Subject Solar Law

From Shelly Johnson-Bennett <s[redacted]

To Barb Miller [redacted]>, Windsor Code Enforcement <[redacted]t>

Cc Tim Harting <[redacted]>, Mark D. Spinner [redacted]

Date Wednesday October 29, 2025 10:28:14 AM

Hi Liz:

Attached is the draft Solar Law. I am also attaching comments that we received from Abundant Solar.

You will see in their comments they referenced the Town of Conklin a couple of times. I would ask that Mark compare the two and make some changes particularly in regard to deforestation, taxation and Pilot agreements.

The Planning Board had extensive conversations regarding deforestation and protection of farmlands as two major potential impact areas that should be clearly addressed. Other areas I believe Mark would be better versed to address include taxation and Pilot agreement clauses. I am happy to discuss and make changes as well. I am certainly open to any ideas regarding other impact areas that are not included in this draft.

I apologize for the delay, I have been swamped at work, and my time has been very limited, so it has taken an inordinate amount of time to get to this.

Also, I have a conflict this evening as I have to attend a meeting in the Town of Hamden with the town attorney to address an application for a 135mw battery storage facility proposed. That being said I would like to cancel tonight's meeting unless Rich has something specific that he wants to address with the other board members. If not, can you let the other board members know the meeting is cancelled and let the gentleman from Abundant know since they have been traveling to our meetings every month.

Thank you for all you do Liz. You defiantly make our lives easier.

Shelly

Shelly J. Johnson-Bennett
Commissioner
Delaware County Department of Planning, Parks and Watershed Affairs
Delaware County Public Information Officer (PIO)
PO Box 367, 2 Bridge Street, Delhi, NY 13753
[redacted]

Attachments
Windsor Solar Law.doc (169 kB)

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August 21st, 2025

Ms. Shelly Johnson-Bennett
Planning Board Chair
Town of Windsor
124 Main Street
Windsor, NY 13865

Re: Abundant Solar Comments on Draft Solar Code

Dear Ms. Johnson-Bennett,

On behalf of Abundant Solar Power Inc., we appreciate the opportunity to provide comments on the Town of Windsor's Draft Solar Code. We recognize the Town's hard work in developing a solar code and the importance of balancing renewable energy opportunities with the protection of agricultural and environmental resources.

Our review has identified a few provisions where refinements could help strengthen the balance between preservation and development. In general, the Planning Board should have the discretion to evaluate and make determinations related to agriculture and forestry to avoid reliance on variances for standard issues. Specifically, we recommend:

- **Adopting flexible farmland provisions** that allow dual-use practices and mitigation options to enhance and protect farmland and the agricultural industry in Windsor.
- **Clarifying reasonable tree removal limits** and incorporating environmental restoration and mitigation options to balance forest health and certainty to local landowners.

With only about 2% of land eligible for development, to be further reduced by interconnection limits and market availability of land, the law should not unintentionally limit opportunities for PILOT and Host Community Agreement payments to the Town, discounted electricity bills for local residents through NYSERDA's community solar program, and opportunities for expanded agricultural activity in the town.

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Please refer to the following pages for our detailed comments and recommendations. We thank you for considering these comments and welcome the opportunity to discuss them further.

Sincerely,

Signed by:
Bartolo Morales
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Appendix A: Site Selection Process for Community Solar

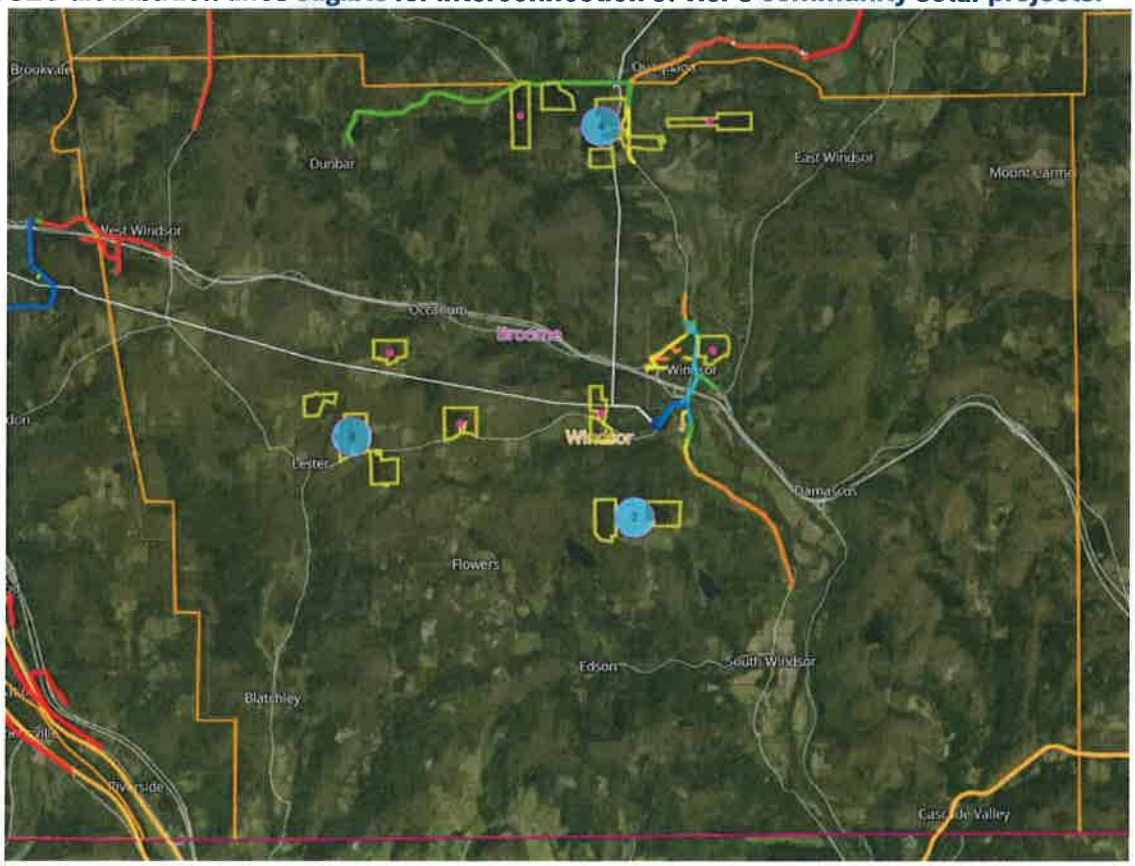
To begin, we would like to illustrate our typical solar siting process to demonstrate that in any scenario Windsor is unlikely to see more than a few Tier 3 solar projects for the foreseeable future.

Applying typical siting criteria yields only 15 potential parcels for Tier 3 solar energy systems in within Town boundaries, before any contemplated farmland or forestry restrictions are incorporated