Conclusion. The last section of the report shall be a clear concise description of the study findings.

§100-4.9 Erosion Control & Stormwater Management.

A. Stormwater management. No application for site plan approval shall be reviewed until the Town of Deposit Planning Board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications of this local law and as required by New York State. All SWPPPs, except as noted above, shall provide for the following:

1) A map depicting the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);

2) Description of the soil(s) present at the site and the source of this data;

3) A construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance.

4) A description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;

5) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;

6) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

7) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the sighting and sizing of any temporary sediment basins;

8) An implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

9) A maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;

10) A delineation of SWPPP implementation responsibilities for each part of the site;

11) A description and site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;

12) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms

13) Comparison of post-development stormwater runoff conditions with pre-development conditions

14) Dimensions, material specifications and installation details for each post-construction stormwater management practice;

15) Maintenance easements to ensure access to all stormwater management structures at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title.

16) The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law.

17) The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

18) Stormwater management practices shall be designed and constructed in

accordance with the New York State Stormwater Management Design Manual and New York Standards and Specifications for Erosion and Sediment Control, provided that such practices shall maximize the use of natural stormwater management methods (e.g., grass swales) and minimize the use of dry above-ground stormwater detention facilities.

19) No land development activity in conjunction with any subdivision shall cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

B. Stormwater management system maintenance.

1) The stormwater management plan for any major residential subdivision or non-residential project shall contain an operation and maintenance plan prepared by the applicant and approved by the Town Engineer. The operation and maintenance plan shall establish responsibilities for the continued operation and maintenance of all common stormwater management improvements, which shall include all stormwater management improvements designed to serve more than a single lot or dwelling. All such facilities associated with the approved subdivision plan shall be owned and maintained by a home owner's association (HOA) or such other entity as may be approved by the Town Board. The HOA or other approved entity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used to achieve compliance with the requirements of this law. Sediment shall, at a minimum, be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

2) Prior to approval of any subdivision plan where common stormwater management improvements are required, the property owner, HOA or other approved entity shall sign and record a maintenance agreement covering all common stormwater management facilities. Such maintenance agreement shall be subject to the review and approval of the Planning Board and Town Attorney.

3) Stormwater detention and retention basins or facilities shall be inspected by a registered professional engineer licensed in the State of New York on behalf of the applicant or responsible entity on the following basis:

a) Annually for the first five (5) years.

b) Once every three (3) years thereafter.

c) During or immediately after the cessation of a 100-year or greater storm event.

The professional engineer conducting the inspection shall be required to submit a written report to the HOA or other approved entity, with a copy to the Town of Deposit Building Department, within one (1) month following completion of the inspection. The report will present documentation and include pictures regarding the condition of the facility and recommend necessary repairs, if needed. Any needed repairs shall be implemented by the HOA or other approved entity within three (3) months of the report issuance date.

4) No person shall allow, or cause to allow, stormwater discharges into the Town's separate storm sewer system which are not composed entirely of stormwater, discharges from fire fighting, water from foundation drains, flows from natural sources and flows from other similar uncontaminated sources. The following connections are prohibited:

   a) Any drain or conveyance, whether on the surface of subsurface, which allows any non stormwater discharge including sewage, process wastewater, and wash water, to enter the separate storm sewer system, and any connections to the storm drain system from indoor drains and sinks.

   b) Any drain or conveyance connected from a commercial or industrial land use, except as may be approved by the Planning Board as part of a mixed-use development plan.

5) The Planning Board may require that a major subdivision plan include a set of Best Management Practices (BMP's) from which the owner of any individual lot must choose in implementing stormwater management measures in conjunction with property development. Such BMP's shall be fully specified in the subdivision plans and imposed by restrictive deed covenant making reference to such plans. No person shall modify, remove, fill, landscape or alter any such on-lot stormwater management improvements or drainage easement, unless it is part of an approved maintenance program, without the written approval of the HOA or other approved entity.

6) All requirements of the State of New York for Stormwater Pollution Prevention Plans (SWPPP's) are incorporated herein by reference and shall apply in addition to the above standards.

§100-4.10 Sewer and Water.

No site development plan for any use shall be approved unless adequate provision is made for wastewater treatment and for clean potable water supply, as required for the use. The following standards must be met:

A. All site development plans relating to water supply and wastewater treatment shall comply with applicable New York State Department of Health and State Department of Environmental Conservation standards.

B. Where applicable, sewer system permits are required prior to issuance of the building permit for any site development.

§100-4.11 Flood hazard Areas.

Construction in those areas designated on the Federal Emergency Management Agency's Flood Insurance Rate Map as areas of special flood hazard, as defined by the one hundred (100) year floodplain boundary, shall be avoided or minimized. Disturbed areas shall be properly stabilized to prevent future damage from storms, heavy runoff and flooding. Any development within Flood Hazard Areas shall be subject to the standards outlined in the Town's Floodplain Prevention Law.

§100-4.12 Freshwater Wetlands.

Applicants for building permits that affect areas regulated by the New York State Department of Environmental Conservation (DEC) as Freshwater wetlands shall comply with Article 24 and Title 23 of Article 71, of the Environmental Conservation Law. Freshwater wetland boundaries shall be flagged on the site by a qualified engineer and accepted by the DEC. The wetland boundary and a 100 foot protective buffer shall be indicated on site plans for properties with such wetlands. The Plan shall bear the signature of the engineer responsible for the field flagging.

§100-4.13 Protection of Streams and Other Waterbodies.

No alteration of watercourses, whether by excavation, filling, grading, clearing, draining, or otherwise, shall be made that affects the water levels or flow of such watercourses without review as to the affect of such alteration and any related facilities on water recharge areas, water table levels, water pollution, aquatic animal and plant life, temperature change, drainage, flooding, runoff and erosion. This review and approval of such alteration shall be made by the Planning Board in consultation with Delaware County and the DEC. Where the applicant must obtain a stream disturbance or discharge permit from the DEC, Planning Board approval shall be conditional on the DEC's permit approval.

ARTICLE V

Standards for Specific Land Uses

§100-5 STANDARDS FOR SPECIFIC LAND USES

§100-5.1. Home Occupations

In any legally existing dwelling unit or accessory structure, a home occupation that occupies twenty-five percent (25%) or more of the floor area of the dwelling unit or 500 square feet or more may be conducted, provided that it is in compliance with the New York State Uniform Fire Prevention and Building Code and the following standards:

A. Appearance. In no way shall the appearance of the residential structure or the premises be altered by a home occupation, and in no way shall the home occupation be conducted such that the structure or premises differs from its residential character by the use of colors, materials, premises layout, or lighting.

B. Home occupations involving classes or instruction. If the home occupation is the type in which classes or instruction is given, there shall be no more than four (4) students or pupils in the dwelling unit or on the premises at any one (1) time.

C. Number of employees. Home occupations shall not employ more than one non-resident of the household on premises on a regular basis.

D. Outdoor display and storage. There shall be no outside operations, storage or display of products, materials, goods, supplies or equipment.

E. Off-street parking. The home occupation shall require two (2) off-street parking spaces, for clients or customers, in addition to the off-street parking spaces required for the residence.

F. Home deliveries. Deliveries shall not exceed those normally and reasonably occurring from a residence and shall not include more than an average of four (4) deliveries of products or materials per day.

G. Signs. There shall be no signs related to the home occupation present on the property, except one (1) flush-mounted wall sign, not over three (3) square feet in area, indicating only the address and occupant's name and occupation.

H. Adverse impacts.

1) A home occupation shall not be permitted to produce any offensive noise, vibration, smoke, electrical interference, dust, odors or heat. Any noise, vibration, smoke, electrical interference, dust, odors or heat detectable beyond the property lines shall constitute a violation of these terms.

2) Home occupations which constitute a fire hazard to neighboring residences, will adversely affect neighboring property values or will constitute a nuisance or otherwise be detrimental to the neighbors because of excessive traffic, excessive noise, odors or other circumstances are not allowed.

I. Hours of operation. In no case shall a home occupation be open to the public at times earlier than 8:00 a.m. nor later than 9:00 p.m.

§100-5.2. Cellular Towers.

A. No transmission tower shall hereafter be used, erected, moved, reconstructed, changed or altered except after approval of a special use permits and in conformity with these regulations. No existing structure shall be modified to serve as a transmission tower unless in conformity with these regulations.

1) Exceptions.

a) Exceptions to these regulations are limited to new uses which are accessory to residential uses and lawful or approved uses existing prior to the effective date of these regulations.

b) Where these regulations conflict with other laws and regulations of the Town of Deposit, the more restrictive shall apply, except for tower height restrictions which are governed by these special use standards.

2) Procedure and Standards.

a) Site plan. An applicant shall be required to submit a site plan. The site plan shall show all existing and proposed structures and improvements including roads and shall include grading plans for new facilities and roads. The site plan shall also include documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antennae and justification for any land or vegetation clearing required.

b) Visual EAF. Additionally, the Planning Board shall require that the site plan include a completed Visual Environmental Assessment Form (Visual EAF) and a landscaping plan addressing other standards listed within this section with particular attention to visibility from key viewpoints within and outside of the municipality as identified in the Visual EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF.

c) Shared use. At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antenna on pre-existing structures shall be considered. An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to a new construction.

i) An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes including real property acquisition or lease required to accommodate shared use.

ii) In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.

d) Setbacks. Additional setbacks may be required by the Planning Board to contain on-site substantially all ice-fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities.

e) Visibility. All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.

i) Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding treeline and painted gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding treeline unless other standards are required by the FAA. In all cases, structures offering slender silhouettes (i.e. monopoles or guyed tower) shall be preferable to free-standing structures except where such free- standing structures offer capacity for future shared use. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

ii) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

f) Existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four (4) inches in diameter (measured at breast height) shall take place prior to approval of the site plan.

g) Access. A road and visual disturbance and reduce soil erosion potential. Public road standards may be waived in meeting the objectives of this subsection. Parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal

3) Removal upon abandonment. Such conditions may include provisions for dismantling and removal of towers and accessory facilities upon abandonment of use.

§100-5.3. Wind Turbines.

SITE PLAN REVIEW

A. Purpose. The purpose of this section is to provide for the construction and operation of wind energy facilities in Town of Deposit, subject to reasonable conditions that will protect the public health, safety and welfare.

B. Applicability. The requirements of this section shall apply to all wind energy facilities proposed, operated, modified, or constructed after the effective date of this law, including modification of existing wind energy facilities and wind measurement towers erected for the purposing of testing the feasibility of wind energy generation.

C. Permits. No wind energy facility shall be constructed, reconstructed, modified, or operated in the Town of Deposit except by first obtaining a Wind Energy Facility Permit as provided under this law. No permit or other approval shall be required under this law for mechanical, non-electrical wind turbine utilized solely for agricultural operations. Replacement in-kind or modification of a wind energy facility may occur without Planning Board approval when (1) there shall be no increase in total height; (2) no change in the location of the wind turbine; (3) no additional lighting or change in facility color; and (4) no increase in noise produced by the wind turbine. No transfer of any wind energy facility or Wind Energy Facility Permit, or sale of the entity owning such facility shall eliminate the liability neither of an applicant nor of any other party under this law.

D. Application Requirements. A complete application for a Wind Energy Facility Permit shall include:

1) A copy of an executed interconnection agreement with NYISO and the applicable transmission owner.

2) A completed application for a Wind Energy Facility Permit.

3) A site plan prepared by a licensed professional engineer, including:

   a) Property lines and physical dimensions of the site;

   b) Location, approximate dimensions and types of major existing structures and uses on the site, public roads, and adjoining properties within 500 feet of the boundaries of any proposed wind turbines, or 1½ times the total height of such wind turbines, whichever shall be greater.

   c) Location and elevation of each proposed wind turbine.

   d) Location of all above and below ground utility lines on the site as well as transformers, the interconnection point with transmission lines, and other ancillary facilities or structures.

   e) Locations of buffers as required by this law.

   f) Location of the nearest residential structure(s) on the site and located off the site, and the distance from the nearest proposed wind turbine.

   g) All proposed facilities, including access roads, electrical substations, storage or maintenance units, and fencing.

4) A vertical drawing of the wind turbine 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 wind turbine of the same type and total

height. The make, model, picture and manufacturer's specifications, including noise decibels data, and Material Safety Data Sheet documentation for all materials used in the operation of the equipment shall be provided for each proposed wind turbine.

5) A lighting plan showing any FAA-required lighting and other proposed lighting.

6) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Town of Deposit Planning Board on the recommendation of its Town Engineer or consultants.

7) A construction schedule describing commencement and completion dates, including a traffic analysis with a description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.

8) An operations and maintenance plan providing for regular periodic maintenance schedules, any special maintenance requirements and procedures and notification requirements for restarts during icing events.

9) A decommissioning plan that addresses the anticipated life of the wind turbine, the estimated decommissioning costs, the method of ensuring funds shall be available for decommissioning and restoration, the method by which decommissioning cost shall be kept current, and the manner in which the wind turbine shall be decommissioned and the site restored, less any fencing or residual minor improvements requested by the landowner.

10) List of property owners, with their mailing address, within 500 feet of the outer boundaries of the proposed site.

11) 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.

12) A Full Environmental Assessment Form, as provided by the New York State Environmental Quality Review Act (SEQRA) shall be prepared for the wind energy facility. This Full Environmental Assessment shall, at a minimum, include:

    a) A study of potential shadow flicker, including a graphic to identify locations where shadow flicker may be caused by the wind turbines and expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences and describe measures to be taken to eliminate or mitigate problems.

    b) A visual impact study of the proposed wind turbines as installed, which may include a computerized photographic simulation and digital elevation models demonstrating visual impacts from strategic vantage points. Color photographs of the site accurately depicting existing conditions shall be included. The visual analysis shall also indicate

color treatment of system components and any visual screening to be incorporated into the project to lessen the system's visual prominence.

c) A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed site, as well as Delaware County Emergency Services.

d) A noise analysis by a competent acoustical consultant documenting the noise levels associated with the proposed wind turbine, existing noise levels at site property lines and at the nearest residence not on the site. The noise analysis shall include low frequency noise. The applicant shall also submit plans for post-development noise monitoring.

e) Evidence of potential impacts on neighboring property values compiled by a licensed appraiser based on experience at other locations, extrapolating that evidence to analyze potential impacts on property values near the site.

f) An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems and other wireless communication.

g) An assessment of the impact of the proposed development on the local flora and fauna, including migratory and resident avian species.

E. Wind Energy Facility Development Standards. The following standards shall apply to wind energy facilities in the Town of Deposit, unless specifically waived by the Planning Board.

1) All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.

2) No television, radio or other communication antennas may be affixed or otherwise made part of any wind turbine, except with approval by the Town of Deposit Planning Board. Applications may be jointly submitted for wind turbine and telecommunications facilities.

3) No advertising signs are allowed on any part of the wind energy facility, including fencing and support structures.

4) No tower shall be lit except to comply with Federal Aviation Administration (FAA) requirements. Minimum security lighting for ground level facilities shall be allowed as approved on the wind energy facility development plan.

5) All applicants shall use measures to reduce the visual impact of wind turbines to the extent possible. Wind turbines shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Wind turbines within a multiple wind turbine project shall be generally uniform in size geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.

6) Guy wires shall not be permitted except to address unique safety issues and then only with specific permission by the Planning Board in the form of a waiver.

7) No wind turbine 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 communication systems would produce electromagnetic interference with signal transmission or reception. If it is determined a wind turbine is causing electromagnetic interference, the operator shall take necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of issues with the affected parties. Failure to remedy electromagnetic interference is grounds for revocation of the Wind Energy Facility Permit for the specific wind turbine or wind turbines causing the interference.

8) All construction debris shall be removed from the site or otherwise disposed of in a manner acceptable to the Planning Board.

9) Wind turbines shall be designed to minimize the impacts of land clearing and the loss of important open spaces. Development on agricultural lands shall follow the Guidelines for Agricultural Mitigation for Windpower Projects published by the State Department of Agriculture and Markets, to the maximum extent practicable.

10) Wind turbines shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity.

11) No shadow flicker shall be permitted on any off-site residences.

F. Required Site Safety Measures.

1) All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.

2) Wind energy facilities shall be gated or fenced to prevent unrestricted public access to the facilities and reduce any attractive nuisance aspects of the use.

3) Warning signs shall be posted at the entrances to the wind energy facility and at base of each tower warning of electrical shock or high voltage and containing emergency contact information.

4) No climbing pegs or tower ladders shall be located closer than 15 feet to the ground level at the base of the structure for freestanding single pole or guyed towers.

5) The minimum distance between the ground and any part of the rotor or blade system shall be 30 feet.

6) Wind turbines 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.

G. Traffic Routes and Road Maintenance.

1) Construction and delivery vehicles for wind turbines and/or associated facilities shall propose, and the Planning Board shall approve or modify,

designated traffic routes to minimize traffic impacts from construction and delivery vehicles, wear and tear on local roads and impacts on local business operations.

2) The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a wind turbine. A public improvement bond may be required prior to the issuance of any building permit in an amount, determined by the Planning Board, sufficient to compensate the Town for any damage to Town or County roads if any of these roads will be among the designated traffic routes. The applicant shall consult with the Town Highway Superintendent and/or the Delaware County Department of Public Works to obtain a written recommendation for bonding form and amount, which form and amount shall be approved by the Planning Board.

3) The applicant shall provide pre-development and post-development photographic evidence of the condition of any Town or County roads along the proposed route.

H. Setbacks.

1) Each wind turbine shall be set back a distance of 500 feet or 1½ times the total height of the largest wind turbine, whichever shall be greater, from any public road, off-site residence, lodging facility, public building, church and other institution. No wind turbine shall be located within its own total height of a site boundary line.

2) The statistical sound pressure level generated by a wind turbine shall not exceed L_{10} - 30 dBA measured at the nearest residence located off the Site. Sites can include more than one piece of property and the requirement shall apply to the combined properties. Independent verification by an acoustical engineer certified with the Institute of Noise Control Engineering shall be provided before and after construction demonstrating compliance with this requirement.

3) 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 subparagraph (B) of this subsection shall be reduced by five (5) dBA. A pure tone is defined to exist if the one-third (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 (2) contiguous one third (1/3) octave bands by five (5) dBA for center frequencies of five hundred (500) Hz and above, by eight (8) dBA for center frequencies between one hundred and sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dBA for center frequencies less than or equal to one hundred and twenty-five (125) Hz.

4) Should the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall ambient dBA plus 5 dBA. 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 six (6) minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences,

schools, hospitals, churches and public buildings. Ambient noise level measurements shall be performed when wind velocities at the proposed project site are sufficient to allow wind turbine operation.

I. Noise and Setback Easements.

1) An applicant may, with approval from the Planning Board, meet noise and setback standards by obtaining written consents from affected property owners stating they are aware of the wind energy facility and the noise and/or setback limitations imposed by this law, and that consent is granted to allow noise levels to exceed the maximum limits provided herein or reduce setbacks to less than required.

2) Such consents shall be in the form required for easements and be recorded in the County Clerk's Office describing the benefited and burdened properties. Such easements shall be permanent and shall state that they may not be revoked without the consent of the Planning Board, which consent shall be granted upon either the decommissioning of the benefited wind turbine in accordance with this law, or the acquisition of the burdened parcel by the owner of the benefited parcel or the wind turbine. No such easement shall permit noise levels at any other location within or outside the areas prescribed to exceed the limitations of this law.

J. Issuance of Wind Energy Facility Permits.

1) The Planning Board shall, within 120 days of determining the application is complete, and upon consideration of the standards in this law and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated. This time period may be extended with consent of the applicant. Should the applicant not consent to such an extension and the time period elapse without a decision, the application shall be considered approved without conditions.

2) If approved, the Planning Board shall direct the Town Code Enforcement Officer to issue a Wind Energy Facility Permit upon satisfaction of all conditions for said Permit, and upon compliance with the New York State Building Code.

3) The decision of the Planning Board shall be filed within 15 days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.

4) If any approved wind energy facility is not substantially commenced within two years of issuance of the Wind Energy Facility Permit, the Wind Energy Facility Permit shall expire, unless the Planning Board shall have granted an extension.

K. Abatement.

1) If any wind turbine remains non-functional or inoperative for a continuous period of twenty-four (24) months, the applicant shall remove said system at its own expense following the requirements of the decommissioning plan. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the demonstrates to the Town that it has

been making good faith efforts to restore the wind turbine to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after public hearing.

2) Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA, New York Independent System Operator, or by lack of income generation. The applicant shall make available (subject to a non-disclosure agreement) to the Planning Board all reports to and from the purchaser of energy from individual wind turbines, if requested and necessary to prove the wind turbine is functioning, which reports may be redacted as necessary to protect proprietary information.

3) 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 a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant. All decommissioning bond requirements shall be fully described in the decommissioning plan.

L. Limitations on Approvals. Nothing in this 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. Nothing in this 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.

M. Permit Revocation.

1) The applicant shall fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as biannually, or more frequently upon request of the Planning 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 Wind Energy Facility Permit and this 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 Planning Board, to cure any deficiency. An extension of the 90 day period may be considered by the Planning Board, but the total period may not exceed 180 days.

2) A wind turbine 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 permit conditions. Should a wind turbine become inoperable, or should any part of the wind turbine be damaged, or should a wind turbine violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Planning Board. The applicant shall have 90 days after written notice from the Planning Board, to cure any deficiency. An extension of the 90-day

period may be considered by the Planning Board, but the total period may not exceed 180 days.

3) Should a wind turbine not be repaired or made operational or brought into permit 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, order either remedial action within a particular timeframe, or order revocation of the Wind Energy Facility Permit for the wind turbine and require its removal within 90 days. If the wind turbine is not removed, the Planning Board shall have the right to use the security posted as part of the decommissioning plan to remove the wind turbine.

N. Wind Measurement Towers.

Installation of wind measurement towers, also known as anemometer towers, shall be permitted, upon the issuance of a Wind Energy Facility Permit, to determine the wind speeds and the feasibility of using particular sites. The distance between a wind measurement tower and the property line shall be at least 1½ times the total height of the tower. Wind Energy Facility Permits for wind measurement towers shall be issued for a period of two years and shall be renewable upon application to the Planning Board. An application for a wind measurement tower shall include:

1) Name, address, telephone number and signatures of the applicant and agent for the applicant, if any.

2) Name, address, telephone number and signature of the property owner along with written authorization by the property owner to submit the application.

3) Proposed development plan.

4) Decommissioning plan, including a security bond for removal, should the tower not be converted to permanent use for wind energy generation.

Other development standards as set forth above for wind energy facilities shall be applied to the maximum extent practicable, as determined by the Planning Board, recognizing the temporary nature of wind measurement towers.

O. Small Wind Turbines. The Planning Board is hereby authorized to approve, approve with conditions, or disapprove small wind turbine applications designed for residential, farm, institutional and business use on the same parcel. Such applications shall be processed in the same manner as those prescribed above for all wind energy facilities, but may be appropriately modified by the Planning Board to reflect the scale of the proposed facility. All small wind turbines shall comply with the following standards and, to the maximum extent practicable, with all other requirements of this law not in conflict herewith:

1) 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.

2) Only one small wind turbine per legal lot shall be allowed, unless there are multiple applicants, in which their joint lots shall be treated as one site for purposes of this law.

3) Small wind turbine shall be used primarily to reduce the on-site consumption of electricity.

4) Total heights shall be a maximum of 100 feet on parcels between one and five acres and 150 feet or less on parcels of five or more acres.

5) The maximum turbine power output is limited to 100 kW.

6) Tower-climbing apparatus shall be located no closer than 12 feet from the ground, a locked anti-climb device shall be installed on the tower or a locked, protective fence of at least six feet in height that encloses the tower shall be installed to restrict tower access.

7) 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 six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.

§ 100-5.4 Multi-Family Residential Uses/Townhouses.

A. Multi-family Residential and/or Townhouse developments shall be considered major subdivisions. This "major subdivision" classification shall apply to all subdivisions of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision. Application for preliminary approval of multi-family or townhouse projects, accordingly, will be made to the Planning Board in the manner provided under the Town of Deposit's Subdivision Regulations. The subdivider shall also submit all information required by such Regulations plus the following additional data:

1) An application for site plan approval and a brief from the developer or his or her representative indicating how the development will specifically comply with or meet the criteria set forth herein.

2) A proposed plot plan showing the approximate locations of all buildings and improvements including parking areas, landscaped areas, signs, storm drainage facilities, water supply, sewage treatment and collection systems and the specific areas provided as open space in connection with the requirements of this Law. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas (apart from the open space referenced below), lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in Town of Deposit. Setbacks from property lines, improvements and other buildings shall also be indicated.

3) A schedule or plan and proposed agreement(s) either with the Town or a home owners' association for the purpose of dedicating, in perpetuity, the use and/or ownership of the recreation area and open space required by this Law to the prospective dwelling owners or occupants. Such agreement may be incorporated in the applicant's proposed covenants and restrictions, but

shall in any event, provide to the satisfaction of the Town that maintenance and use of the property, regardless of ownership, be restricted to either; (1) activities intended for the sole benefit of the occupants of the particular project proposed or, (2) permanent open space as hereinafter provided.

B. The Planning Board shall act on the Preliminary Development Plan and Site Plan application concurrently provided an Environmental Assessment is also conducted pursuant to the New York State Environmental Quality Review Act. No building permit shall be issued to the applicant, however, until all conditions attached to the approval of any Preliminary Development Plan, shall have been satisfied and nothing herein shall be construed as permitting the issuance of a building permit prior to Preliminary approval and the filing of financial guarantee as required.

This requirement notwithstanding, the building permit application shall be made with the Development Plan and shall, if granted, be valid for a period equal to that for Preliminary Development Plan approval. If the Preliminary Development Plan shall be rejected no building permit shall be granted.

C. Following Preliminary Plan approval, the developer shall provide for the installation of required or proposed improvements including but not limited to streets, parking areas, storm drainage facilities, recreational facilities and lighting. Building improvements shall similarly be completed or guaranteed prior to the applicant's request for Final Development Plan approval. No Certificate of Occupancy shall, however, be issued until such time as; (1) Final Development Plan approval shall have been granted in accordance with the procedures and requirements of this Law and (2) buildings have been completed and inspected by the Town Code Enforcement Officer.

D. Complete final building plans shall also be submitted as part of the Final Development Plan Application.

E. No person shall sell, transfer, lease or agree or enter into an agreement to sell or lease any land and/or buildings or interests in the individual dwelling units to be created, or erect any building thereon except in accord with the provisions of this Law, unless and until Final Development Plan approval shall have been granted (unless the improvements shall have been guaranteed), and the Plan has been recorded in the Office of the Delaware County Clerk.

F. Multi-family dwelling density shall be limited to the same number of dwelling units per acre that would be permitted if the parcel on which the units are to be constructed were to be developed for one-family residential use. Density shall be calculated by taking the total acreage of the development and deducting the following acreages;

1) Land contained within public rights-of-way;

2) Land contained within the rights-of-way of existing or proposed private streets (where formal rights-of-way are not involved, the width shall be assumed to be twenty-five (25) feet);

3) Land contained within the boundaries of easements previously granted to public utility corporations providing electrical or telephone service;

4) All wetlands, floodplains, slopes of 25% or greater grade, water bodies and

other undevelopable areas (unless such areas are used for some active recreational purpose such as trails or employed for some other development purpose such as a stormwater detention area); and dividing by the number of proposed units.

G. All areas of a multi-family or townhouse development not conveyed to individual owners; and not occupied by buildings and required or proposed improvements shall remain as permanent open space or be dedicated to recreation area to be used for the sole benefit and enjoyment of the residents of the particular units being proposed. No less than 50% of the tract shall be used for this purpose and fees in lieu of dedication may not be substituted for such space. Such open space shall be subject to the following regulations:

1) No less than 50% of the open space to be provided (25% of the total tract) shall be dedicated to recreational area for the sole benefit and enjoyment of the residents of the particular units proposed. Recreation areas (as distinct from other open space) shall be immediately adjacent (part of the same parcel and contiguous) to the proposed units and freely and safely accessible to all residents of the development. They shall not be used to fulfill open space requirements or provide recreational areas for residents of other units, excepting as provided for in sub-section (2) below. They shall be usable for active recreational activities and shall not include wetlands, quarries, slopes over 15% in grade, water bodies or acreage used for improvements such as storm drainage facilities or sewage effluent disposal areas.

2) Land designated as open space shall be permanently maintained as such and not be separately sold, used to meet open space or recreation area requirements for other developments, subdivided or developed excepting that a holding zone may be reserved for future development pursuant to density and other requirements as they presently exist, provided such lands are specifically defined and indicated as "reserved for future development" on all Development Plans. Such lands shall not be included in calculating permitted density for the proposed development. These provisions, however shall not be construed as granting or reserving to the developer any rights or privileges to develop on the basis of a "pre-approved plan" if density or other requirements shall have been modified to preclude such development.

3) Open space areas shall be permanently maintained so that their use and enjoyment as open space are not diminished or destroyed. Such areas may be owned, preserved and maintained by dedication to a property owners association which assumes full responsibility for maintenance of the open space and/or deed-restricted private ownership which shall prevent development of the open space, provide for its maintenance and protect the rights of owners or occupants of dwelling units to use and enjoy, in perpetuity, such portion of the open space as shall have been dedicated to recreation area for the project. This is intended to allow the owner/developer to retain ownership and use of a portion of the property (for hunting, fishing, etc.) provided the permanence of the open space is guaranteed.

4) Whichever maintenance mechanism(s) is used, the developer shall provide, to the satisfaction of the Town Attorney and prior to the granting of any Final Development Plan approval, for the perpetual maintenance of the open

space and also the use and enjoyment of the recreation area by residents of the units being approved. No lots shall be sold nor shall any building be occupied until and unless such arrangements or agreements have been finalized and recorded.

5) Developments of fifty (50) units or more shall provide one-half acre of playground area per fifty (50) units unless restricted to adult occupancy only.

H. All multi-family developments shall be served with central sewage facilities and water supplies. Effluent disposal areas shall also be subject to the setback requirements applicable to other multi-family buildings and structures as a minimum.

I. The following design criteria shall apply to multi-family developments:

1) There shall be no more than ten (10) dwellings in each multi-family building.

2) No structure shall be constructed within twenty-five (25) feet of the edge of any access road to or through the development or within ten (10) feet of the edge of any parking area. No buildings shall be located within one hundred (100) feet of any pond, reservoir, lake or watercourse that is part of a water supply system.

3) Access roads through the development shall comply with minor street requirements as specified in this Law and no parking space shall be designed such that a vehicle would be backing or driving out onto a through road. Instead, there shall be a defined entrance and exit to and from each parking area.

4) Access and egress from the proposed development shall be to a public road and a traffic engineering study shall be an integral part of the site plan application. Such entrances and exits shall be at least one hundred (100) feet from any intersection and shall have at least three hundred (300) feet of sight distance in both directions. No multi-family development shall be served by more than one entrance and one exit from any public highway, unless topography or other physical circumstances would preclude the use of a single entrance in a safe manner.

5) Parking spaces of two (2) per unit shall be provided plus, for every two (2) units intended for rental or other transient occupancy, one additional space to accommodate parking needs during sales and other peak visitation periods.

6) No more than sixty (60) parking spaces shall be provided in one lot, nor more than fifteen (15) parking spaces in a continuous row without being interrupted by landscaping. All off-street parking shall be adequately lighted and so arranged as to direct lighting away from residences.

7) No structure shall be erected within a distance equal to its own height of any other structure.

8) Where a property line is not wooded, a planting strip of fifty (50) feet in width shall be required to buffer adjoining property owners and ensure privacy. Similar buffering of areas adjoining County and State highways shall be required. A landscaping plan shall also be prepared and submitted to the Planning Board for approval.

9) Multi-family developments shall be subject to the stormwater management requirements of this Law. Facilities shall be designed to accommodate storms of a 25-year average frequency unless a more stringent standard shall be recommended by the Town Engineer. The general performance standard shall be that the amount of uncontrolled stormwater leaving the site along any property line after development shall not exceed that estimated for the site prior to development. In instances where stormwater facilities are impractical for engineering reasons the Board may modify this standard as it applies to a particular project but shall provide for the maximum practical reduction in flow that can be achieved under the circumstances.

10) All electrical and other utilities shall be placed underground and buried to a depth determined by the Town Engineer as sufficient for safety purposes.

11) In addition to the standards for landscaping set forth herein, the ground and vicinity of buildings shall be provided with decorative landscape materials subject to approval by the Planning Board.

12) Exterior lighting along walks and near buildings shall be provided utilizing architectural grade equipment and shall not create glare on adjoining units or adjoining properties.

13) Walks shall be provided throughout the development area to ensure that roads shall not be required for pedestrian circulation.

14) The Fire Marshall of the fire district or other designated representative of the County EMS in which the development is proposed shall review the development for adequate access for emergency vehicles.

15) The side yard applicable to a multi-family structure shall be increased by ten (10) feet for each dwelling unit over two within the structure.

J. Maintenance of a multi-family project shall be vested in (1) an association or other legal entity organized prior to the offering of the first unit for occupancy, or (2) a manager, who may be the developer, or a person designated by the developer before the developer offers a unit for occupancy, or (3) the owners or occupants of units themselves if the total number of owners or occupants within the development is not more than five (5). If the developer shall opt to manage the project or designate a manager, the preliminary application shall include financial statements, a description of previous management experience and other data sufficient for the Planning Board to ascertain the financial responsibility of the manager.

K. The association or manager, as the case may be, shall be responsible for maintenance, repair and replacement of the common areas of the development including buildings and, if applicable, the furniture, fixtures and equipment within the units. The project instruments shall specify the expenses that the maintenance organization may incur and collect from purchasers as a maintenance fee and secure maintenance of the project and enforcement of applicable covenants and restrictions in perpetuity. The Planning Board may require that a Certified Public Accountant review such financial data to determine proposed fees are, in fact, adequate to secure maintenance on a continuing basis.

L. The developer shall, in filing a Preliminary Development Plan, provide a narrative

description of how responsibility for maintenance and care of the units and common areas will be assured and a pro forma operating budget for the maintenance organization including a breakdown of the common expense to be borne by the maintenance organization and a separation of long-term maintenance costs from on-going routine maintenance costs. A narrative description of how the developer proposes to assure maintenance of the units and common facilities during any sales program shall also be provided. The Planning Board may require additional temporary facilities to accommodate service demands. Copies of all applicable instruments shall be provided, to determining that the developer has in fact, made long-term arrangements for maintenance of common facilities.

M. Any developer who proposes to construct multi-family dwellings and convey the common elements of said multi-family dwelling project, including recreation areas, to an association of purchasers of units therein shall submit a maintenance bond or other performance guarantee acceptable to the Town Board and Town Attorney ensuring long-term maintenance and repair of said common elements. Such maintenance bond or other guarantee shall;

1) Be for a period of not less than fifteen (15) years from the date of the final approval of said multi-family dwelling-transient use by the Town;

2) Be in an amount equal to the amount collected or to be collected for long-term maintenance (as indicated in the budget referenced above) by the developer or other responsible parties from each purchaser during the first year after sales to such purchases begin, multiplied by the total number of expected purchasers.

N. If the development shall be subject to the New York State statutes governing the sale of real property used for multi-family or townhouse occupancy, the developer shall certify as to his or her compliance with said statutes. To the extent the provisions of such statutes conflict with this sub-section such certification shall suffice as to conformance with these requirements.

O. Conversions of existing structures to multi-family dwelling or townhouse use (regardless of whether such conversions involve structural alterations) shall be considered subdivisions and moreover, be subject to the provisions of this Law. Motels and hotels, however, shall not be converted to multi-family residential or townhouse use. If the proposed project does involve structural alterations, the Preliminary Development Plan shall include a certification of a registered architect or engineer to the effect that the existing building is structurally sound and that the proposed conversion will not impair structural soundness. However, the conversion of an existing one-family detached dwelling or single family semi-detached dwelling into not more than three residential units shall be exempt from these requirements, unless such units are intended to be a condominium. This shall not, however, exempt an owner from any requirements of the State Building Code as they may pertain to such activities.

§ 100-5.5 Manufactured Home Parks.

Manufactured home parks shall be subject to the following standards and review criteria.

A. Manufactured home park site plan review criteria. The Planning Board shall, in

reviewing and acting upon applications for manufactured home parks, apply the following standards and review criteria:

1) The location of the park shall be one demonstrably suitable for such use, with proper drainage and provisions for stormwater control as provided herein.

2) There shall be documentation of the availability and adequate capacity of all utility providers to service the park. Offsite or centralized water facilities shall be provided.

3) The park shall be designed to buffer individual manufactured homes from each other and from other adjoining lot owners. It shall be landscaped so as to develop and maintain a high quality aesthetic environment and neighborhood character for prospective new and existing residents.

4) Adequate provisions shall be made for outside storage space and these shall not in any way interfere with emergency access.

5) Adequate provisions shall be made to control potential nuisance situations such as accumulation of unused materials or vehicles.

6) Recreational facilities sufficient to accommodate the number of dwellings proposed shall be provided.

7) There shall be adequate groundwater supplies to support the proposed water system without causing a detrimental impact on adjoining water supplies and evidence of this shall be provided and professionally reviewed.

8) The management and operations plan for the park shall provide for maintenance of all common facilities and ensure the purposes and requirements of this law are met. It shall also provide for limitation of occupancy to manufactured homes meeting U.S. Department of Housing Urban Development regulations under the Manufactured Housing Act.

B. Manufactured home park standards.

1) Site requirements.

a) The park shall be located on a well-drained site that is properly graded to ensure rapid drainage and free at all times from stagnant pools of water.

b) The park shall be at least twenty-five (25) acres in size and have at least five-hundred (500) feet frontage on a public road. Additional park land must be contiguous to the existing park and shall not be bisected by a public road except to the extent a new road may be approved as part of the plan.

2) Manufactured home lots.

a) Each manufactured home lot shall have a total area of not less than 10,000 square feet.

b) No more than (1) manufactured home shall be placed on any manufactured home lot.

c) The lot numbers shall be legibly noted for each lot on the plans submitted

C. Manufactured home placement. All manufactured homes shall be parked or otherwise be located:

1) At least forty (40) feet from an adjacent manufactured home;

2) At least fifty (50) feet from an adjacent manufactured home park property line;

3) At least seventy-five (75) feet from right of way line of any existing public street or highway; and

4) At least forty (40) feet from the nearest edge of any roadway located within the park.

D. Manufactured home stand. Each manufactured home lot shall have a manufactured home stand (concrete pad) that will provide for the practical placement on a base on the lot of both the manufactured home and its appurtenant structures and provide for the retention of the home on the lot in a stable condition.

E. Accessibility and lighting.

1) Each manufactured home park shall be accessible from an existing public highway or street.

2) Any manufactured home park shall provide, two (2) points of entry/exit at least one-hundred (100) feet apart.

a) Such entrances and exits shall be designed and strategically located for the safe and convenient movement into and out of the park and to minimize friction with the free movement of traffic on a public highway or street.

b) No individual manufactured home shall have direct access to a State, County or Town road without first entering a street or driveway in the manufactured home park leading to an exit.

c) All entrances and exits shall be free of any material that would impede the visibility of the driver on a public highway or street.

d) All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with manufactured homes attached and shall be at least fifty (50) feet in width for at least fifty (50) feet into the property.

3) Each manufactured home park shall have roads to provide for the convenient access to all manufactured home lots and other facilities within the park.

a) The road system shall be so designed to permit the safe and convenient vehicular circulation within the park. All streets shall be provided with safe, all-weather surfaces.

b) All roads shall have minimum pavement width of eighteen (18) feet:

c) Road features, including shoulders and sidewalks, shall otherwise be constructed in accord with the requirements set forth in the Town Subdivision Law and Town highway specification.

d) No parking shall be allowed on the street.

4) All means of egress, drives and public places shall be adequately lighted.

5) One non-flashing, illuminated sign shall be permitted on the park. Such sign shall not be greater in area than 50 square feet and shall not extend more than eight (8) feet above ground level. Such sign shall be located at least 20 feet from any property line or street right-of-way line.

F. Parking. Two (2) off-street parking spaces shall be provided on each manufactured home lot. Each space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet.

G. Utilities and service facilities. The following utilities and services shall be provided in each manufactured home park in accordance with the regulations and requirements of the New York State Department of Health:

1) An adequate supply of pure water meeting New York State Department of Health standards for drinking and domestic purposes shall be supplied by pipes to manufactured home lots and buildings within the park. Documentation of compliance with the Department of Health's requirements in Part 17 of the Sanitary Code shall be provided.

2) Each manufactured home lot shall be provided with a sewer, which shall be connected to the manufactured home situated on the lot, to receive the waste from the washing machines, shower, tub, flush toilet lavatory and kitchen sink in such home. The sewer shall be connected to a public or private sewer system as defined in Section 2.5. Sewer connections in unoccupied lots shall be so sealed to prevent the emission of any odors and the creation of breeding places for insects.

3) Garbage removal shall be provided on an individual lot pickup basis.

4) Manufactured homes that do not contain toilets, lavatory and tubs or showers shall not be permitted in any manufactured home park. Service buildings shall be provided as deemed necessary for the normal operation of the park. Service buildings shall be maintained by the owner or manager of the park in a clean, sightly and sanitary condition.

5) Each manufactured home lot shall be provided with weatherproof electric service connections and outlets that are a type approved by the New York State Board of Fire Underwriters.

H. Recreation and Open Space

1) Each manufactured home park shall provide common open space equal to at least thirty-five (35) percent of the gross land area of the park including all lots and unplatted areas.

2) Any manufactured home park shall provide, as part of its open space, areas for active recreational use. These recreation areas shall not include any wetlands, steep slopes or other land areas unusable for development and shall consist of contiguous land areas that can be used for active recreational activities such as ball fields. No less than 20% of the open space provided shall be dedicated to such recreational areas and no individual area so designated shall be less than three (3) acres in size. Each manufactured home park affected by this section shall provide at least one developed

picnic area, including tables and benches, and a system of marked and improved trails or sidewalks connecting each manufactured home to the recreation and other open space areas created. These recreational improvements shall be included on the landscaping plans presented as part of the application package.

I. Landscaping

1) Ground cover shall be provided on those areas not used for the placement of manufactured homes and other buildings, walkways, roads and parking areas.

2) Screening acceptable to the Planning Board and Code Enforcement Officer (CEO) shall provide for adequate shade and a suitable setting for the manufactured homes and other facilities. A side or rear yard adjacent to an existing developed area shall be a minimum width or depth of 100 feet and the 50 feet nearest to the existing developed area shall be planted or screened with materials designed to create and maintain a high quality neighborhood character for existing residents as well as new manufactured home park residents. Natural landscape buffers shall be required as opposed to fencing or other artificial measures. It shall provide, to the maximum extent practical, for the effective screening of other development from the view of manufactured home residents and of all manufactured homes and accessory structures from view by adjoiners. The Planning Board shall also require and approve a landscaping plan for the interior of the manufactured home park to buffer individual manufactured homes, provide shade and green areas and ensure a wholesome living environment.

3) Skirting acceptable to the Planning Board and CEO shall be installed along the perimeter of each manufactured home, extending from the stand to the floor of the manufactured home and fully screening the area beneath the unit from view. The landscaping plan required above shall also address landscaping of individual manufactured home sites and ensure effective separation of manufactured homes from each other for purposes of privacy as well as aesthetics.

J. Registration. The owner or operator of each manufactured home park shall keep a register wherein there shall be recorded the name and permanent address of the owner and occupant of each manufactured home situated in the court, the registration number of the same, the date it was admitted and the date of its removal. Such register shall be signed by the owner of the manufactured home or the person bringing the same into the court. Such register shall be open for inspection to the Town Code Enforcement Officer or the Town Assessor at all reasonable times. Registers shall be kept for a period of seven (7) years.

K. Fire district approval and firefighting requirements. No application for a manufactured home park license shall be approved unless and until the appropriate officer of the applicable Town fire district shall have reviewed the plans as well as the site and determined the district firefighting equipment can provide adequate coverage of the park and that there are no major obstacles in the design or layout of the facility to providing fire protection. If the fire district

approval cannot be obtained because the district lacks the specific services and facilities needed to serve the proposed park, the Town shall be authorized, through its Planning Board, to require, as a condition of site plan review approval, a financial contribution from the applicant toward providing those services or facilities. Such contribution shall be reasonable and directly related to the costs of serving the manufactured home park.

L. Accessory structures and additions. Accessory structures and additions shall require a building permit from the Town of Deposit and meet State building code requirements.

M. Site plan review approval renewal. Annual renewal of site plan review approval shall be required based upon inspection by the Town as to continued conformance with the requirements of this section. Such renewal shall also be considered a license for continued operation of the manufactured home park, as provided under New York State Town Law. No manufactured home park shall continue to operate without such renewal and license. All licenses to operate manufactured home parks shall expire on December 31 of each year absent submission, review and approval of an application for renewal (for the following calendar year) prior to that date.

§ 100-5.6 Vacation Rental Cabins

Vacation rental cabins shall be subject to the following standards and review criteria.

A. Density. The maximum density of vacation rental cabins shall be no greater than one (1) unit per acre on average over a single tract or development.

B. Separation Between Buildings. The minimum separation between vacation rental cabins shall be seventy-five (75) feet.

C. Access. Up to ten (10) vacation rental cabins may be developed on a gravel surface road or drive with a minimum width of eighteen (18) feet for two-way traffic and twelve (12) feet for one-way traffic. Adequate drainage as approved by the Town Highway Superintendent shall be provided and grades shall not exceed twelve percent (12%). Any development of greater than 10 vacation rental cabins shall meet all internal improvement requirements of multifamily or townhouse developments as provided in Section 100-5.4 of this Chapter.

D. Water. An adequate supply of pure water meeting New York State Department of Health standards for drinking and domestic purposes shall be supplied by a community water system or individual wells to serve each vacation rental cabin. Documentation of compliance with the Department of Health's requirements in Part 17 of the Sanitary Code shall be provided.

E. Sewer. All vacation rental cabins shall be provided with a septic system, which shall be connected to the cabin to receive the waste from shower, tub, flush toilet lavatory and kitchen sink in such cabin.

F. Fire Protection. Each vacation rental cabin occupied by a paying guest shall be equipped with a properly installed and functioning smoke detector and fire extinguisher and comply with New York State's Building and Fire Codes.

G. Signage. Only one (1) monument sign (not to exceed 4' x 6') shall be permitted at the entrance of the rental cabin facility to identify the business along with one (1) identification sign or number (not to exceed 2' x 2') to be located on each cabin.

H. Lighting. Sufficient exterior illumination of the site shall be required to provide convenience and safety of guest and generally be in accordance with Section 100-4.5 of this Chapter.

I. Solid Waste. The applicant shall identify the solid waste needs for the proposed vacation cabin rental facility and present a solid waste management plan that is acceptable to the Planning Board.

J. Occupancy. No vacation rental cabin shall be permitted for use as living quarters, with the exception of the resident manager or property owner. No vacation rental cabin shall be leased by the same person for more than one-hundred and twenty (120) consecutive days in a given calendar year.

K. Streams, Water Bodies and Wetlands. Vacation rental cabins shall not be less than fifty (50) feet from any stream and/or in compliance with applicable NYSDEC standards.

L. Utilities. Electric, telephone and cable shall be located underground.

§ 100-5.7 Stone Processing Facility

All stone processing facilities shall require site plan review hereunder prior to establishment subject to the following standards and review criteria.

A. Access to Public Roads

1) Access Permit. Access driveways to Town, County and State roads shall be in accord with a valid access permit.

2) Stabilization. The access road shall be adequately stabilized with stone, shale or other material to minimize soil erosion and the tracking of mud onto the public road.

3) Weight Limitations. All operations shall comply with all applicable posted weight limits. The Town of Deposit Planning Board may also, as a condition of site plan approval, require the posting of a performance bond to ensure the restoration of public roads damaged by the hauling, loading or unloading of mineral products, to their prior condition.

4) Off-street Loading. Off-street loading areas within the site shall be of sufficient size to accommodate the turning movements of tractor trailers without the need for trucks to maneuver within the public right-of-way.

B. Setbacks

1) Residential and Nonresidential Buildings. Storage yards shall not be less than two hundred (200) feet from any existing residential, commercial, institutional, public or semi-public building, other than such building located on the property on which the storage yard is located.

2) Streams, Water Bodies and Wetlands. Storage yards shall not be less than one hundred (100) feet from any stream, water body or wetland.

C. Site Development Standards

1) Minimum Lot Area. The minimum lot area required for a Mineral Product Storage Yard shall be two (2) acres.

2) Slope. Storage yards shall be located on gently sloping ground that will provide good drainage. Low spots and poorly drained places shall be avoided.

3) Performance Standards. When the proposed mineral product storage yard involves on-site value added processing of raw material that is likely to generate noise or dust, the Planning Board shall have the authority to impose conditions that are necessary to mitigate potential adverse impacts to adjoining properties. Such conditions may include, but are not limited to, setting the hours of operation, requiring certain machinery to be located within enclosed structures to mitigate noise and other measures deemed necessary by the Planning Board.

4) Sediment Pond. When the processing of raw materials is likely to require a DEC permit for a sediment pond, such pond shall be shown on the site plan and be designed in accordance with NYSDEC requirements.

§ 100-5.8 Solar Energy

A. Purpose.

The purpose of this section is to advance and protect the public health, safety, and welfare of the Town of Deposit by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:

1) To take advantage of a safe, abundant, renewable, and non-polluting energy resource;

2) To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;

3) To increase employment and business development in the Town, to the extent reasonably practical, by furthering the installation of Solar Energy Systems;

4) To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources, and;

5) To create synergy between solar energy production and stated goals within the Town Comprehensive Plan such as downtown revitalization, and developing a more resilient sustainable community;

6) To align the laws and regulations of the community with several policies of the State of New York, particularly those that encourage distributed energy systems.

B. Applicability.

1) Solar Farms and Solar Power Plants shall be permitted as an "electric generating use subject to site plan review by the Planning Board and subject to the following supplementary regulations:

   a. The manufacturer's or installer's identification and appropriate warning signage shall be posted at the site and clearly visible.

   b. Solar farm and solar power plant buildings and accessory structures shall, use materials, colors, and textures that will blend the facility into the existing environment.

   c. Appropriate landscaping and/or screening materials shall be required to help screen the solar power plant and accessory structures from major roads and neighboring residences, unless otherwise determined by Site Plan Review.

   d. The average height of the solar panel arrays shall not exceed 12 feet with a maximum height of 16 feet.

   e. Solar farm and solar power plant panels and equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.

   f. On-site power lines shall, to the maximum extent practicable, be placed underground.

2) Building permits shall be required for the installation and repair of all solar energy systems/facilities and equipment required for energy production and distribution.

3) The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town of Deposit, after the effective date of this Local Law, excluding general maintenance and repair and Building-Integrated Photovoltaic Systems.

4) Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law idf it was authorized and constructed in accordance with the effective law at the time of installation.

5) Modifications to an existing Solar Energy System, exclusive of moving facing, shall be subject to the requirements of this Local Law.

6) All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code", the NYS Energy Conservation Code ("Energy Code"), the Town Code and approved by the Town of Deposit Planning Board.

C. Restrictions

There are no areas in the Town of Deposit that arc directly prohibited for Solar Energy Facilities. However, the site plan review will take into account aspects of the Town's Comprehensive Plan, the general complexion of the land use in the area of a planned facility, concerns for maintaining the general area surrounding the proposed facility and the preferences of neighbors within that area and:

1) Density

   a. In the Town of Deposit only a total amount of 2% of the acreage within the Town, combined, will be allowed for Ground Mounted Solar Facilities (25kW and above), Tier 2, and Tier 3 systems.

   b. Solar farm density for Tier 2 and above systems shall not exceed 200 acres per square mile, as defined by the Town.

2) Prime Farmlands and Farmlands of Statewide Importance

   Lands as defined by the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey are prohibited from solar development. Lands included are identified on the attached map.

3) Slopes

   Development is prohibited on slopes greater than 12%, unless the applicant can demonstrate through engineering studies and to the satisfaction of the Town, that the proposed development will not cause any adverse environmental impact. Any proposal to exceed 12% slope shall be approved by the Town Planning Board and all studies and the costs associated with engineering and documentation shall be borne by the developer not the Town of Deposit. In no event shall the slope exceed 20%.

4) Deforestation (for the purpose of solar development)

   a. Not to exceed 50 acres in total area.

   b. Commercial solar development in forests that have been harvested for timber in the last three years is prohibited.

   c. Clearcutting of forests with a basal area as determined by a licensed forester of over 60 square feet per acre is prohibited.

   d. Clearcutting of forests with a basal area of less than 60 square feet per acre is permitted if it does not exceed an area of I 0% of the solar facilities total size.

   e. Forests where all trees are less than six inches DBH (Diameter Breast Height) shall be deemed immature and there will be no restrictions relative to harvesting of trees.

D. Permits.

No solar energy generating system shall be constructed, reconstructed, modified, repaired or operated in the Town of Deposit except by first obtaining a Solar Energy Facility Permit as provided under this law. No permit or other approval shall be required under this law for solar projects used solely individual residential or agricultural operations. Replacement in-kind or repair of a solar facility may occur without Planning Board approval when:

1) there shall be no increase in total number of solar panels;

2) no change in the location ro make up of the solar panels; and

3) no additional lighting or change in facility color. No transfer of any solar energy facility or Solar Energy Facility Permit, or sale of the entity owning such facility shall eliminate the liability neither of an applicant nor of any other party under this law.

E. Replacements

Any replacement or repair of parts, units, facilities or systems shall require proof of appropriate disposal or recycling be presented to the Code Enforcement Officer within 30 days of replacement, repair or new installation. A detailed log of replacements and repairs shall be maintained and made available to the Town of Deposit Code Enforcement Officer to inspect upon request. At a minimum the log shall include:

1) Date of repair or replacement;

2) Model and serial number of part(s);

3) Purpose for replacement

4) Where old parts were disposed or recycled

5) Name of person and/or contractor making repair or replacement.

F. General Requirements

1) A Building permit shall be required for installation of all Solar Energy Systems. In the event any of the standards of this Local law are more stringent than the New York State Uniform Fire Prevention and Building Code (the "State Code"), then the strictest requirements shall be applied.

2) Solar energy systems and equipment shall be permitted only if they are determined by the Town Planning Board not to present any unreasonable safety risks, including, but not limited to, the following:

a. Weight load.

b. Wind resistance

c. Ingress or egress in the event of fire or other emergency.

3) The permit application shall demonstrate that the proposed solar energy facility will comply with this Local Law.

4) No small-scale or agricultural solar energy system or device shall be installed or operated in the Town except in compliance with this law.

5) Issuance of permits and approvals by the Town Planning Board shall include review pursuant to the State Environmental Quality Review Act ("SEQRA").

G. General Permit Application Requirements

Among other things, an application for installation of a solar energy system or equipment shall contain the following:

1) A narrative describing the proposed solar energy facility, including an overview of the project, the project location, the approximate generating capacity of the solar energy facility, the number, representative types and height or range of heights of arrays to be constructed, including their

generating capacity, dimensions and respective manufacturers and description of ancillary facilities.

2) Copy of interconnect Agreement

3) Maps of the property identifying:

   a. which, if any, part of the project is termed prime farm land, with a copy of the Delaware County Soil and Water map for that area

   b. slope of the land

   c. amount of property that will be deforested, including forestry report which must include Basal Arca Measurements

4) SEQR application, based on the type of action identified

5) An affidavit, lease, or other evidence of agreement between the property owner and the facility owner or operator demonstrating that the facility owner or operator has the permission of the property owner to apply for necessary permits for construction and operation of the solar energy facility. Said evidence shall include the duration of the lease/agreement and any options to renew set forth in the agreement.

6) For Tier 2 and above Projects, Proof of Suretyship, including a copy of said guarantee, line of credit or other security, and thereafter proof of renewal on at least an annual basis. Suretyship proof to be provided prior to any permits being issued.

7) Identification of the properties on which the proposed solar energy facility will be located and all the properties adjacent. In addition, a proposed Site Plan showing the location of buildings, equipment, roadways, and specific measurements of width, length, and access.

8) An in-depth explanation of the proposed Maintenance Plan. All maintenance plans shall require annual inspections paid for by the applicant/operator or property owner at no cost to the Town of Deposit. All maintenance plans shall be filed with the Town Code Enforcement Officer within 60 days of completion. The Code Officer shall work with the applicant/operator or landowner to ensure repairs and/or modifications are completed in accordance with the Local Law as a result of any inspections. Failure to comply with the approved maintenance plan may result in penalties and/or revocation of permit.

9) Visual Impact Study:

   a. The applicant shall furnish a visual impact assessment, in a manner approved by the Planning Board, to demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the proposed commercial ground-mounted solar energy systems and all related structures which shall include:

      i. A Zone of Visibility Map, which shall be provided in order to determine locations where the commercial ground-mounted solar energy systems may be seen.

ii. Pictorial representations of before and after views from key viewpoints both inside and outside of the Town, including, but not limited to, state highways and other major roads; airports; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents.

iii. An assessment of the visual impact of the commercial ground-mounted solar energy systems and accessory buildings from abutting and adjacent properties and streets.

10) Prior to a Public Hearing occurring on the project, the applicant shall, by certified mail, deliver notice of said public hearing to adjoining landowners and landowners within 500 feet of the property at least 10 days prior to the hearing. Proof of Notification must be sent to the Town Planning Board 24 hours prior to the Public Hearing Commencing. Additionally, a public hearing notice must be published in the official paper for two consecutive weeks prior to the hearing with proof of publication submitted to the planning board. Signs shall be posted conspicuously on the property where the solar project will be installed for no less than 14 days stating the name of the project along with the date, time and location of the public hearing.

11) Applications shall be signed and notarized by all property owners, corporate majority share holders, responsible memebrs of the corporate board of directors or responsible person(s) of any and all involved share holder groups. A resolution and letter of authorization/representation shall be submitted prior to an application being heard before the Town of Deposit Planning Board.

H. Permitting Requirements for Tier 1 Solar Systems.

All Tier 1 Solar Energy Systems shall be permitted and shall be exempt from site plan review under this Site Plan Review Local Law, subject to the following conditions for each type of Solar Energy Systems:

1) Roof-Mounted Solar Energy Systems:

a. Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:

i. Solar panels on pitched roofs shall be mounted with a maximum distance of eight (8) inches between the roof surface and the highest edge of the system.

ii. Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

iii. Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.

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

b. Fire safety and emergency access shall be maintained and approved by the Town of Deposit.

In order to ensure firefighter and other emergency responder safety, except in the case of accessory buildings under 1,000 square feet in area, there shall be a minimum perimeter area around the edge of the roof (3ft) and structurally supported pathways to provide space on the roof for walking around all rooftop and building-mounted solar collectors. Additionally, installations shall provide for adequate access and spacing to:

i. Ensure access to the roof;

ii. Provide pathways to specific areas of the roof;

iii. Provide for smoke ventilation opportunity areas;

iv. Provide emergency egress from the roof.

c. Exceptions to these requirements may be requested where access, pathway or ventilation requirements are reduced due to:

i. Unique site specific limitations;

ii. Alternative access opportunities (as from adjoining roofs); Ground-level access to the roof area in question;

iii. Other adequate ventilation opportunities when approved by the Code Enforcement Department;

iv. Adequate ventilation opportunities afforded by panel setback from other rooftop equipment (for example: shading or structural constraints may leave significant areas open for ventilation near HVAC equipment.);

v. Automatic ventilation device; or new technology, methods, or other innovations that ensure adequate emergency responder access, pathways and ventilation opportunities.

d. Glare: All Solar panels shall have anti-reflective coating(s).

e. Height. All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the New York State Uniform Building Fire and Safety code.

2) Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

3) Freestanding and ground-mounted solar collectors.

Freestanding or ground- mounted solar collectors are permitted as accessory structures in the Town subject to the following conditions:

a. Building permits are required for the installation of all ground-mounted and freestanding solar collectors.

b. A lot must have a minimum size of 1 acre for a ground-mounted or freestanding solar collector to be permitted.

c. The location of the ground-mounted or freestanding solar collector shall meet the following setback requirements and limitations:

i. Minimum required side yard setback: 50 feet.

ii. Minimum required rear yard setback: 50 feet

iii. Minimum required front yard setback: 250 feet, or 25 feet behind primary structure, whichever is less.

iv. Minimum required setback from building larger than 12xl2 feet: 25 feet.

d. The height of the solar collector and any mounts shall not exceed 16 feet when oriented at maximum tilt.

e. Ground-mounted and freestanding solar collectors shall be screened from adjoining lots and street rights-of-way through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and surrounding area. The proposed screening shall not interfere with normal operation of the solar collectors.

f. Solar energy equipment shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.

g. Solar energy equipment shall not be sited within any required buffer area.

I. Permitting Requirements for Tier 2 Solar Systems.

All Tier 2 Solar Energy Systems shall be permitted as accessory structures and shall be exempt from site plan review under Site Plan Review Local Law, subject to the following conditions:

1) Glare: All Solar Panels shall have anti-reflective coating(s).

2) Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback standards specified for the accessory structures in the Site Plan Review Local Law. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts.

3) Height: Tier 2 Solar Energy Systems shall be subject to the height limitation standards within this Site Plan Review Local Law.

4) Screening and Visibility:

a. All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.

b. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while providing adequate solar

access.

5) Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size standards specified within this Site Plan Review Local Lawlot size

J. Permitting Requirements for Tier 3 Solar Systems.

All Tier 3 Solar Energy Systems are permitted through the issuance of a Solar Energy Development Permit, and subject to site plan application requirements set forth in this Section.

1) Applications for the installation of Tier 3 Solar Energy System shall be:

a. Reviewed by the Code Enforcement Officer for completeness. Applicants shall be advised within thirty (30) business days of receipt of their application by the Town of Depsoit Code Enforcement Officer. The Code Enforcement Officer shall notify the applicant(s) of the completeness of their application or any deficiencies that must be addressed prior to substantive review by the Planning Board within 62 days of receipt of application.

b. Subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town of Deposit shall have a notice printed in a newspaper of general circulation in the Town at least five (5) days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within two hundred (200) feet of the property at least ten (10) days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.

c. Referred to the County Planning Board pursuant to General Municipal Law, §239-m if required.

d. Upon closing of the public hearing, the Planning Board shall take action on the application within sixty-two (62) days of the public hearing, which can include approval, approval with conditions, or denial. The sixty-two (62) day period may be extended upon consent by both the Planning Board and the applicant.

2) Underground Requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

3) Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

4) Signage.

a. No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than eight (8) square feet.

b. 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.

5) Glare. All Solar Panels shall have anti-reflective coating(s).

6) Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

7) Tree-cutting. Removal of existing trees larger than six (6) inches in diameter should be minimized to the greatest extent possible.

8) Decommissioning.

a. Solar Energy Systems that have been abandoned and/or not producing electricity for a period of one (1) year shall be removed at the Owner and/or Operators expense, which at the Owner's option may come from any security made with the Town as set forth in Section 10(b) herein.

b. A decommissioning plan (see example - Appendix A) signed by the owner and/or operator of the Solar Energy System shall be submitted to the Town Board by the applicant, addressing the following:

i. The cost of removing the Solar Energy System.

ii. The time required to decommission and remove the Solar Energy System and any ancillary structures.

iii. The time required to repair any land which was disturbed by the installation and removal of the Solar Energy System. Upon completion of the decommissioning the parcel of land shall be returned to the condition it was prior to the installation.

9) Security.

a. The deposit, executions, or filing with the Town Clerk of cash, bond, letter of credit or other form of security reasonably acceptable to the Town attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be one hundred and twenty-five (125) percent of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of two (2) percent annually for the life of the Solar Energy System.

b. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

c. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in Section 10(b) and 10(c)

herein.

10) Site plan application. For any Solar Energy system requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:

a. Property lines and physical features, including roads, for the project site

b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures

c. A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.

d. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

e. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.

f. Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System. For project developed through a corporation or LLC the names of the majority share holders and a letter of representation and/or a certified board resolution shall accompany the application.

g. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

11) Special Use Permit Standards.

a. Lot size: The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements specified in this Site Plan Review Local Law.

b. Setbacks: The Tier 3 Solar Energy Systems shall comply with the setback standards specified in this Site Plan Review Local Law for principal structures.

c. Height: The Tier 3 Solar Energy Systems shall comply with the building height limitations for principal structures defined in this Site Plan Review Local Law.

d. Lot coverage:

i. The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:

1. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
2. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
3. Paved access roads servicing the Solar Energy System.

ii. Lot coverage of the Solar Energy System, as defined above, shall not exceed the maximum lot coverage standards defined in this Site Plan Review Local Law.

e. Fencing Requirements: All mechanical equipment, including any structure for storage batteries, shall be enclosed by a [7-foot-high] fence, as required by the National Electric Code (NEC), with a self-locking gate to prevent unauthorized access.

f. Screening and Visibility:

i. Solar Energy Systems smaller than [10] acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.

ii. Solar Energy Systems larger than [10] acres shall be required to:

1. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, [shall/may] be required to be submitted by the applicant.
2. Submit a Landscape Plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the greatest extent feasible;
3. The Landscape Plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The Landscape Plan shall be reviewed by the Town Planning Board and approved as part of the site plan approval process. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening.

g. Agricultural Resources:

For projects located on agricultural lands:

1) Any Tier 3 Solar Energy System located on the areas that consist of Prime Farmland or Farmland of Statewide Importance shall not exceed 50%of the area of Prime Farmland or Farmland of Statewide Importance on the parcel.

2) To the maximum extent practicable, Tier 3 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Agriculture and Markets.

3) Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

h. Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the code enforcement officer of such change in ownership or operator within 30 days of the ownership change.

K. Safety

1) Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes and manufacturers recommendation as required.

2) Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is located in an ambulance district, the local ambulance corps.

3) If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and 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 any applicable federal, state, or county laws or regulations.

L. Permit Time Frame and Abandonment

1) The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 18 months, provided that a building permit is issued for construction or construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 18 months after approval, the applicant or the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails

to perform substantial construction after 24 months, the approvals shall expire.

2) Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 360 days of notification.

3) If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

§100-6 BOARD OF APPEALS

§100-6.1. Board of Appeals - Creation, Appointment and Organization.

A. Establishment. Pursuant to the provisions of the Town Law, a Board of Appeals is hereby established in the Town of Deposit.

B. Appointment. The Board shall consist of five (5) members to be appointed by the Town Board. The terms of the initial appointees shall be for one (1), two (2), three (3), four (4), and five (5) years, etc., from and after the date of appointment. Their successors, including such additional members as may be appointed by the Town Board, shall be appointed for the term of five (5) years after the expiration of the terms of their predecessors in office.

C. Appointment to fill vacancies. Appointments to full vacancies shall be for the unexpired term of the members whose term or terms become vacant. Such appointment to fill vacancies shall be made in the same manner as the original appointment. The Board of Appeals may continue to legally operate while vacancies are waiting to be filled provided there are enough members to constitute a quorum.

D. General grant of power. The Board shall perform all the duties and have all the powers prescribed by the laws of the State of New York and as herein described.

E. Votes necessary for a decision. Four members of the Board shall, regardless of the number of members at a given point, be a quorum for purposes of conducting any business. The concurring vote of three (3) of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Code Enforcement Officer or to decide in favor of the appellant any matter upon which it is required to pass under the terms of this Law or to effect any variation of this Law.

F. Meetings. All meetings of the Board of Appeals shall be held at the call of the Chairman and at such times as such Board may determine. All hearings conducted by the Board shall be open to the public. The secretary to the Board shall keep minutes of its proceeding showing the vote of each member upon each question, if absent or failing-to vote, indicating such fact; and shall also keep records of its hearings and other official action. The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

§ 100-6.2. Power and Duties.

The Board shall hear and decide appeals pursuant to the provisions of the laws of the State of New York and shall have the following specific powers:

A. Variances. The Board may vary or adapt the strict application of any of the requirements of this Law where such strict application would result in practical difficulties or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved.

B. Appeals from Administrative Decisions. The Board shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Code Enforcement Officer in administering this Law. It shall also hear and decide all natters referred to it or upon which it is required to pass under the provisions of this Law.

C. Interpretation. The Board shall, upon request from or upon appeal of a decision by the Code Enforcement Officer, decide any questions involving the interpretation of any provision of this Law including any uncertainty with respect thereto.

§ 100-6.3. Procedure.

A. General procedures. The Board shall act in strict accordance with the procedure specified by Section 267-b of Town Law and by this Law. All appeals and variance applications made to the Board shall be in writing on forms prescribed by the Board. Every appeal or variance application shall refer to the specific provision of this Law involved and shall exactly set forth the interpretation that is claimed, the use which is involved or sought, the details of the variance that is applied for, and the ground on which of the Board should grant the variance. An appeal must be made within thirty (30) days of the action of the administrative official appealed from. The applicant must file a signed notice of appeal with the administrative official from whom the appeal is taken and with the Secretary of the Board of Appeals. All information required thereon shall be complete before an appeal is considered filed. Three (3) copies of the proper appeal form shall be filed with the Board along with a fee to be established by the Town Board. This application must be submitted 15 days prior to the Board meeting date.

B. Variance requirements. Any property owner, tenant or representative thereof may, in appealing decision of the Code Enforcement Officer of the Town of Deposit with respect to this Law request a variance from its literal terms. Application for a variance may be made after an application for a building permit has been denied and shall be delivered to the Code Enforcement Officer who shall then, in acting upon the permit application, refer the matter to the Board of Appeals for a decision on the variance request. This shall not, however, preclude an applicant whose permit request has been denied from subsequently requesting a variance in conjunction with an appeal of such action if the appeal has been timely filed. The needs or desires of a particular owner or tenant or of a particular prospective owner or tenant shall not either alone or in conjunction with other factors, afford any basis for the granting of a variance. The fact that the improvements already existing at the time of the application are old, obsolete, outmoded or in disrepair or the fact that the property is unimproved shall not be deemed to make the plight of the property unique or to contribute thereto.

C. All State Environmental Quality Review provisions and New York General Municipal Law Section 239 provisions must be complied with.

§ 100-6.4. Types of Variances.

Area variances involve relief from dimensional or other requirements under the terms of this Law. Each of the following findings of fact shall be made in writing by resolution by the Board of Appeals prior to granting such variances. The Board of Appeals shall have the

power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.

A. In making its determination, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

3) whether the requested area variance is substantial;

4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and

5) whether the alleged difficulty was self- created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

B. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

§ 100-6.5. Requirements Applicable To Other Appeals.

A. The Town Board, Code Enforcement Officer or Planning Board of the Town of Deposit may request the Board of Appeals to decide any question involving the interpretation of any provision of this Law and shall refer such other matters to the Board as it is required to decide by the provisions of this Local Law. The Board's rules and regulations shall govern these matters. All matters to be referred to the Board of Appeals in such circumstances shall be in writing to the Board's Secretary and be acted on within sixty-two (62) days of the Secretary's receipt of the same.

B. Any property owner, tenant, representative thereof or other person aggrieved by an administrative act of the Code Enforcement Officer of the Town of Deposit with respect to this Law (i.e. believes such decision to be in error) may appeal to the Board of Appeals. An administrative act shall only include any order, requirements, decision or determination made by the Code Enforcement Officer. The Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made on the premises and to that end shall have all the powers of the official(s) from whom the appeal is taken. The administrative official from whom the appeal is taken shall be responsible, at the direction of the Board, for providing any applicant with the proper forms and for instructing the parties concerned on the proper manner for completing and filing said forms. All information required thereon shall be complete before an appeal is considered filed.

§ 100-6.6. Hearings.

A. Time of hearing. The Board shall schedule a hearing on all appeals on applications within sixty-two (62) days of the filing an application for an appeal.

B. Notice of hearing appeals. The Board shall give notice of the hearing at least five (5) days prior to the date thereof by publication in the official Town paper.

1) Irrelevant or unduly repetitious evidence or cross-examination may be excluded. Except as otherwise provided by statute, the burden of proof shall be on the party who initiated the proceedings. No decision, determination or order shall be made except upon consideration of the record as a whole or such portion thereof as may be cited by any party to the proceeding and as supported by and in accordance with substantial evidence.

2) Unless otherwise provided by any statute, the Board need not observe the rules of evidence observed by courts, but shall give effect to rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, an agency may, for the purpose of expediting the hearing, and when the interests of parties will not be substantially prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.

3) All evidence, including records and documents in the possession of the agency of which it derives to avail itself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies of excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence.

4) Official notice may be taken of all facts of which judicial notice could be taken and of other facts within the specialized knowledge of the Board. When official notice is taken of a material fact not appearing in the evidence in the record and of which judicial notice could be taken, every party shall be given notice thereof and shall on a timely request be afforded an opportunity prior to the decision to dispute the fact of its materiality.

C. Rehearing. Upon a motion initiated by any member, and adopted by unanimous vote of the members present, but not less than a majority of all the members, the Board may review at a rehearing any order, decision or determination of the Board not previously reviewed. Notice shall be given as upon an original hearing. Upon such hearing and provided that it shall appear that no vested rights due to reliance on the original order, decision or determination will be prejudiced thereby the Board may, upon concurrence of all the members present, reverse, modify or annul its original order, decision or determination. Requests for rehearsing, however, shall be made within 30 days of the original order, decision or determination.

D. Prior to the date of any public hearing, the Secretary of the Board of Appeals shall transmit to the Chairman of the Planning Board, a copy of any appeal or application, together with a copy of the notice of such hearing. The Planning Board may submit to the Board of Appeals, an advisory opinion on said appeal or

application at any time prior to the rendering of a decision by the Board of Appeals.

E. Should any action by the Board of Appeals involve any of the areas specified in Section 239-(l) and (m) of Article 12-B of the General Municipal Law, then the matter shall be referred prior to final action by the Board of Appeals to the Delaware County Planning Department in accordance with that Law. A report of the Board of Appeals final action must be submitted to the County within seven days of such action.

F. The Board of Appeals must reach a decision within sixty-two (62) days of the close of hearing.

G. Every decision of the Board of Appeals shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision of the Board shall be by resolution and each such resolution shall be filed in the office of the Town Clerk by case number under one of the following heads: (1) Interpretation, or (2) Variances; together with all documents pertaining thereto. Regarding their decision in each case, the Board of Appeals shall notify the Code Enforcement Officer, Town Board, Town Planning Board, and the Municipal Clerk of any affected municipality given notice of hearing.

H. All the provisions of this Local Law relating to the Board of Appeals shall be strictly construed. Said Board as a body of jurisdiction shall act in full conformity with all provisions of law and of this Local Law and in strict compliance with all limitations contained therein.

I. Unless construction is commenced and diligently pursued within six (6) months of the date of the granting of the variance, such variance shall become null and void.

ARTICLE VII

Non-Conforming Uses

§100-7 NON-CONFORMING USES

§100-7.1 Effect of Local Law

This law does not apply to uses or structures that are lawfully in existence as of the date this local law becomes effective. Any use that would otherwise be subject to this law that has been discontinued for a period of three (3) years or more shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered to be in existence provided the same has been substantially commenced as of the effective date of this local law and fully constructed and completed within one year from the effective date of this local law. The Planning Board shall have the right, for good cause, to declare a use that has been discontinued for more than three years as a legal non-conforming use.

§100-7.2 Non-Conforming Buildings.

A non-conforming building is any building which does not conform to the dimensional and bulk requirements of this Law with respect to lot area, width, or depth; front, side or rear yards; maximum height; etc. Nonconforming buildings may be continued, repaired, structurally altered, moved, reconstructed or enlarged, provided that such action does not increase the degree of or create any new nonconformity with respect to the bulk requirements of this Law.

§100-8 ENFORCEMENT

§100-8.1. Site Plan Compliance.

No permit or certificate of occupancy shall be issued by the Code Enforcement Officer, except upon the authorization by and in conformity with an approved site plan where required.

§100-8.2. Code Enforcement Officer.

The Town Board may alternatively appoint some other enforcement officer to conduct inspections and any other enforcement activities required by this local law. The Town Board may appoint a Code Enforcement Officer to carry out the duties assigned by this local law. If appointed, the Code Enforcement Officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate.

§100-8.3. Enforcement.

A. Any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this local law shall, upon conviction, be deemed guilty of a violation, punishable by a fine of not more than $350.00. Each day an offense is continued shall be deemed a separate violation of this local law.

B. In addition to the penalties provided above, the Code Enforcement Officer, or Town Board, may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this local law.

§100-8.4. Appeals.

Any person aggrieved by any decision of the Planning Board, Town Board, Code Enforcement Officer, or any other officer, department, or board of the Town involved with the administration and enforcement of this local law, may apply to the Local Court for review under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision in the office of the Town Clerk.

APPENDIX A

EXAMPLE DECOMMISSIONING PLAN

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at:
[Solar Project Address]

Prepared and Submitted by [Solar Developer Name], the owner of [Solar Farm Name]

As required by the Town of Deposit, [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the "Facility").

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends
2. The system does not produce power for [12] months
3. The system is damaged and will not be repaired or replaced

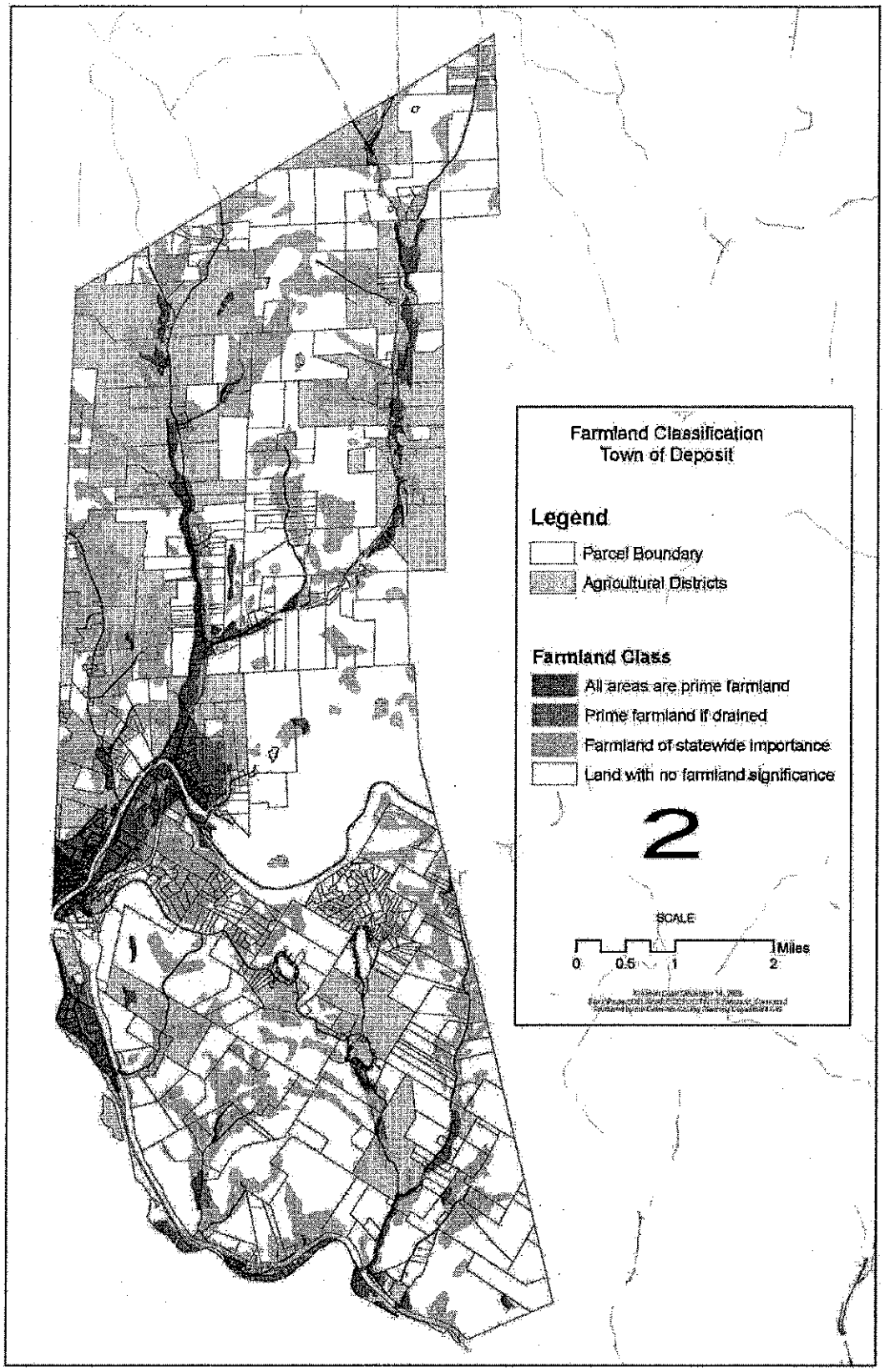
The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to the condition as it existed before the Facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 36inches below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

All said removal and decommissioning shall occur within [12] months of the Facility ceasing to produce power for sale.

The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

Facility / Owner Signature:_____
Date:_____


Farmland Classification
Town of Deposit
Legend
Parcel Boundary
Agricultural Districts
Farmland Class
All areas are prime farmland
Prime farmland if drained
Farmland of statewide importance
Land with no farmland significance
2
SCALE
0
0.5
1
2
Miles

SITE PLAN REVIEW

Farmland Class of Soil Map Units in Delaware County						
[This information is derived from the official SSURGO soil data for survey areas in New York.]						
Area Symbol	Area Name	Map Unit Symbol	Map Unit Name	Farmland Class	Map Unit Acres	mukey
NY025	Delaware County, New York	Bc	Barbour loam	All areas are prime farmland	4833	290457
NY025	Delaware County, New York	Bg	Barbour-Trestle complex	All areas are prime farmland	5760	290458
NY025	Delaware County, New York	Bs	Bashier silt loam	All areas are prime farmland	3743	290459
NY025	Delaware County, New York	BtB	Bath channery silt loam, 3 to 8 percent slopes	All areas are prime farmland	123	290460
NY025	Delaware County, New York	BtC	Bath channery silt loam, 8 to 15 percent slopes	Farmland of statewide importance	1638	290461
NY025	Delaware County, New York	BtD	Bath channery silt loam, 15 to 25 percent slopes	Not prime farmland	6271	290462
NY025	Delaware County, New York	BtE	Bath channery silt loam, 25 to 35 percent slopes	Not prime farmland	1328	290463
NY025	Delaware County, New York	Bw	Bucksport and Wonsqueak soils	Not prime farmland	726	290464
NY025	Delaware County, New York	CaE	Cadosia extremely channery loam, 15 to 35 percent slopes, very bouldery	Not prime farmland	3124	290465
NY025	Delaware County, New York	CaF	Cadosia extremely channery loam, 35 to 70 percent slopes, very bouldery	Not prime farmland	7114	290466
NY025	Delaware County, New York	Ce	Carlisle and Palms soils	Not prime farmland	283	290592
NY025	Delaware County, New York	ChA	Chenango gravelly silt loam, 0 to 3 percent slopes	All areas are prime farmland	583	290467
NY025	Delaware County, New York	ChB	Chenango gravelly silt loam, 3 to 8 percent slopes	All areas are prime farmland	1444	290468
NY025	Delaware County, New York	ChC	Chenango gravelly silt loam, 8 to 15 percent slopes	Farmland of statewide importance	1314	290469
NY025	Delaware County, New York	ChD	Chenango gravelly silt loam, 15 to 25 percent slopes	Not prime farmland	641	290470
NY025	Delaware County, New York	ChE	Chenango gravelly silt loam, 25 to 50 percent slopes	Not prime farmland	1042	290471
NY025	Delaware County, New York	CoB	Collamer silt loam, 3 to 8 percent slopes	All areas are prime farmland	157	290472
NY025	Delaware County, New York	CoC	Collamer silt loam, 8 to 15 percent slopes	Farmland of statewide importance	332	290473
NY025	Delaware County, New York	De	Deposit gravelly silt loam	All areas are prime farmland	1813	290474
NY025	Delaware County, New York	EdC	Elka channery silt loam, 8 to 15 percent slopes	Farmland of statewide importance	291	290475
NY025	Delaware County, New York	EdD	Elka channery silt loam, 15 to 25 percent slopes	Not prime farmland	368	290476
NY025	Delaware County, New York	EdE	Elka channery silt loam, 25 to 35 percent slopes	Not prime farmland	188	290477
NY025	Delaware County, New York	EkC	Elka-Vly channery silt loams, 5 to 15 percent slopes	Farmland of statewide importance	2330	290478
NY025	Delaware County, New York	EkD	Elka-Vly channery silt loams, 15 to 25 percent slopes	Not prime farmland	1069	290479
NY025	Delaware County, New York	EtC	Elka-Vly channery silt loams, 3 to 15 percent slopes, very stony	Not prime farmland	3677	290480
NY025	Delaware County, New York	EtE	Elka-Vly channery silt loams, 15 to 35 percent slopes, very stony	Not prime farmland	25684	290481
NY025	Delaware County, New York	EtF	Elka-Vly channery silt loams, 35 to 70 percent slopes, very stony	Not prime farmland	9338	290482
NY025	Delaware County, New York	Ff	Fluvaquents-Udifluvents complex, frequently flooded	Not prime farmland	11287	290483
NY025	Delaware County, New York	HcC	Halcott, Mongaup, and Vly soils, 2 to 15 percent slopes, very rocky	Not prime farmland	47441	290484
NY025	Delaware County, New York	HcE	Halcott, Mongaup, and Vly soils, 15 to 35 percent slopes, very rocky	Not prime farmland	86849	290485
NY025	Delaware County, New York	HcF	Halcott, Mongaup, and Vly soils, 35 to 70 percent slopes, very rocky	Not prime farmland	63977	290486
NY025	Delaware County, New York	LaB	Lackawanna flaggy silt loam, 3 to 8 percent slopes	All areas are prime farmland	959	290487
NY025	Delaware County, New York	LaC	Lackawanna flaggy silt loam, 8 to 15 percent slopes	Farmland of statewide importance	6520	290488
NY025	Delaware County, New York	LaD	Lackawanna flaggy silt loam, 15 to 25 percent slopes	Not prime farmland	15610	290489
NY025	Delaware County, New York	LaE	Lackawanna flaggy silt loam, 25 to 40 percent slopes	Not prime farmland	5005	290490
NY025	Delaware County, New York	LcD	Lackawanna-Morris complex, 15 to 35 percent slopes, very stony	Not prime farmland	1892	290494
NY025	Delaware County, New York	LdC	Lackawanna and Bath soils, 3 to 15 percent slopes, very stony	Not prime farmland	3642	290491
NY025	Delaware County, New York	LdE	Lackawanna and Bath soils, 15 to 35 percent slopes, very stony	Not prime farmland	51991	290492
NY025	Delaware County, New York	LdF	Lackawanna and Bath soils, 35 to 55 percent slopes, very stony	Not prime farmland	9507	290493
NY025	Delaware County, New York	LeB	Lewbath flaggy loam, 3 to 8 percent slopes	All areas are prime farmland	262	290495
NY025	Delaware County, New York	LeC	Lewbath flaggy loam, 8 to 15 percent slopes	Farmland of statewide importance	2520	290496
NY025	Delaware County, New York	LeD	Lewbath flaggy loam, 15 to 25 percent slopes	Not prime farmland	2622	290497
NY025	Delaware County, New York	LeE	Lewbath flaggy loam, 25 to 35 percent slopes	Not prime farmland	209	290498
NY025	Delaware County, New York	LhB	Lewbeach channery loam, 3 to 8 percent slopes	All areas are prime farmland	3387	290499
NY025	Delaware County, New York	LhC	Lewbeach channery loam, 8 to 15 percent slopes	Farmland of statewide importance	15334	290500
NY025	Delaware County, New York	LhD	Lewbeach channery loam, 15 to 25 percent slopes	Not prime farmland	21342	290501
NY025	Delaware County, New York	LhE	Lewbeach channery loam, 25 to 40 percent slopes	Not prime farmland	3267	290502
NY025	Delaware County, New York	LkC	Lewbeach and Lewbath soils, 3 to 15 percent slopes, very stony	Not prime farmland	6372	290503
NY025	Delaware County, New York	LkE	Lewbeach and Lewbath soils, 15 to 35 percent slopes, very stony	Not prime farmland	42498	290504

Area Symbol	Area Name	Map Unit Symbol	Map Unit Name	Farmland Class	Map Unit Acres	mukey
NY025	Delaware County, New York	LkF	Lewbeach and Lewbath soils, 35 to 55 percent slopes, very stony	Not prime farmland	2030	290505
NY025	Delaware County, New York	LoB	Lordstown channery silt loam, 2 to 8 percent slopes	All areas are prime farmland	1549	290506
NY025	Delaware County, New York	LoC	Lordstown channery silt loam, 8 to 15 percent slopes	Farmland of statewide importance	2434	290507
NY025	Delaware County, New York	LoD	Lordstown channery silt loam, 15 to 25 percent slopes	Not prime farmland	2035	290508
NY025	Delaware County, New York	LoE	Lordstown channery silt loam, 25 to 40 percent slopes	Not prime farmland	1571	290509
NY025	Delaware County, New York	MaB	Maplecrest gravelly silt loam, 3 to 8 percent slopes	All areas are prime farmland	2317	290510
NY025	Delaware County, New York	MaC	Maplecrest gravelly silt loam, 8 to 15 percent slopes	Farmland of statewide importance	5001	290511
NY025	Delaware County, New York	MaD	Maplecrest gravelly silt loam, 15 to 25 percent slopes	Not prime farmland	3796	290512
NY025	Delaware County, New York	MaE	Maplecrest gravelly silt loam, 25 to 60 percent slopes	Not prime farmland	3526	290513
NY025	Delaware County, New York	MdB	Mardin channery silt loam, 3 to 8 percent slopes	Farmland of statewide importance	3182	290514
NY025	Delaware County, New York	MdC	Mardin channery silt loam, 8 to 15 percent slopes	Farmland of statewide importance	15735	290515
NY025	Delaware County, New York	MdD	Mardin channery silt loam, 15 to 25 percent slopes	Not prime farmland	3322	290516
NY025	Delaware County, New York	MkB	Middlebrook-Mongaup complex, 2 to 8 percent slopes	All areas are prime farmland	2602	290517
NY025	Delaware County, New York	MkC	Middlebrook-Mongaup complex, 8 to 15 percent slopes	Farmland of statewide importance	1622	290518
NY025	Delaware County, New York	MnB	Mongaup channery loam, 2 to 8 percent slopes	All areas are prime farmland	3773	290519
NY025	Delaware County, New York	MnC	Mongaup channery loam, 8 to 15 percent slopes	Farmland of statewide importance	6796	290520
NY025	Delaware County, New York	MnD	Mongaup channery loam, 15 to 25 percent slopes	Not prime farmland	3657	290521
NY025	Delaware County, New York	MrA	Morris flaggy silt loam, 0 to 3 percent slopes	Farmland of statewide importance	561	290522
NY025	Delaware County, New York	MrB	Morris flaggy silt loam, 3 to 8 percent slopes	Farmland of statewide importance	4519	290523
NY025	Delaware County, New York	MrC	Morris flaggy silt loam, 8 to 15 percent slopes	Farmland of statewide importance	4174	290524
NY025	Delaware County, New York	MsB	Morris and Volusia soils, 2 to 10 percent slopes, very stony	Not prime farmland	5222	290525
NY025	Delaware County, New York	No	Norchip silt loam	Farmland of statewide importance	3234	290526
NY025	Delaware County, New York	Nr	Norchip silt loam, very stony	Not prime farmland	566	290527
NY025	Delaware County, New York	OeA	Onteora channery silt loam, 0 to 3 percent slopes	Farmland of statewide importance	2189	290528
NY025	Delaware County, New York	OeB	Onteora channery silt loam, 3 to 8 percent slopes	Farmland of statewide importance	11013	290529
NY025	Delaware County, New York	OeC	Onteora channery silt loam, 8 to 15 percent slopes	Farmland of statewide importance	10338	290530
NY025	Delaware County, New York	OfB	Onteora and Ontusia soils, 2 to 10 percent slopes, very stony	Not prime farmland	6737	290531
NY025	Delaware County, New York	OnA	Ontusia channery silt loam, 0 to 3 percent slopes	Farmland of statewide importance	937	290532
NY025	Delaware County, New York	OnB	Ontusia channery silt loam, 3 to 8 percent slopes	Farmland of statewide importance	2657	290533
NY025	Delaware County, New York	OnC	Ontusia channery silt loam, 8 to 15 percent slopes	Farmland of statewide importance	993	290534
NY025	Delaware County, New York	OpB	Oquaga channery silt loam, 2 to 8 percent slopes	Farmland of statewide importance	788	290535
NY025	Delaware County, New York	OpC	Oquaga channery silt loam, 8 to 15 percent slopes	Farmland of statewide importance	1931	290536
NY025	Delaware County, New York	OpD	Oquaga channery silt loam, 15 to 25 percent slopes	Not prime farmland	1751	290537
NY025	Delaware County, New York	OpE	Oquaga channery silt loam, 25 to 35 percent slopes	Not prime farmland	1403	290538
NY025	Delaware County, New York	OpF	Oquaga channery silt loam, 35 to 50 percent slopes	Not prime farmland	454	290539
NY025	Delaware County, New York	OrC	Oquaga, Lordstown, and Arnot soils, 2 to 15 percent slopes, very rocky	Not prime farmland	5571	290540
NY025	Delaware County, New York	OrE	Oquaga, Lordstown, and Arnot soils, 15 to 35 percent slopes, very rocky	Not prime farmland	15112	290541
NY025	Delaware County, New York	OrF	Oquaga, Lordstown, and Arnot soils, 35 to 70 percent slopes, very rocky	Not prime farmland	21546	290542
NY025	Delaware County, New York	Pc	Philo silt loam	All areas are prime farmland	998	290543
NY025	Delaware County, New York	Pg	Pits, gravel	Not prime farmland	479	290544
NY025	Delaware County, New York	Ph	Pits, quarry	Not prime farmland	232	290545
NY025	Delaware County, New York	Rb	Raypol silt loam	Farmland of statewide importance	811	290546
NY025	Delaware County, New York	Re	Red Hook gravelly silt loam	Prime farmland if drained	919	290547
NY025	Delaware County, New York	RhA	Riverhead loam, 0 to 3 percent slopes	All areas are prime farmland	815	290548
NY025	Delaware County, New York	RhB	Riverhead loam, 3 to 8 percent slopes	All areas are prime farmland	1008	290549
NY025	Delaware County, New York	RhC	Riverhead loam, 8 to 15 percent slopes	Farmland of statewide importance	493	290550
NY025	Delaware County, New York	RhD	Riverhead loam, 15 to 25 percent slopes	Not prime farmland	192	290551
NY025	Delaware County, New York	RrE	Rockrift channery loam, 15 to 35 percent slopes, very bouldery	Not prime farmland	3591	290552
NY025	Delaware County, New York	RrF	Rockrift channery loam, 35 to 70 percent slopes, very bouldery	Not prime farmland	3007	290553
NY025	Delaware County, New York	Sa	Saprists and Aquerts, ponded	Not prime farmland	1106	290554
NY025	Delaware County, New York	TeB	Torull-Gretor complex, 0 to 6 percent slopes	Farmland of statewide importance	1728	290555
NY025	Delaware County, New York	TkA	Tunkhannock gravelly loam, 0 to 3 percent slopes	All areas are prime farmland	1122	290556
NY025	Delaware County, New York	TkB	Tunkhannock gravelly loam, 3 to 8 percent slopes	All areas are prime farmland	4029	290557
NY025	Delaware County, New York	TkC	Tunkhannock gravelly loam, 8 to 15 percent slopes	Farmland of statewide importance	4055	290558
NY025	Delaware County, New York	TkD	Tunkhannock gravelly loam, 15 to 25 percent slopes	Not prime farmland	1695	290559

SITE PLAN REVIEW

Area Symbol	Area Name	Map Unit Symbol	Map Unit Name	Farmland Class	Map Unit Acres	mukey
NY025	Delaware County, New York	TkE	Tunkhannock gravelly loam, 25 to 50 percent slopes	Not prime farmland	1539	290560
NY025	Delaware County, New York	TtA	Tunkhannock and Chenango soils, fan, 0 to 3 percent slopes	All areas are prime farmland	2583	290561
NY025	Delaware County, New York	TtB	Tunkhannock and Chenango soils, fan, 3 to 8 percent slopes	All areas are prime farmland	3435	290562
NY025	Delaware County, New York	Ud	Udorthents, graded	Not prime farmland	2655	290563
NY025	Delaware County, New York	Uf	Udorthents, refuse substratum	Not prime farmland	171	290564
NY025	Delaware County, New York	Un	Unadilla silt loam	All areas are prime farmland	1555	290565
NY025	Delaware County, New York	Ur	Urban land	Not prime farmland	417	290566
NY025	Delaware County, New York	VaB	Valois very fine sandy loam, 3 to 8 percent slopes	All areas are prime farmland	1243	290567
NY025	Delaware County, New York	VaC	Valois very fine sandy loam, 8 to 15 percent slopes	Farmland of statewide importance	2394	290568
NY025	Delaware County, New York	VaD	Valois very fine sandy loam, 15 to 25 percent slopes	Not prime farmland	1799	290569
NY025	Delaware County, New York	VaE	Valois very fine sandy loam, 25 to 60 percent slopes	Not prime farmland	2311	290570
NY025	Delaware County, New York	VlB	Vly channery silt loam, 2 to 8 percent slopes	Farmland of statewide importance	8309	290571
NY025	Delaware County, New York	VlC	Vly channery silt loam, 8 to 15 percent slopes	Farmland of statewide importance	13852	290572
NY025	Delaware County, New York	VlD	Vly channery silt loam, 15 to 25 percent slopes	Not prime farmland	8936	290573
NY025	Delaware County, New York	VlE	Vly channery silt loam, 25 to 40 percent slopes	Not prime farmland	3535	290574
NY025	Delaware County, New York	VoA	Volusia channery silt loam, 0 to 3 percent slopes	Farmland of statewide importance	166	290575
NY025	Delaware County, New York	VoB	Volusia channery silt loam, 3 to 8 percent slopes	Farmland of statewide importance	3480	290576
NY025	Delaware County, New York	VoC	Volusia channery silt loam, 8 to 15 percent slopes	Farmland of statewide importance	3534	290577
NY025	Delaware County, New York	W	Water	Not prime farmland	16544	290591
NY025	Delaware County, New York	WeB	Wellsboro channery silt loam, 3 to 8 percent slopes	Farmland of statewide importance	6857	290578
NY025	Delaware County, New York	WeC	Wellsboro channery silt loam, 8 to 15 percent slopes	Farmland of statewide importance	26027	290579
NY025	Delaware County, New York	WeD	Wellsboro channery silt loam, 15 to 25 percent slopes	Not prime farmland	6606	290580
NY025	Delaware County, New York	WfC	Wellsboro and Mardin soils, 2 to 15 percent slopes, very stony	Not prime farmland	20289	290581
NY025	Delaware County, New York	Wg	Wenonah silt loam	All areas are prime farmland	1426	290582
NY025	Delaware County, New York	WhB	Willdin channery silt loam, 2 to 8 percent slopes	Farmland of statewide importance	6831	290583
NY025	Delaware County, New York	WhC	Willdin channery silt loam, 8 to 15 percent slopes	Farmland of statewide importance	9670	290584
NY025	Delaware County, New York	WhD	Willdin channery silt loam, 15 to 25 percent slopes	Not prime farmland	719	290585
NY025	Delaware County, New York	WmA	Willowemoc channery silt loam, 0 to 3 percent slopes	Farmland of statewide importance	928	290586
NY025	Delaware County, New York	WmB	Willowemoc channery silt loam, 3 to 8 percent slopes	Farmland of statewide importance	21800	290587
NY025	Delaware County, New York	WmC	Willowemoc channery silt loam, 8 to 15 percent slopes	Farmland of statewide importance	48277	290588
NY025	Delaware County, New York	WmD	Willowemoc channery silt loam, 15 to 25 percent slopes	Not prime farmland	6765	290589
NY025	Delaware County, New York	WnC	Willowemoc and Willdin soils, 2 to 15 percent slopes, very stony	Not prime farmland	24684	290590

USDA Natural Resources Conservation Service February 2014

Town of Greene
Chenango Co., New York

Solar Siting in the Town of Greene

Local Law No. 1 of 2018
Adopted May 9, 2018
Revised May 17, 2023

Section I
Title

The title of this Local Law shall be, "Siting of Solar Energy Installations in the Town of Greene."

Section II
Purpose

A. Solar energy is a renewable and nonpolluting 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 a valuable asset and a beneficial component for the Town of Greene's sustainability and growth.

C. The purpose of this article is to promote the accommodation of solar energy generating systems and provide for accommodating for such installations and to balance the potential impact such systems on the environment. This law ensures that solar installations are installed in compliance with the Town of Greene's Comprehensive Plan and preserves the rights of property owners to install solar energy systems subject to the regulations set forth herein. In particular, this legislation is intended to apply to freestanding, ground-mounted or pole-mounted solar energy system installations in a safe and effieient fashion and in accordance with agricultural exemptions that are currently in place.

D. This law is further enacted to protect the community, and its citizens, and their property both financially and environmentally.

Final

Section III
Definitions

A. **Abandonment:** Abandonment of a commercial solar energy facility occurs when deconstruction has not been completed within 12 months after the commercial solar energy facility reaches the end of its useful life, or upon the failure of the facility to function in accordance with its stated purposes for a period of 12 months. For purposes of this definition, a commercial solar energy facility shall be presumed to have reached the end of its useful life if the commercial solar energy facility owner fails, for a period of 6 consecutive months, to pay the landowner amounts owed in accordance with the underlying agreement or produces less than 50% of the energy in accordance with the terms set forth in the application for its use over a period of more than 12 months. Solar company is to provide their annual output documentation from the Power Company as a part of their annual permit review process.

B. **Accessory Structure:** A structure, the use of which is incidental and subordinate to the principal building, and is located on the same lot or premises as the principal building.

C. **Agricultural Solar:** For purposes of this law, the term " Agricultural solar" refers to solar photovoltaic systems that produce up to 100 kilowatts (kW) power and are installed on a working farm as defined in Subdivision 11 of Section 301 of the Agriculture and Markets Law to serve the electrical requirements of the farm on which they are installed.

D. **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 which may be attached to or separate from the principal structure.

E. **Basal Area:** The average amount of an area occupied by tree stems. Defined as the total cross-sectional area of all stems in a stand measured at breast height , and expressed as per unit of land area.

F. **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 facade and which does not alter the relief of the roof.

G. **Collective Solar:** Solar installations owned collectively through subdivision homeowner associations, college student groups, "adopt-a-solar-panel" programs, or other similar arrangements.

H. **Decommissioning:** The process for removing an abandoned solar panel system and remediating the land.

I. **Diameter at Breast Height (DBH):** Tree diameter measured at 4.5 feet from the ground

J. **Flush-Mounted Solar Panel:** A photovoltaic panel or tile that is installed flush to the surface of a roof and which cannot be angled or raised.

K. **Freestanding Or Ground-Mounted Solar Energy System:** A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered freestanding or ground-mounted solar energy systems for purposes of this law.

L. **Grid (Power):** A network of synchronized electrical power providers and consumers that are connected by transmission and distribution lines and operated by one or more control centers.

M. **Net-Metering:** A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

N. **Permit Granting Authority:** The Town Code Enforcement Department, is charged with granting permits for the operation of solar energy systems.

O. **Photovoltaic (PV) System:** A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever sunlight strikes them.

P. **Prime Farm Lands (USDA):** Land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is available for these uses, as defined by Chenango County Soil and Water.

Q. **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.

R. **Rooftop Or Building-Mounted Solar 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.

S. **Setback:** The distance from a lot line of a parcel within which a freestanding or ground-mounted solar energy system is installed.

T. **Solar Access:** Space open to the sun and clear of overhangs or shade, including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

U. **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.

V. **Solar Easement:** An easement recorded pursuant to New York Real Property Law § 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

W. **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 unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic and concentrated solar. For the purposes of this law, a solar energy system does not include any solar energy system of ten square feet in size or less. A Solar Energy System is classified as a Tier 1, Tier 2, Tier 3, or Tier 4 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

1. Roof-Mounted Solar Energy Systems.

2. Building-Integrated Solar Energy Systems.

3. Ground-Mounted Solar Energy Systems with a Nameplate Capacity of up to 25 kW AC OR Ground-Mounted Solar Energy Systems with a total solar panel surface area of up to 4,000 square feet.

4. On-Farm Solar Energy Systems (Farms as defined by Agricultural NYS Tax Code – See Agricultural Solar Definition)

B. Tier 2 Solar Energy Systems include the following:

1. Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Nameplate Capacity of up to 1 MW AC and which generate no more than 110% of the electricity consumed on the site over the previous 12 months

2. Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Facility Area of up to 8 acres in size and which generate up to 110 % of the electricity consumed on the site over the previous 12 months.

C. Tier 3 Solar Energy Systems include the following:

1. Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Nameplate Capacity of up to 5 MW AC.

2. Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Facility Area of up to 40 acres in size.

D. Tier 4 Solar Energy Systems are Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems.

X. **Solar Energy Storage:** A method that stores energy from the sun and makes it available at a later time

in the form of electrical, mechanical, thermal or chemical energy.

Y. **Solar Farm Or Solar Power Plant:** Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

Z. **Solar Panel:** A device for the direct conversion of solar energy into electricity.

AA. **Solar Storage Battery:** A device that stores energy from the sun and makes it available in an electrical form.

BB. **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.

CC. **Surety:** The purpose of obtaining a surety bond is to ensure that the owner will have the financial ability to company with the terms of this article, and to ensure that there will be sufficient financial ability to deconstruct a facility and dispose of its parts. The amount of the surety bond will be determined by numerous factors that include but are not limited to environmental liabilities, decommissioning costs, and reclamation costs. The amount of surety required will be revised annually, as a part of the annual permit renewal process.

DD. **Town:** means the area within the corporate limits of the Town of Greene, including the Village of Greene.

EE. **Town Board:** means the Town Board of the Town of Greene.

FF. **Town Clerk:** means the Greene Town Clerk.

Section IV
Restrictions

There are no areas in the Town of Greene that are directly prohibited for Solar Energy Facilities. However, the site plan review will take into account aspects of the Town's Comprehensive Plan, the general complexion of the land use in the area of a planned facility, concerns for maintaining the general area surrounding the proposed facility and the preferences of neighbors within that area and:

A. In the Town of Greene only a total amount of 2% of the acreage within the Town, combined, will be allowed for Ground Mounted Solar Facilities (25kW and above), Tier 2, and Tier 3 systems.
   1.) Solar farm density for Tier 2 and above systems shall not exceed 200 acres per square mile, as defined by the Town.

B. Prime Farm Lands, as classified by Chenango County Water and Soil are prohibited from solar development.

C. Slopes
   1.) Development is prohibited on slopes greater than 12%, unless the applicant can demonstrate through engineering studies and to the satisfaction of the Town, that the proposed development will not cause any adverse environmental impact. In no event shall the slope exceed 20%.

D. Deforestation (for the purpose of solar development)
   1.) Not to exceed 50 acres in total area.
   2.) Commercial solar development in forests that have been harvested for timber in the last three years is prohibited.
   3.) Clearcutting of forests with a basal area as determined by a licensed forester of over 60 square feet per acre is prohibited.
   4.) Clearcutting of forests with a basal area of less than 60 square feet per acre is permitted if it does not exceed an area of 10% of the solar facilities total size.
   5.) Forests where all trees are less than six inches DBH (Diameter Breast Height) shall be deemed immature and there will be no restrictions relative to harvesting of trees.

Section V
Permit Required

A. No solar energy facility or addition of solar energy equipment to an existing solar energy facility shall be constructed unless a permit has been issued by the Town of Greene to the facility owner or operator approving construction of the facility under this Local Law.

B. Any physical modification to an existing and permitted solar energy facility that alters the size, type and number of solar collectors or other equipment shall require a permit modification under this law. Like-kind replacements, shall not require a permit modification unless there is a change in visibility, color or glare level due to the replacement.

C. Applications for permits must be made to the Town prior to the start of any work. Tier 1 applications will not require planning board review.

D. Solar Permits must be renewed annually by the calendar date of the approval. An annual review includes suretyship analysis as defined by the Town.

E. Upon sale of the property or solar energy facility, the permit will be null and void unless a renewal application has been filed with the Town, ensuring Surety and application items are fulfilled by the new entity.

Section VI
Fee

A. Application Fees:
   Tier 1 - $100
   Tier 2 - $5,000
   Tier 3 - $10,000
   Tier 4 - $1,000

B. The developer is responsible for all costs to the Town of Greene for the review of the project, included but not limited to any professional services required. Payment will be required upfront, in addition to the application fee, for any special services, amount determined by written estimate. If the actual payment is

more than the written estimate, then the applicant will be required to pay the difference to the town prior to the application proceeding. Any overage will be returned.

C. In the event of a non-approved project, 50% of the application fee will be refunded. The application fee must be paid in full prior to the application being reviewed.

D. Annual Renewal required for Tier 2 and Tier 3 sites, includes reviewing the items listed below and must be completed by the date of the original approval. Renewal applications should be filed with Code Enforcement Officer 45 days prior to annual renewal due date. Renewal Fees must be paid to the Town Clerk by application submittal.
   1. Annual Renewal Fees:
      a. Tier 2 - $500
      b. Tier 3 - $1,000
   2. Annual Renewal Application Includes:
      a. Inspection by Code Enforcement or a designated person by the Town Board
      b. Review of Suretyship
      c. Current Interconnect Agreement
      d. Production Verification from Power Utility
      e. Current Owner Verification

E. The Town of Greene requires Tier 2 and Tier 3 actions to enter into Pilot programs with the Town in lieu of Taxes if Real Property Tax Law 487 exemption is utilized.

Section VII
Applicability

A. The requirements of this law shall apply to all solar energy system and equipment installations modified or installed after the effective date of this law.

B. Solar energy system installations for which a valid building permit has been issued or, if no building permit is presently required, for which installation has commenced before the effective date of this law, shall not be required to meet the requirements of this law, but will be governed by the law in existence at the time of approval.

C. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced by any New York State regulations, the New York State Building Code, or any other Town, County, or Federal Codes or Regulations, including the National Electric Code.

D. Solar collectors, unless part of a solar farm or solar power plant, shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit collective solar installations or the sale of excess power through a net-billing or net-metering arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute.

Section VIII
Permit Application and Permitted Equipment

A. The permit application shall demonstrate that the proposed solar energy facility will comply with this Local Law.

B. Among other things, the application shall contain the following:
   1. A narrative describing the proposed solar energy facility, including an overview of the project, the project location, the approximate generating capacity of the solar energy facility, the number, representative types and height or range of heights of arrays to be constructed, including their generating capacity, dimensions and respective manufacturers and description of ancillary facilities.
   2. Copy of Interconnect Agreement
   3. Maps of the property identifying:
      i. which, if any, part of the project is termed prime farm land, with a copy of the Chenango County Soil and Water map for that area
      ii. slope of the land

iii. amount of property that will be deforested, including forestry report which must include Basal Area Measurements
iv. SEQR application, based on the type of action identified

4. An affidavit, lease, or other evidence of agreement between the property owner and the facility owner or operator demonstrating that the facility owner or operator has the permission of the property owner to apply for necessary permits for construction and operation of the solar energy facility. Said evidence shall include the duration of the lease/agreement and any options to renew set forth in the agreement.
5. For Tier 2 and above Projects, Proof of Suretyship, including a copy of said guarantee, line of credit or other security, and thereafter proof of renewal on at least an annual basis. Suretyship proof to be provided prior to any permits being issued.
6. Identification of the properties on which the proposed solar energy facility will be located and all the properties adjacent. In addition, a proposed Site Plan showing the location of buildings, equipment, roadways, and specific measurements of width, length, and access.
7. An in-depth explanation of the proposed Maintenance Plan.
8. Visual Impact Study:
   The applicant shall furnish a visual impact assessment, in a manner approved by the Planning Board, to demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the proposed commercial ground-mounted solar energy systems and all related structures which shall include: (a) A Zone of Visibility Map, which shall be provided in order to determine locations where the commercial ground-mounted solar energy systems may be seen. (b) Pictorial representations of before and after views from key viewpoints both inside and outside of the Town, including, but not limited to, state highways and other major roads; airports; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. (c) An assessment of the visual impact of the commercial ground-mounted solar energy systems and accessory buildings from abutting and adjacent properties and streets.
9. Prior to a Public Hearing occurring on the project, the applicant shall deliver notice of public hearing to adjoining landowners and landowners within 200 feet of the property at least 10 days prior to the public hearing. Notification of this must be sent to the Town Planning Board 24 hours prior to the Public Hearing Commencing.

C. No small-scale or agricultural solar energy system or device shall be installed or operated in the Town except in compliance with this law.

D. Rooftop and building-mounted solar collectors are permitted in the Town subject to the following conditions:

1. Building permits shall be required for installation of all rooftop and building- mounted solar collectors.

E. Fire safety and emergency access shall be maintained and approved by the Town of Greene .

1. In order to ensure firefighter and other emergency responder safety, except in the case of accessory buildings under 1,000 square feet in area, there shall be a minimum perimeter area around the edge of the roof (3ft) and structurally supported pathways to provide space on the roof for walking around all rooftop and building-mounted solar collectors. Additionally, installations shall provide for adequate access and spacing in order to:

   a. Ensure access to the roof;
   b. Provide pathways to specific areas of the roof;
   c. Provide for smoke ventilation opportunity areas;
   d. Provide emergency egress from the roof.

2. Exceptions to these requirements may be requested where access, pathway or ventilation requirements are reduced due to:

   a. Unique site specific limitations;
   b. Alternative access opportunities (as from adjoining roofs); Ground-level access to the roof area in question;
   c. Other adequate ventilation opportunities when approved by the Code Enforcement Department;

d. Adequate ventilation opportunities afforded by panel setback from other rooftop equipment (for example: shading or structural constraints may leave significant areas open for ventilation near HVAC equipment.);
e. Automatic ventilation device; or new technology, methods, or other innovations that ensure adequate emergency responder access, pathways and ventilation opportunities.

3. In the event any of the standards in this subsection B(2) are more stringent than the New York State Uniform Fire Prevention and Building Code (the "State Code"), then the strictest requirements shall be applied.

F. Building-integrated photovoltaic (BIPV) systems. BIPV systems are permitted in Town of Greene and shall be shown on the plans submitted for the building permit application for the building containing the system.

G. Freestanding and ground-mounted solar collectors. Freestanding or ground- mounted solar collectors are permitted as accessory structures in the Town subject to the following conditions:

1. Building permits are required for the installation of all ground-mounted and freestanding solar collectors.
2. A lot must have a minimum size of 1 acre in order for a ground-mounted or freestanding solar collector to be permitted.
3. The location of the ground-mounted or freestanding solar collector shall meet the following setback requirements and limitations:
   i. Minimum required side yard setback: 50 feet.
   ii. Minimum required rear yard setback: 50 feet
   iii. Minimum required front yard setback: 250 feet, or 25 feet behind primary structure, whichever is less.
   iv. Minimum required setback from building larger than 12x12 feet: 25 feet.
4. The height of the solar collector and any mounts shall not exceed 16 feet when oriented at maximum tilt.
5. Ground-mounted and freestanding solar collectors shall be screened from adjoining lots and street rights-of-way through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and surrounding area. The proposed screening shall not interfere with normal operation of the solar collectors.
6. Solar energy equipment shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.
7. Solar energy equipment shall not be sited within any required buffer area.

H. Solar thermal systems. Solar thermal systems are permitted subject to the following conditions:

1. Building permits are required for the installation of all solar thermal systems.
2. Ground-mounted and freestanding solar thermal systems shall be subject to the same requirements set forth in Subsection G above as for ground-mounted and freestanding solar collectors.

I. Solar energy 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:

1. Weight load.
2. Wind resistance
3. Ingress or egress in the event of fire or other emergency.

J. Freestanding and Solar collectors and related equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways during any time of the day.

K. Solar Farms and Solar Power Plants shall be permitted as an "electric generating" use subject to site plan review by the Planning Board, subject to the following supplementary regulations:

1. The manufacturer's or installer's identification and appropriate warning signage shall be posted at the site and clearly visible.

2. Solar farm and solar power plant buildings and accessory structures shall, use materials,

colors, and textures that will blend the facility into the existing environment.

3. Appropriate landscaping and/or screening materials shall be required to help screen the solar power plant and accessory structures from major roads and neighboring residences, unless otherwise determined by Site Plan Review.

4. The average height of the solar panel arrays shall not exceed 12 feet with a maximum height of 16 feet.

5. Solar farm and solar power plant panels and equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.

6. On-site power lines shall, to the maximum extent practicable, be placed underground.

Section IX
Safety

A. All solar collector installations must be performed by a qualified solar installer.

B. Prior to operation, electrical connections must be inspected by a Town Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town.

C. Any connection to the public utility grid must be inspected by the appropriate public utility.

D. Solar energy systems shall be maintained in good working order.

E. Rooftop and building-mounted solar collectors shall meet New York's Uniform Fire Prevention and Building Code standards.

F. If solar storage batteries are included as part of the solar collector 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 county, state, and federal laws and regulations.

G. Other forms of Solar Energy Storage shall not be permitted without prior approval of the Town Planning Board and any other applicable agencies. This does not apply to hot water storage of small scale systems.

H. Solar collector, or any part thereof, which have not been in active and continuous service for a period of one year shall be removed at the owner's or operator's expense within 1 calendar year.

I. Marking of equipment.

(1) Solar energy systems and equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. For residential applications, 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.

(2) For commercial application, the marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.

(3) In the event any of the standards in this Subsection I for markings are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code (the "State Code"), they shall be deemed to be guidelines only and the standards of the State Code shall apply.

Section XI
Building Permit Fees for Solar Panels

The fees for all building permits required pursuant to this law shall be paid at the time each building permit application is submitted in such reasonable amount as the Town Board may by resolution establish and amend from time to time.

Section XII
Guidelines for Future Solar Access

A. New structures will be sited to take advantage of solar access insofar as practical, including the orientation of proposed buildings with respect to sun angles, the shading and windscreen potential of existing and proposed vegetation on and off the site, and the impact of solar access to adjacent uses and properties.

B. To permit maximum solar access to proposed lots and future buildings, wherever reasonably feasible,

consistent with other appropriate design considerations and to the extent practicable, new streets shall be located on an east-west axis to encourage building siting with the maximum exposure of roof and wall area to the sun. The Planning Board shall also consider the slope of the property and the nature and location of existing vegetation as they affect solar access.

C. The impact of street trees on the solar access of the surrounding property shall be minimized to the greatest possible extent in selecting and locating shade trees. Every effort shall be made to avoid shading possible locations of solar collectors.

D. When the Planning Board reviews and acts upon applications for subdivision approval or site plan approval, it shall take into consideration whether the proposed construction would block access to sunlight between the hours of 9:00 a.m. and 3:00 p.m. Eastern Standard Time for existing approved solar energy collectors or for solar energy collectors for which a permit has been issued.

E. The Planning Board may require subdivisions to be platted so as to preserve or enhance solar access for either passive or active systems, consistent with the other requirements of the Town Code.

F. The plan for development of any site within cluster subdivisions shall be designed and arranged in such a way as to promote solar access for all dwelling units. Considerations may include the following:

(1) In order to maximize solar access, the higher-density dwelling units should be placed on a south-facing slope and lower-density dwelling units sited on a north-facing slope.

(2) Subject to the Town's setback requirements, structures should be sited as close to the north lot line as possible to increase yard space to the south for reduced shading of the south face of a structure.

(3) A tall structure should be sited to the north of a short structure.

Section XIII
Penalties for Offenses

In the event of a violation of any provisions set forth in this code, the facility owner and operator shall pay a penalty up to maximum of $2,500 per planned megawatt per day, and not less than $500 per violation.

Section XIV
Effective Date

This Local Law shall take effect the 18th day of May 2023.

TOWN OF CONKLIN LOCAL LAW NO. 2 OF 2024

A LOCAL LAW AMENDING CHAPTER 140 OF THE TOWN CODE ENTITLED "ZONING" AND ADDING A NEW CHAPTER 138 ENTITLED SOLAR ENERGY SYSTEMS

Be it enacted by the Town Board of the Town of Conklin as follows:

Section 1. Chapter 140 of the Town Code shall be amended as follows:

GENERAL REFERENCES

Insert new General Reference after Parks – see Ch. 97 and before Subdivision of Land – See Ch. 115: Solar Energy Systems – See Ch. 138

§ 140-11. Permitted uses.

H. Delete and Replace with: Customary accessory uses and buildings (i.e., private garages, garden house, tool storage house), provided that such uses are incidental to the principal use and do not include any activity conducted as a business. Non-commercial solar energy systems are permitted as a customary accessory use, subject to the requirements of Chapter 138, and where not addressed by Chapter 138, to the requirements of this Chapter.

§ 140-91. Electrical distribution substations and other public utility structures.

Delete and Replace the introductory part of this section with: Electrical distribution substations and other similar public utility structures may be permitted in any district, provided that:

Section 2. Remainder

Except as hereinafter amended, the remainder of Chapter 140 of the Town Code shall remain in full force and effect.

Section 3. Separability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this local law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the local law or part thereof is held inapplicable, had been specifically exempt therefrom.

Section 4. Effective Date

This Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Section 5. Addition of Chapter 138

A new Chapter 138 of the Town Code is hereby added, entitled "Solar Energy Systems," to read as follows:

Chapter 138

SOLAR ENERGY SYSTEMS

ARTICLE 1: GENERAL PROVISIONS

§ 138-1. Title

This Chapter shall be known as the "Solar Energy Systems Law."

§ 138-2. Statutory Authority

This Chapter is adopted pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law of the State of New York, and Sections 261-265 of the Town Law which authorizes the Town of Conklin ("Town") to adopt land use provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Town Law of New York State, "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor."

§ 138-3. Statement of Purpose.

This chapter, adopted consistent with the Comprehensive Plan of the Town of Conklin, is to advance and protect the public health, safety, and welfare of the Town by specifying where solar energy systems are permitted, and establishing regulations for the installation and use of solar energy systems and equipment with the following objectives:

A. Taking advantage of a safe, abundant, renewable, and nonpolluting energy resource;

B. Reducing the cost of energy by the owners of commercial and residential properties, including single-family homes;

C. Increasing employment and business development in the region by furthering the installation of solar energy systems;

D. Balancing the need to improve energy sustainability through increased use of solar energy systems with concerns for preservation of public health, welfare, and safety, as well as environmental quality, visual and aesthetic values, and existing neighborhood social and ecological stability;

E. Minimizing adverse impacts on the character of neighborhoods, property values and the scenic, historic and environmental resources of the Town.

§ 138-4. Findings.

The Town Board of the Town of Conklin ("Board") makes the following findings:

A. That, when properly regulated, solar energy is a clean, readily available and renewable energy source beneficial to the Town, its residents and the general public, and the Town

intends to accommodate the use of properly regulated solar energy systems.

B. That there exists a growing need to properly site all types of solar energy systems within the boundaries of the Town to protect residential areas, business areas and other land uses, to preserve the overall beauty, nature and character of the Town, including the integrity of our rural communities, to promote the effective and efficient use of solar energy resources, and to protect the health, safety and general welfare of the citizens of the Town.

C. That solar energy systems deplete land available for other uses, introduce industrial usage into other nonindustrial areas, can pose environmental challenges and compete with other activities.

D. That solar energy systems need to be regulated from permitting through construction, throughout their useful life, and ultimately for their decommissioning and removal when no longer utilized.

§ 138-5. Applicability.

The requirements of this chapter shall apply to all solar energy systems installed or modified after its effective date, excluding general maintenance and repair.

§ 138-6. Severability.

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

B. Any Special Use Permit issued under this chapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect by a competent authority or is overturned by a competent authority, the permit shall be void in total, upon determination by the Town Board.

§ 138-7. Repealer.

All ordinances, local laws, and parts thereof inconsistent with this Local Law are hereby repealed.

§ 138-8. Conflict with Other Laws.

Where this Local Law differs or conflicts with other laws, rules and regulations the more restrictive applicable law, rule or regulation shall apply. This section shall be inapplicable when County,

State or Federal Law preempts the application of a more restrictive law, rule or regulation, including the provisions contained in this Local Law.

§ 138-9. Effective Date.

This Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

§ 138-10. Word Usage and Definitions.

For the purposes of this Local Law, and where not inconsistent with the context of a particular section, the terms, phrases, words, abbreviations and their derivations defined below shall have the meaning given in this Article. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number. The word "shall" is always mandatory, and not merely directory.

ACCESSORY STRUCTURE - Any structure designed to accommodate an accessory use but detached from the principal structure, such as a freestanding garage for vehicles accessory to the principal use, a storage shed, garden house or similar facility.

APPLICANT - Any person, firm or corporation submitting an application to the Town of Conklin for a solar energy production facility.

BOARD - The Town Board of the Town of Conklin, New York.

BUILDING - Any structure other than a boundary wall or fence.

BUILDING INTEGRATED SOLAR ENERGY SYSTEM - A combination of photovoltaic building components integrated into any building envelope system, such as vertical facades, including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

CERTIFICATE OF COMPLIANCE - A certificate stating that materials and products meet specified standards or that work was done in compliance with approved construction documents.

COMMERCIAL SOLAR ENERGY SYSTEM - A solar energy system that primarily produces energy that is fed directly into the grid primarily for off-site sale or consumption, or any solar energy system with a nameplate generating capacity of 50 kilowatts or more. Commercial solar energy systems include building-integrated, roof-mounted and ground-mounted solar energy systems that meet or exceed the above-stated nameplate generating capacity.

FARMLAND OF STATEWIDE IMPORTANCE - Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

GLARE - The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM - A solar energy system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity.

HOST COMMUNITY AGREEMENT: A contract between a Commercial Solar Energy System owner/developer and the Town, whereby such owner/developer agrees to provide the community with certain benefits to mitigate impacts of the solar project.

NAMEPLATE CAPACITY – A solar energy system's maximum electric power output under optimal operating conditions. Nameplate capacity may be expressed in terms of alternating current (AC) or (DC).

NET METERING - A billing arrangement whereby the solar energy producer receives credit for excess electricity generated and delivered to the power grid, paying only for the power used.

NON-COMMERCIAL SOLAR ENERGY SYSTEM - A solar energy system with a nameplate generating capacity of less than 50 kilowatts that is incidental and subordinate to another use on the same parcel and which primarily produces energy for on-site consumption. Non-commercial solar energy systems include building-integrated, roof-mounted and ground-mounted solar energy systems that do not meet or exceed the above-stated nameplate generating capacity.

NON-PARTICIPATING PROPERTY - A parcel of land not subject to any type of agreement with the Applicant.

PARTICIPATING PROPERTY - A parcel of land subject to a lease, good neighbor agreement or other contract with the Applicant, in which the property owner receives consideration in exchange for authorizing or consenting to solar energy system development by the Applicant on or in the vicinity of the parcel.

PHOTOVOLTAIC SYSTEMS - A solar energy production system that produces electricity by the use of semiconductor devices, i.e., photovoltaic cells that generate electricity when light strikes them.

PRIME FARMLAND - Land, designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

ROOF-MOUNTED SOLAR ENERGY SYSTEM - A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

SOLAR ACCESSORY FACILITY OR STRUCTURE - An accessory facility or structure serving or being used in conjunction with a solar energy system and located on the same property or lot as a solar energy system, including, but not limited to, utility or transmission equipment, storage sheds or cabinets.

SOLAR COLLECTOR/SOLAR PANEL - A photovoltaic cell, panel or array, capable of collecting and converting solar energy into electricity.

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

SOLAR ENERGY SYSTEM - All components and subsystems required to convert solar energy into electric energy suitable for use. This term includes, but is not limited to, solar panels and solar energy equipment. The area of a solar energy system includes all the land and/or structures inside the perimeter of the solar energy system, which extends to any interconnection equipment. A solar energy system is classified as a non-commercial solar energy system or commercial solar energy system as defined herein.

SOLAR THERMAL SYSTEM - All components and subsystems required to convert solar energy into thermal energy, typically for heating water, space heating or industrial processes. This term includes, but is not limited to solar panels and solar energy equipment including a heat transfer system that delivers the heat to the desired application.

STRUCTURE - Any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as a building, shed or tank and any fixtures, additions and alterations thereto.

UNIFORM CODE - The New York State Uniform Fire Prevention and Building Code.

ARTICLE 2: NON-COMMERCIAL SOLAR ENERGY SYSTEMS

§ 138-11. Permitting Requirements for Non-Commercial Solar Energy Systems.

A. All Solar Energy Systems including solar thermal systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Uniform Code"), the NYS Energy Conservation Code ("Energy Code"), and the Town of Conklin Code.

B. Building Permits pursuant to the requirements of the Town of Conklin Zoning Code § 140-120 shall be required for installation of all rooftop, building-mounted and ground-mounted non-commercial solar energy systems.

C. All non-commercial solar energy systems shall be permitted in all zoning districts and shall be exempt from site plan review under the Town of Conklin Zoning Code (Chapter 140) or other land use regulation, subject to the following conditions for each type of Solar Energy System:

(1) Roof-Mounted Solar Energy Systems.

(a) Roof-mounted solar energy systems shall incorporate, when feasible, the following design requirements (exceptions may be approved by the Code Enforcement Officer):

(i) Solar panels on pitched roofs shall be mounted with a maximum distance of eight (8) inches between the roof surface and the highest edge of the system.

(ii) Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

(iii) Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.

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

(b) Glare. All solar panels shall have anti-reflective coating(s).

(c) Height. All roof-mounted solar energy systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

(2) Building-Integrated Solar Energy Systems.

(a) Building-integrated solar energy systems shall be shown on the plans submitted for the building permit application for the building containing the system.

(3) Ground-Mounted Solar Energy systems.

(a) Ground-Mounted non-commercial solar energy systems shall be subject to the lot size and lot coverage restrictions applicable to permitted accessory buildings in the underlying zoning district as set forth in the Town of Conklin Zoning Code.

(b) Setbacks. Ground-mounted non-commercial solar energy systems shall be subject to the setback regulations specified for principal and accessory buildings within the underlying zoning district as applicable. All ground-mounted non-commercial solar energy systems shall only be installed in the side or rear yards in residential districts.

(c) Height. Ground-mounted non-commercial solar energy systems shall not exceed ten (10) feet from finished grade when oriented at maximum tilt.

(d) Compliance. Ground-mounted non-commercial solar energy systems are subject to, and shall adhere to all Town Code, local laws, and ordinance permitting requirements applicable to the parcel where they are installed.

D. Permit Review and Inspection Timeline for Building Permit. Building permit determinations will be issued within 30 calendar days upon receipt of complete and accurate applications. The Town will provide feedback within 15 days of receiving incomplete or inaccurate applications. If an inspection is required, it will be provided within 10 days of the inspection request. The Town will make all reasonable efforts for prompt review and inspections; however, failure to meet the times set forth herein shall not be deemed an approval.

§ 138-12. Installation Requirements, Inspection, and Decommission

A. Non-commercial solar energy system requirements.

(1) All non-commercial solar energy system installations must be performed by a qualified solar installer.

(2) Prior to operation, electrical connections must be inspected by the Town Code Enforcement Officer 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) Solar energy systems shall be maintained in good working order.

(5) Rooftop and building-mounted solar energy 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 energy storage devices are included as part of the non-commercial 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 New York State.

(7) Right to Inspect. If the Town Code Enforcement Officer receives a complaint, or requests access to inspect a non-commercial solar energy system or facility, the property owner shall allow access to the property and facility. If it is determined after inspection that a hazard has been identified, the Code Enforcement Officer or their authorized designee may, at their sole discretion, order the hazard remedied within 24 hours.

(8) Abandonment and Decommissioning. Removal required. Any non-commercial solar energy system which has been determined to be non-functioning or abandoned shall be decommissioned and removed. The owner of the non-commercial solar energy system and/or facility and owner of the land upon which the system is located shall be jointly and severally responsible to physically remove all components of the system within six (6) months of the determination of the system to be non-functioning or abandoned.

§ 138-13. Appeals

A. If a person or corporation is found to be in violation of the provisions of this Article, appeals must be made in accordance with the established procedures of the Town Code.

B. If a permit for a solar energy system is denied, the applicant may appeal or seek relief as applicable pursuant to the Town Zoning Code (Chapter 140).

ARTICLE 3: COMMERCIAL SOLAR ENERGY SYSTEMS

§ 138-14. Siting Considerations

A. The Town aims to promote commercial solar energy system development in line with the objectives outlined in the comprehensive plan. Concurrently, the Town is dedicated to preventing an excessive proliferation of commercial solar energy systems within the Town, thereby safeguarding against potential negative impacts on landscapes and neighborhoods. This approach seeks to maintain the visual and residential integrity of the Town while facilitating responsible renewable energy expansion.

(1) Scenic/View Impact. Commercial solar energy systems visible within one mile from points of public access, or public rights-of-way, must be positioned and screened to minimize alteration of existing views. Commercial solar energy systems shall be presumed to result in significant visual impacts, but the applicant can rebut this presumption through detailed visual simulations. The Board shall grant a Special Use Permit for a commercial solar energy system only if satisfied that there will be minimal negative visual impacts due to existing screening, topography, or additional vegetative screening. A commercial solar energy system shall only be installed in locations deemed by the Board not detrimental to the general neighborhood character. The final determination of permissible location shall be made by the Board as part of the Special Use Permit and site plan application review.

(2) Spacing. To prevent oversaturation of commercial solar energy systems in one area of the Town, no commercial solar energy system shall be approved within one mile of an already approved commercial solar energy system unless the Board determines that it will not have a significant impact on the area or neighborhood's character.

(3) Environmental Sensitivity. Siting in environmentally sensitive areas, including but not limited to floodways, floodplains, federal-designated areas of special flood hazard, aquifers, wellhead protection zones, or wetlands, is discouraged. Proposed sites in these areas shall be presumed to have a significant, adverse environmental impact. During the SEQR review, applicants must provide sufficient evidence to rebut this presumption, and demonstrate that the proposed action will not negatively affect the health, safety, and property of the Town’s residents

§ 138-15. Site Restrictions and Requirements

A. Permitted commercial solar energy systems shall not incorporate battery storage or a battery storage system. This law is intended to optimize the integration of solar energy into the existing grid infrastructure, promoting a more efficient and sustainable energy distribution system in a manner ensuring the safety and well-being of the Town’s residents.

B. Public Utility Use. A commercial solar energy system shall not be considered a public utility use as that term is defined in Chapter 140, Zoning, § 140-4, Definitions, of the Town of Conklin Zoning Code.

C. Commercial solar energy systems are permitted by Special Use Permit issued by the Town Board in all zoning districts subject to the requirements of this Chapter. Commercial solar energy systems shall also require site plan approval by the Town Board prior to the granting of a Special Use Permit, and shall be subject to the following restrictions and requirements:

(1) Commercial ground-mounted solar energy systems are not permitted as an accessory use. Roof-mounted and building-integrated commercial solar energy systems may be permitted as an accessory use.

(2) Commercial ground-mounted solar energy systems must be located on sites with at least five (5) acres open for development. Other types of commercial solar energy systems shall comply with applicable lot size requirements as set forth in the Town Code and applicable Local Laws, if any.

(3) The height of the solar collectors and any mounts within a commercial ground-mounted solar energy system shall not exceed fifteen (15) feet from finished grade when oriented at maximum tilt. Other types of commercial solar energy systems shall comply with applicable maximum height requirements as set forth in the Town's Zoning Code (Chapter 140) and other applicable Local Laws, if any.

(4) Solar energy equipment shall be located in a manner to (i) minimize visual impacts and view blockage for surrounding properties, and (ii) shading of property to the north, while still providing adequate solar access for collectors.

(5) Solar collectors shall be installed so as to minimize glare onto neighboring properties and roadways. All solar collectors shall be treated with anti-reflective coating(s).

(6) All commercial ground-mounted solar energy systems and associated solar accessory structures/facilities shall be completely enclosed by a minimum eight (8) foot high anchored mini-mesh chain-link fence with a two (2) foot tip out and a self- locking gate. Said fence shall contain five (5) inch high by sixteen (16) inch wide grade-level cutouts every seventy-five (75) feet to permit small animals to move freely into and out of the site. Fencing shall be located inside of the buffer required by § 138-15C.7 below.

(7) All commercial ground-mounted solar energy systems must additionally include a visual buffer between the system, public roads and non-participating properties. The buffer shall consist of appropriate plantings with a mixture of evergreen and deciduous trees and shrubs a height so as to provide a visual screen of the ground-mounted system. The species, type, location and planted height of such landscaping and fencing shall be subject to the approval of the Town Board.

(8) Setback requirements. No commercial solar energy system, including solar energy equipment and solar collectors as measured from the fence enclosing the commercial solar energy system, as provided by § 138-15C.6 above, shall be

erected ahead of the front line of any existing building or be closer than:

(a) one hundred (100) feet from any non-participating residential property line.

(b) three hundred (300) feet from the front, side or rear of non-participating, habitable residential structures.

(c) fifty (50) feet from non-participating, non-residential property lines.

(d) fifty (50) feet from the boundary line of any public street or roadway.

(e) one thousand (1,000) feet from all property boundary lines of a school, church, public park/parkland, playground, public library or place of public assembly designed for, or regularly engaged in the simultaneous use of one hundred (100) persons or more.

(9) All proposed commercial solar energy systems shall demonstrate that the facility will be sited so as to have the least adverse visual effect on the environment and its character, on existing vegetation, and on any nearby residential dwellings. Any glare produced by the solar array shall not impair or render unsafe the use of contiguous structures, vehicles in the vicinity, airplanes, etc.

(10) Lot Coverage Requirements. Commercial solar energy systems shall adhere to applicable maximum lot coverage requirements for principal uses, if any.

(11) Siting Considerations. The Town Board may impose such other and related requirements for applications, and conditions on its approval, under this chapter as to enforce the standards referred to herein or in order to discharge its obligations under SEQRA.

(12) Commercial Solar Energy Systems proposed within an environmentally sensitive area including but not limited to: floodway, floodplain and/or federal-designated area of special flood hazard, aquifer, designated wellhead protection zone or wetland are subject to, and shall comply with all local, federal and state application and permitting requirements, and are subject to Town Board:

(a) Approval of an engineering plan;

(b) 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;

(c) Approval and acceptance of plans for utility connections;

(d) Approval and acceptance of safety measures.

(13) If property is subdivided to accommodate commercial ground-mounted solar energy systems as a primary use, the property containing the commercial ground-mounted solar energy system must have road frontage in compliance with the Town Zoning Code (Chapter 140) and other applicable Local Laws, if any.

(14) All utilities serving the site of a commercial solar energy system shall be installed underground and in compliance with all laws, rules and regulations of the Town, including specifically, but not limited to, the National Electrical Safety Code and

the National Electrical Code, where appropriate. If the applicant seeks to install aboveground utilities or transmission lines, the Applicant must provide sufficient proof of infeasibility of underground installation. The Board may waive or vary the requirements of underground installation of utilities whenever, in the opinion of the Board, the Applicant's proof establishes that such variance or waiver shall not be detrimental to the health, safety, general welfare and environment, including the visual and scenic characteristics of the area.

(15) At a commercial ground-mounted solar energy systems site, at least one access road and adequate parking shall be provided to ensure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion. This subsection shall apply to other types of commercial solar energy systems if, at the discretion of the Board, the circumstances of the project so dictate.

(16) Fire access roads and access for fire apparatus equipment shall be provided, as approved by the chief of the Town of Conklin Volunteer Fire Department, and the Board. Any gates to the site shall be equipped with Knox Company locks to allow fire department access.

(17) Commercial ground-mounted solar energy system owners shall develop, implement, and maintain native perennial vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds and pollinators.

§ 138-16. Additional Site Restrictions and Requirements for Commercial Ground-Mounted Solar Energy Systems located on Certain Agricultural Lands.

A. Any commercial ground-mounted solar energy system located on areas that consist of Prime Farmland and/or Farmland of Statewide Importance shall not exceed 50% of the area of Prime Farmland and/or Farmland of Statewide Importance on the parcel. However, if the Board determines that the Applicant has meaningfully committed to making the Prime Farmland/Farmland of Statewide Importance on the parcel occupied by the commercial solar energy system available for a meaningful agricultural use in addition to the commercial solar energy system as a condition of the Special Use Permit, this 50% limit shall not apply.

B. Commercial solar energy systems located on Prime Farmland and/or Farmland of Statewide Importance shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.

§ 138-17. Application, Recertification and Annual Fees.

A. The Board shall approve the form of the application(s) for solar energy systems by resolution and update same as deemed appropriate.

B. Commercial solar energy system fees. In addition to any applicable, parcel-specific, permitting fees required by Town law or ordinance, an applicant shall pay an initial, non-refundable application fee, as set by the Town, upon filing its Special Use Permit and site plan applications to cover the cost of processing and reviewing the commercial solar energy

system application.

C. If the project is approved, the owner shall pay an annual fee to the Town, to cover the cost of processing and reviewing the annual inspection report(s) and for administration, inspections and enforcement.

D. The owner shall pay a recertification fee to the Town as set forth in § 138-24A herein for recertification of the Special Use Permit.

E. All application, permit, review, inspection, recertification, enforcement and such other fees associated with the initial application(s), or the continued operation of a commercial solar energy system shall be set by the Town Board by resolution.

§ 138-18. Special Use Permit Application Procedure.

A. The Town Board is hereby designated and authorized to review, analyze, evaluate and make decisions with respect to all Special Use Permit applications for commercial solar energy systems. The Board may, at its discretion, delegate or designate the Town Planning Board, or other officials of the Town to accept, review, analyze, evaluate and make recommendations to the Board with respect to granting or not granting, recertifying or not recertifying, or revoking site plan and/or Special Use Permit approval of commercial solar energy systems.

(1) Except for parcel-specific Town Code permitting requirements as set forth in § 138-18.2 below, the Special Use Permit, necessary building permit(s), and subsequent certificates of compliance and/or Special Use Permit recertification, no additional permits or approvals from the Town shall be required for a commercial solar energy system covered by this Article.

(2) A pre-application meeting is required with the Applicant, Town Engineer, Code Enforcement Officer and Town Supervisor prior to submitting a formal Special Use Permit application during which the applicant should be prepared to address adherence to all Town Code permitting requirements applicable to the project.

(3) Completed applications for siting commercial solar energy systems shall be submitted to the Town Code Enforcement Officer at least ten (10) days prior to the next regular meeting of the Town Board. Applications may be made by the owner of the property or their duly authorized representative, who shall attend the meeting of the Board to discuss the application. Applications not meeting the requirements stated herein, or which are otherwise incomplete may be rejected by the Town Code Enforcement Officer or the Board.

(4) Within 62 days after the Town Board meeting where the complete application is submitted, a public hearing shall be held. Notice of such public hearing shall be published in the official newspaper of the Town at least ten (10) days prior to the date thereof. In order that that Town may notify nearby landowners, at the applicant's cost, the applicant, at least three weeks prior to the date of said public hearing, shall be required to provide the names and addresses of all landowners whose property is located within one thousand-five hundred (1,500) feet of any property line of the lot on which the proposed commercial solar energy system is proposed to be located.

(5) The Board will undertake a review of an application pursuant to this chapter in a timely fashion, consistent with its responsibilities under SEQRA, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.

(6) After the public hearing and after formally considering the application, the Board may approve with or without conditions and issue, or deny a Special Use Permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the applicant.

(7) The Board's decision approving, approving with conditions or denying the Special Use Permit for a commercial solar energy system shall be filed with the Town Clerk within five (5) business days and communicated by mail to the applicant.

(8) No commercial solar energy system installation or construction shall commence until: the site plan is reviewed and approved by the Board; the Special Use Permit has been issued; the Applicant has provided proof of insurance pursuant to §135-25; and all agreements required pursuant to Article 4 of this Chapter have been finalized to the satisfaction of the Town and the Town Attorney.

§ 138-19. Special Use Permit Application Requirements for Commercial Solar Energy Systems.

B. The Special Use Permit application shall be signed by the person preparing it on behalf of the Applicant, who has knowledge of its contents and representations, and attests to the truth and completeness of the information. If the landowner(s) of the project location is not the Applicant, the Applicant shall additionally provide one of the following:

(1) A signed writing from each landowner consenting to the filing of the application by the Applicant; or

(2) A copy of the agreement(s) between the Applicant and each landowner authorizing the Applicant to use the landowner's property as proposed in the Application.

C. The Special Use Permit application shall include a statement in writing:

(1) That the Applicant's proposed commercial solar energy system shall be maintained in a safe manner and in compliance with all conditions of the site plan approval, without exception, unless specifically granted relief by the Board in writing, as well as all applicable and permissible local codes, ordinances and regulations, including any and all applicable county, state and federal laws, rules, and regulations.

(2) That the construction of the proposed commercial solar energy system is legally permissible, including but not limited to the fact that the Applicant is authorized to do business in New York State.

D. At the discretion of the Board, any false or misleading statement in the application may subject the Applicant to denial of the application without further consideration, opportunity for correction or refund of any application fees.

E. All Special Use Permit applications for proposed commercial solar energy systems shall show and include a site plan with maps, drawings and any/all necessary supplemental reports and documentation that show and include the following:

(1) Names, mailing addresses, email addresses and telephone numbers of the Applicant and, if the application is made on behalf of a business entity, the entity's authorized agent(s) responsible for the application; and, if different from the Applicant:

(a) The owner(s) of the proposed project site

(b) The developer of the proposed project

(c) The operator of the proposed project

(2) Name of project, Tax Map parcel numbers and boundary lines of parcel(s) on which the project will be located, a location map showing proposed site's location, north arrow, and scale of the plan.

(3) Current photographs of the project site to establish baseline conditions prior to the commencement of construction.

(4) Stamped drawings to scale signed by a New York State Licensed Professional Engineer or Registered Architect showing:

(a) The layout of the proposed solar energy system,

(b) A survey of the property or properties

(c) The location of all lot lines, easements and rights of way

(d) The location of all current and proposed utility connections, transmission lines and solar accessory facilities/structures

(e) Existing and proposed topography and five-foot contour intervals

(f) Location of all proposed landscaping and screening per the landscaping and screening plan required by § 138-19D.6.

(g) Proposed road and emergency access to the project site, including provisions for paving, if any.

(5) A map or maps showing:

(a) Location and distance of the solar energy system and associated solar accessory facilities/structures to the nearest non-participating residential property line.

(b) Location and distance of the solar energy system and associated solar accessory facilities/structures to the nearest non-participating residential structure.

(c) Location and distance of the solar energy system and associated solar accessory facilities/structures to the nearest non-participating, non-residential property line.

(d) Location and distance of the solar energy system and associated solar

accessory facilities/structures to any school, church, public park/parkland, playground, public library or any place of public assembly designed for the simultaneous use of one hundred (100) persons or more.

(e) Location of nearest habitable structure.

(f) Location, size and height of all existing structures on the property or properties that are the subject of the application.

(g) Location, size, and height of all proposed solar collection and accessory structures.

(h) The names, addresses and Tax Map parcel numbers of all owners of record of abutting parcels and those within fifteen hundred (1,500) feet of the property lines of the parcel(s) where development is proposed. Each such owner shall be designated as "participating" or "non-participating" as those terms are defined in this Chapter. The location of all structures located on such properties shall be identified and labeled as "residential" or "non- residential".

(i) Water access in case of fire.

(j) Areas of environmental sensitivity as set forth in § 138-14.A.3 and § 138-15.C.12 herein.

(k) Areas of Prime Farmland and Farmland of Statewide importance as defined in § 138-10 clearly showing the area of disturbance.

(l) Detailed information on tree removal areas.

(m) Detailed information on slope degrees specifying areas with varying slopes.

(6) A landscaping and screening plan showing:

(a) All existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material and erosion control measures.

(b) Appropriate fencing around the entirety of a ground-mounted solar energy system in accordance with the requirements of § 138-15C.6 of this Article. The fencing shall have self-locking gates, and shall bear warning signs with the owner's name and emergency contact information on any access point to the system and perimeter of the fencing. The fencing and the system shall be further screened by any landscaping needed to avoid adverse aesthetic impacts.

(7) A property operation and maintenance plan describing continuing photovoltaic maintenance and property upkeep including:

(a) A maintenance plan providing for regular mowing and trimming to ensure no vegetation exceeds ten (10) inches in height within the interior of the fencing required by § 138-15C.6 of this Article.

(b) The use of integrated pest management practices to refrain from/limit

pesticide use (including herbicides) for long-term operation and site maintenance. The use of herbicides or pesticides in environmentally sensitive areas identified and as set forth in § 138-14A.3 and § 138-15C.12 is prohibited.

(8) A report or series of reports containing the information hereinafter set forth. Where this section calls for certification, such certification shall be by a qualified New York State Licensed Professional Engineer and/or architect acceptable to the Town, unless otherwise noted.

(a) The proposed design level for solar energy production capacity for the facility and the basis for the calculations of the solar energy system's capacity.

(b) The make, model and manufacturer of the solar production component parts and schematic drawings of same.

(c) A description of the proposed commercial solar energy system and all related fixtures, structures, appurtenances and apparatus, including height above preexisting grade, materials, color and lighting.

(d) Applicant's proposed commercial solar energy system maintenance and inspection procedures and related system of records. This report shall further include a list of contacts for the property, notification procedures for the transfer of ownership and plans for continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

(e) Certification from all relevant County, State and/or Federal authorities that the proposed commercial solar energy system will not cause interference with air traffic.

(f) Certification that a topographic and geomorphologic study/analysis has been conducted, taking into account subsurface features and a proposed drainage plan pursuant to a Storm Water Pollution Prevention Plan (SWPPP), such that the proposed site is deemed adequate to assure the stability of the proposed commercial ground-mounted solar energy system.

(g) Plans to prevent the erosion of soil both during and after construction, excessive runoff, and flooding of other properties, as applicable. There should be pre-construction and post-construction drainage calculations for the site completed by a licensed engineer. From this the engineer must show how there will be no increase in runoff from site. A SWPPP will be required if disturbance of the land exceeds one acre.

(h) A decommissioning plan completed in conformance with § 138-26 of this Article.

(i) A true and complete copy of the interconnection agreement between the owner of the commercial solar energy system and the utility company.

(j) The Applicant shall furnish a visual impact assessment, in a manner approved by the Board, to demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the proposed commercial

solar energy system and all related structures which shall, at minimum, include:

(i) A zone of visibility map, which shall be provided in order to determine locations where the commercial ground-mounted solar energy systems may be seen.

(ii) Pictorial representations of before and after views from key viewpoints both inside and outside of the Town, including, but not limited to, state highways and other major roads; airports; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. The Town Engineer and/or Code Enforcement Officer, acting in consultation with the Town's consultants or experts, will provide guidance concerning the appropriate key sites at the pre-application meeting.

(iii) An assessment of the visual impact of the commercial solar energy system and accessory buildings from abutting and adjacent properties and streets.

(k) The Applicant shall furnish a visual impacts minimization and mitigation plan that responds to any concerns raised as a result of the visual impact assessment. Said plan shall include proposed minimization and mitigation alternatives based on an assessment of mitigation strategies, including screening (landscaping), architectural design, visual offsets, relocation or rearranging facility components, reduction of facility component profiles, alternative technologies, facility color and design, lighting options for work areas and safety requirements, and lighting options for FAA aviation hazard lighting.

(l) A water quality report and a soil testing report, both prepared by a professional environmental engineer or environmental scientist licensed to practice in the State of New York that shows the presence or absence of any preexisting, subsurface, hazardous materials that may be present at the project site to establish the original condition to which the project site soil and water quality must be protected and/or restored upon Special Use Permit recertification as set forth in § 138-24 herein, and decommissioning as set forth in § 138-26 herein. For purposes of this section, hazardous materials are those listed in 6 NYCRR 597.3, as may be amended from time-to-time.

(m) A technical or professionally prepared noise analysis detailing potential noise impacts of the system including ambient noise levels to ensure that they do not exceed the maximum permissible continuous sound levels as set forth in Town Code Chapter 94 and/or any other applicable Town local law or ordinance.

(n) A certification that the solar panels consist of non-toxic components and

that the equipment is certified to applicable performance and safety standards including those established by the International Electrotechnical Commission (IEC) and Underwriters Laboratory (UL).

(o) A Completed State Environmental Quality Review Act ("SEQRA") Full Environmental Assessment Form ("FEAF").

(9) The Board may, in its discretion, modify or waive any of the requirements described in this section to the extent that such conditions are inapplicable to a given application. The Board may also require that the Applicant submit additional information not listed herein that it deems necessary in order to inform and complete its review of the Applicant's Special Use Permit application.

§ 138-20. Retention of Expert Assistance; Reimbursement by Applicant.

A. The Applicant for a Special Use Permit for a commercial solar energy system shall be responsible for the cost of the engineering review by the Town Designated Engineer (TDE), as well as any additional consultants, legal professionals and/or experts the Town may hire to assist in the review and evaluation of the Application, and any related and/or required contractual agreements pursuant to Article 4 of this Chapter. The Board may also hire any consultant and/or expert necessary to assist the Board in reviewing and evaluating any requests for recertification of a previously issued Special Use Permit as set forth in § 138-24 of this Chapter, which includes a review of the amount of the removal bond or security established by the decommissioning plan pursuant to § 138-26.

B. The Applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of TDE review, legal consultation and expert evaluation and consultation to the Board in connection with the review of any application. The initial deposit shall be no less than $15,000.00. These funds shall accompany the filing of an application, and the Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall bill or invoice the Town no more frequently than monthly for their services in reviewing the application and performing their duties. If at any time during the review process this escrow account has a balance less than 50% of the initially deposited amount, the Applicant shall immediately, upon notification by the Town, replenish said escrow account so that the balance of said account equals the amount of the initial deposit. 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 billing or invoicing at the conclusion of the review process, the difference shall be promptly refunded to the Applicant. Billing and invoicing for TDE, legal and expert consultation and evaluation shall be made available to the applicant upon request.

C. Following the closeout of the application escrow, the Board reserves the right to either require the Applicant to establish another reasonable escrow account or to bill the Applicant on an ongoing basis for any additional reasonable costs incurred by the Town for consultants, legal professionals and/or experts the Town determines necessary for tasks such as recertification of a previously issued Special Use Permit, review of the amount of the removal bond or security established by the decommissioning plan, and any other similar evaluations. The Applicant shall reimburse the Town for all such costs within 30 days of receiving notice from the Town. Failure to reimburse the Town in a timely manner

may result in the suspension or revocation of the Special Use Permit.

§ 138-21. Permit Time Frame.

A. The Special Use Permit authorizing construction of a commercial solar energy system shall be valid for a period of eighteen (18) months from the date of issuance, conditional upon the subsequent issuance of building permit authorizing the commencement of construction.

B. In the event construction is not completed in accordance with the approved site plan within eighteen (18) months after Special Use Permit approval, the Applicant may apply to the Board to extend the time to complete construction for one hundred eighty (180) days, which extension shall not be unreasonably withheld or delayed. If the owner and/or operator fails to perform substantial construction after twenty-four (24) months, all previously granted approvals shall expire and all application and related fees shall be retained by the Town.

§ 138-22. Related Permits and Fees.

A. A holder of a Special Use Permit granted under this Article shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the Applicant.

B. A holder of a Special Use Permit granted under this Article shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted solar energy production facility in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, County, State and/or United States, including, but not limited to, the most recent editions of the Uniform Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.

§ 138-23. Right to Inspect.

A. In order to verify that the Applicant and any and all lessees, renters and/or licensees of commercial solar energy systems place and construct approved solar energy systems, including solar collectors and solar inverters, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other applicable requirements, the Town, its authorized officers, agents and/or designees may inspect all facets of said Special Use Permit holders', renters', lessees' or licensees' placement, construction, modification and maintenance of such facilities.

B. Upon reasonable notice, the Town of Conklin Code Enforcement Officer/Building Inspector or their designee may enter a lot on which a commercial solar energy system has been approved for the purpose of inspection for compliance with the application materials as well as any and all other applicable requirements, conditions, codes regulations and/or laws. For commercial scale solar energy systems, such inspections shall include, but not be limited to, focus on the screening and vegetation plans. Twenty-four (24) hours' advance notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a commercial-scale solar energy system shall be inspected annually by a New York State licensed professional engineer

that has been approved by the Town or at any other time, upon a determination by the Town's Code Enforcement Officer/Building Inspector that damage may have occurred, and a copy of the inspection report shall be submitted to the Town Building Inspector. Any fee or expense associated with this inspection shall be borne entirely by the permit holder and will be set from time to time by the Town Board pursuant to the Town's fee schedule. For commercial-scale solar energy systems, such inspections will take place on a yearly basis following issuance of the building permit and at such other times as determined by the Code Enforcement Officer/Building Inspector.

C. The costs of all inspections conducted pursuant to this Section shall be borne by the Applicant.

D. On or before February 15 of each year subsequent to the operational date of the commercial solar energy system, or as soon as practicable, the owner of the commercial solar energy system shall provide the Town Code Enforcement Officer/Building Inspector a report showing the rated capacity of the system, and the amount of electricity that was generated in the most recent twelve-month period. This report shall also be made available upon request of the Town, its authorized officers, agents and/or designees and shall be submitted no later than forty-five (45) days after a written request for the same. Failure to submit a report as required herein shall be considered a violation subject to the penalties and remedies set forth in Article 5 herein.

§ 138-24. Extent and Parameters of Special Use Permit; Recertification.

A. At any time between twelve (12) months and six (6) months prior to the three (3) year anniversary date after the original effective date of the Special Use Permit, and all subsequent third anniversaries of the effective date of the original Special Use Permit thereafter, the holder of the Special Use Permit shall submit a signed written request to the Board for recertification accompanied by a recertification fee which shall be set by the Board by resolution.

B. In the written request, the holder of such Special Use Permit shall provide the following:

(1) The name of the current holder of the Special Use Permit for the commercial solar energy system.

(2) The name and/or number and date of issuance of the original Special Use Permit.

(3) A current water quality report and a soil testing report as set forth in § 138-19.D.8.l obtained within sixty (60) days of the written Special Use Permit recertification request.

(4) Whether the commercial solar energy system has been moved, relocated, rebuilt or otherwise modified since the issuance of the original Special Use Permit or previous recertification if applicable, and, if so, in what manner.

(5) That the commercial solar energy system is in compliance with the original and/or most recent, recertified Special Use Permit and is in compliance with all applicable codes, rules, laws and regulations.

C. Board decisions.

(1) In conjunction with the recertification request, the Town Code Enforcement Officer will conduct an inspection to ensure the installation is being maintained in good working order, with particular emphasis on the maintenance of landscaping, fencing and/or other screening required by the Town Board upon the issuance of the site plan approval and Special Use Permit.

(2) If, after such review, the Board determines that the permitted commercial solar energy system is in compliance with the Special Use Permit and all applicable codes, rules, laws and regulations, then the Board shall issue a recertification Special Use Permit for the commercial solar energy system, which may include any new provisions or conditions that are mutually agreed upon or required by applicable statutes, laws, local laws, ordinances, codes, rules and regulations.

(3) If, after such review, the Board determines that the permitted commercial solar energy system is not in compliance with the Special Use Permit and all applicable codes, rules, laws and regulations, then the Board may refuse to issue a recertification Special Use Permit for the commercial solar energy system, and in such event, such commercial solar energy system shall not be used after the date that the applicant receives written notification of such decision by the Board.

(4) Any such decision shall be in writing and supported by substantial evidence contained in a written record.

D. If the holder of a Special Use Permit for a commercial solar energy system does not submit a request for recertification of such Special Use Permit within the time frame set forth in § 138-24A, of this Chapter, then such Special Use Permit and any authorizations granted thereunder shall cease to exist on the date of the third anniversary of the original special use permit or subsequent third anniversary, unless the holder of the Special Use Permit adequately demonstrates to the Board that extenuating circumstances prevented a timely recertification request or that it is in the interest of the Town to consider a late recertification request. If the Board agrees that legitimate extenuating circumstances were present, or that it is in the Town's best interests, the Board may permit the holder to submit a late recertification request or application for a new Special Use Permit.

E. Any Special Use Permit granted hereunder shall be:

(1) Nonexclusive.

(2) Not assigned, transferred or conveyed without the express prior written consent of the Board, and such consent shall not be unreasonably withheld or delayed.

(3) Subject to revocation, termination, cancellation or modification following a hearing upon due prior written notice to the applicant for a violation of the conditions and provisions of the Special Use Permit for the commercial solar energy system or for a material violation of this chapter.

§ 138-25. Liability insurance.

A. Prior to the commencement of construction of a commercial solar energy system, the owner/operator thereof shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage for the duration of the useful life of the commercial solar energy system.

(1) Insurance policy amounts shall be determined by the Board in consultation with Town's insurer to cover damage or injury that may result from the failure of a commercial solar energy system or any other part(s) of the generation or transmission facility. However, at minimum, the owner/operator shall carry the following insurances in the following amounts:

(a) Commercial general liability covering personal injuries, death and property damage: $1,000,000 per occurrence/$2,000,000 aggregate.

(b) Automobile coverage: $1,000,000 per occurrence/$2,000,000 aggregate.

(c) Workers' compensation and disability: statutory amounts.

(2) The commercial general liability insurance policy shall specifically include the Town of Conklin as additional named insured.

(3) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least "A."

(4) The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.

(5) Renewal or replacement policies or certificates shall be delivered to the Town at least fifteen (15) days before the expiration of the insurance policies currently in place.

(6) Before construction of a permitted commercial solar energy system is initiated, but no later than fifteen (15) days after the grant of Board approval, the Special Use Permit holder shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

§ 138-26. Abandonment of Use and Decommissioning.

A. The decommissioning plan required by this Section shall include, at minimum, the following:

(1) Physical removal of all above and below ground equipment, structures and foundations including but not limited to all solar panels/collectors, solar energy equipment, accessory facilities/structures, security barriers, electric transmission lines and components and other physical improvement to the site.

(2) Access roads may be left in place if written consent is received by the Town from the landowner. However, all solar energy equipment and accessory facilities or structures installed underground must be fully removed and the land reclaimed.

(3) Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations, including original receipts for all hazardous

disposal items, which will be delivered to the Town Supervisor.

(4) Restoration of the surface grade and soil after removal of all aboveground solar panels, solar energy equipment and accessory facilities or structures.

(5) Revegetation of restored soil areas with native seed mixes that exclude any invasive species.

(6) Water and soil testing to ensure there is no contamination before, during, and after decommissioning.

(7) Specific measures to ensure that agricultural lands are restored to their original condition or improved.

(8) Stormwater management and drainage plans to prevent erosion and manage runoff effectively during and after decommissioning.

(9) Tree maintenance and restoration, including the replacement of damaged trees to the extent necessary, to ensure maintenance of the local ecosystem and landscape integrity.

(10) A reasonable timeframe for the completion all decommissioning and site restoration activities.

(11) The System Owner remains indefinitely liable for any contamination (ground, ground water, or any other contamination) and is responsible for all remediation within NYS regulations.

B. The implementation of the decommissioning plan shall commence and proceed in accordance with subsections C, D and E of this Subsection, as applicable, upon the occurrence of any of the following:

(1) The Applicant abandons or otherwise ceases operation of the commercial ground-mounted solar energy system for a cumulative period of one hundred-eighty

(2) (180) days in any three hundred sixty-five (365) day period;

(3) The Applicant or subsequent owner begins but does not complete construction of the project within eighteen (18) months, or twenty-four (24) months upon the granting of an extension by the Board as described in Subsection A above, after receiving Special Use Permit approval; or

(4) The Special Use Permit for the commercial solar energy system is revoked, terminated, or expires and is not recertified.

(5) When a permitted commercial solar energy system falls into such a state of disrepair that it creates a health or safety hazard.

(6) When commercial solar energy systems are located, constructed or modified without first obtaining, or in a manner not authorized by, the required site plan review approval, Special Use Permit, or any other necessary authorization.

C. In the event that construction of an approved solar energy system and/or solar accessory facilities or structures has been started but is not completed and functioning within eighteen (18) months of the issuance of the final site plan approval and Special Use Permit, the Town may notify the Applicant to complete construction and installation of

the facility within ninety (90) days. If the Applicant fails to perform, or to apply for and receive a Special Use Permit extension in accordance with this Article, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within one hundred eighty (180) days of such notification by the Town.

D. Upon revocation, termination or non-recertification of an expired Special Use Permit, the Applicant, owner and/or operator must fully complete the decommissioning plan within one hundred eighty (180) days of the date of revocation, termination or non-recertification.

E. Upon the occurrence of any event listed in subsection B above, to which the requirements of subsections C and/or D of this Section do not apply, the Town shall notify the owner and/or operator of the commercial solar energy system to implement the decommissioning plan. Within ninety (90) days of the service of said notice, the owner and/or operator shall either restore operation equal to 50% of approved capacity, or commence implementation of the decommissioning plan, which plan must be fully completed within one hundred eighty (180) days after implementation thereof.

F. If the owner and/or operator fails to fully complete the decommissioning plan within the one hundred eighty (180) day time period and restore the site as required, the Town may, at its own expense, provide for the restoration of the site in accordance with the decommissioning plan and may, in accordance with the law, recover all expenses incurred for such activities from the removal bond or decommissioning security posted by the owner and/or operator in accordance with subsection G of this Section, and from the defaulted owner and/or operator directly, if necessary. Any decommissioning costs incurred by the Town which have not been fully paid by the owner and/or operator shall be assessed against the property, shall (in addition to any other available remedies) become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes. The decommissioning plan shall provide for the ability of the Town, or its assignee or designee, to access the property owners' land in order to complete decommissioning if necessary.

G. Prior to the issuance of a Special Use Permit, the owner or operator of an approved commercial solar energy system shall post a removal bond or other decommissioning security in a form acceptable to the Town to be held in escrow to provide for the complete decommissioning and removal of the commercial solar energy system. The amount of the removal bond or decommissioning security shall be agreed upon in consultation with the Town engineer and shall account for the total cost of returning the property to its pre-developed state, taking into account the expected lifetime of the equipment and an assumed 3% rate of inflation. The removal bond or security shall state on its face that it is held by and for the sole benefit of the Town. The owner and/or operator shall not encumber or create any security interest(s) in the removal bond or decommissioning security in favor of any third party. The amount of the financial guarantee shall be reviewed by the Applicant and the Board every three (3) years upon recertification of the Special Use Permit pursuant to § 138-24, and may be changed following a majority vote of the Board. The form of the guarantee must be reviewed and approved by the Town Attorney, and the guarantee must remain in effect until the system is fully removed and final inspection is completed by the Code Enforcement Officer.

H. The Applicant shall provide the Town Code Enforcement Officer on a yearly basis a report showing the rated capacity of the commercial solar energy system and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve (12) month period. The report shall also identify any change in ownership of the commercial solar energy system and/ or the land upon which the commercial solar energy system is located and shall identify any change in the party responsible for decommissioning and removal of the commercial solar energy system upon its abandonment. The annual report shall be submitted no later than forty-five (45) days after the end of the calendar year.

I. Every third year upon the recertification of the Special Use Permit, the annual report shall also include a recalculation of the estimated full cost of decommissioning and removal of the commercial solar energy system indexed to the cumulative U.S. inflation rate for the three (3) previous years. The Town may require an adjustment in the amount of the removal bond or decommissioning security to reflect any changes in the estimated cost of decommissioning and removal. Failure to submit a report as required may be cause to require decommissioning of the system pursuant to this Chapter.

J. Ownership Changes – If the ownership of a commercial solar energy system that has been granted a Special Use Permit change, the Special Use Permit shall remain in force and all conditions of the Permit will continue to be obligations of succeeding owners. The Town Clerk shall be notified and the ownership change registered with the Town. At the time of the notification of the ownership change the new owner(s) must provide a removal bond or decommissioning security to the Town Clerk in accordance with the provisions of § 138-26.G. All signs required pursuant to this chapter shall be updated accordingly.

§ 138-27. Adherence to State and Federal Rules and Regulations.

A. To the extent that applicable State or Federal laws, rules, regulations, standards or provisions of same are modified during the operation of a commercial solar energy system, the owner/operator thereof shall conform the permitted commercial solar energy system to the applicable changed and/or modified law, rule, regulation, standard or provision thereof within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard or provision thereof, or sooner, if required by a State or Federal agency responsible for the administration of the changed law, rule, regulation, standard or provision thereof.

ARTICLE 4: CONTRACTUAL REQUIREMENTS

§ 138-28. Required Contractual Agreements

A. Prior to and as a condition of site plan approval, the applicant for a commercial solar energy system shall execute the following contractual agreements with the Town unless waived at the Town's sole discretion based upon applicability:

(1) Payment in Lieu of Taxes (PILOT) Agreement. The applicant shall execute a Payment in Lieu of Taxes (PILOT) Agreement as set forth in § 138-29 of this Chapter.

(2) Road Use Agreement. At the Board's discretion, commercial solar energy systems applicants shall execute a Road Use Agreement with the Town if Town roads are

to be used for the construction and/or during the operation of the project. Prior to the issuance of the building permit and commencement of construction, an existing condition survey of the approved hauling route(s) using Town roads shall be undertaken by the applicant at the applicant's expense. Any road damage during construction caused by the operator or its subcontractors on Town Roads shall be repaired or reconstructed to the satisfaction of the Town Highway Superintendent at the applicant's sole expense whether or not a Road Use Agreement was entered into between the applicant and the Town.

(3) Indemnification Agreement. The applicant for a commercial solar energy system shall execute an Indemnification Agreement with the Town. The agreement shall require the applicant/owner/operator to at all times defend, indemnify, protect, save, hold harmless and exempt the Town and its officers, councils, employees, attorneys, agents and consultants from any and all penalties, damages, costs or charges arising out of any and all claims, suits, demands, causes of action or award of damages whether compensatory or punitive, or expenses arising therefrom either at law or in equity, which might arise out of or be caused by the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said commercial solar energy system, excepting however any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town or its employees or agents. With respect to the penalties, damages or changes referenced herein, reasonable attorneys' fees, consultant fees and expert witness fees are included in those costs that are recoverable by the Town.

(4) Host Community Agreement. The applicant shall enter into a Host Community Agreement providing a public benefit fee to mitigate the additional burdens, financial and otherwise, placed on the Town as a result of the project. The public benefit fee, payable in a lump sum or in installments, shall be utilized as a source of funding for prospective costs and expenses associated with, and related to anticipated municipal services and additional infrastructure improvements to be provided as a result of the project's physical presence within the Town. The public benefit fee and terms of payment shall be agreed to between the applicant and the Town, and shall be approved by resolution of the Town Board.

§ 138-29. Payment in Lieu of Taxes

A. Pursuant to Real Property Tax Law § 487(9)(b), the Town of Conklin hereby expresses its ongoing intent to require a PILOT agreement for all real property tax-exempt solar energy systems. This chapter shall be considered and serve as written notification of the Town's PILOT requirement to owners or developers of commercial solar energy systems pursuant to Real Property Tax Law § 487(9)(a).

B. The owner of a property on which a solar energy system is located or installed (including any improvement, reconstruction, or replacement thereof), shall enter into a PILOT agreement with the Town of Conklin consistent with the terms of this chapter, except for:

(1) Residential, non-commercial solar energy systems.

(2) Solar energy systems that do not seek or qualify for an exemption from real property taxes pursuant to Real Property Tax Law § 487(4).

C. The lessee or licensee of any owner of a property required to enter into a PILOT agreement by this section, which owns or controls the solar energy system, may enter into the PILOT agreement on behalf of the owner of the property.

D. Nothing in this chapter shall exempt any requirement for compliance with state and local codes for the installation of any solar energy equipment or a solar energy system, or authorize the installation of any solar energy equipment or a solar energy system. All solar energy systems must file a real property tax exemption application pursuant to Real Property Tax Law § 487 to receive a tax exemption.

E. Each PILOT agreement entered into shall include:

(1) Name and contact information of the owner or other party authorized to act upon behalf of the owner of the solar energy system.

(2) The SBL number for each parcel or portion of a parcel on which the solar energy system will be located.

(3) A requirement for fifteen (15) to twenty (20) successive annual payments, to be paid commencing on the first annual payment date after the effective date of the real property tax exemption granted pursuant to Real Property Tax Law § 487.

(4) The capacity of the solar energy system, and that if the capacity is increased or increased as a result of a system upgrade, replacement, partial removal or retirement of solar energy equipment, the annual payments shall be increased or decreased on a pro rata basis for the remaining years of the agreement.

(5) That the parties agree that under the authority of Real Property Tax Law § 487 the solar energy system shall be considered exempt from real property taxes for the fifteen-year life of the PILOT agreement.

(6) That the PILOT agreement may not be assigned without the prior written consent of the Town of Conklin, which consent may not be unreasonably withheld if the assignee has agreed in writing to accept all obligations of the owner, except that the owner may, with advance written notice to the Town of Conklin but without prior consent, assign its payment obligations under the PILOT agreement to an affiliate of the owner or to any party who has provided or is providing financing to the owner for or related to the solar energy system, and has agreed in writing to accept all payment obligations of the owner, that a notice of this agreement may be recorded by the owner at its expense, and that the Town of Conklin shall cooperate in the execution of any notices or assignments with the owner and its successors.

(7) The Town of Conklin Town Board may establish by resolution the payment amount and terms of PILOT agreements and/or community host agreements by developers of solar energy systems with the Town of Conklin or may delegate to the Broome County Industrial Development Agency the authority to negotiate such agreements on behalf of the Town of Conklin.

(8) That if the annual payment is not paid when due, that upon failure to cure within

thirty (30) days, the Town of Conklin may cancel the PILOT agreement without notice to the owner, and the solar energy system shall thereafter be subject to taxation at its full assessed value.

ARTICLE 5: VIOLATIONS & ENFORCEMENT

§ 138-30. Penalties for Violations.

A. A violation of this Local Law is hereby declared to be an offense, punishable by a fine not exceeding $250 or imprisonment for a period not to exceed fifteen (15) days, or both. Each week's continued violation shall constitute a separate additional violation.

B. Notwithstanding anything in this Local Law, the owner/operator of any solar energy system or related accessory structure covered by this Local Law may not use the payment of fines, liquidated damages or other penalties to evade or avoid compliance with this section. An attempt to do so may subject the owner/operator of a commercial solar energy system to the termination and revocation of any or all previously granted certificates, permits or approvals for the solar energy system pursuant to the procedures set forth in § 138-31B below. The Town may also seek injunctive relief to prevent the continued violation of this section, without limiting other remedies available to the Town.

§ 138-31. Default and/or Revocation.

A. If any solar energy system or related accessory structure covered by this Local Law is repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Local Law, the Code Enforcement Officer shall notify the owner/operator in writing of such violation. Such notice shall specify the nature of the violation or noncompliance and state that the violations must be corrected within thirty (30) days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this Local Law, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Code Enforcement Officer or their authorized designee may, at their sole discretion, order the violation remedied within twenty-four (24) hours.

B. If, within the period set forth in § 138-31.A above, the solar energy system or related accessory structure is not brought into compliance with the provisions of this Local Law or substantial steps are not taken in order to bring the same into compliance, the Code Enforcement Officer may revoke any or all issued certificates, permits or approvals and shall notify the owner/operator of the same within forty-eight (48) hours of such action. The Code Enforcement Officer shall, in addition to the foregoing, inform the Board of the owner/operator’s failure to comply with subsection (A) above. The Board may thereafter, in its discretion, and after providing the owner/operator with notice and an opportunity to be heard, revoke any previously granted Special Use Permit for the solar energy system.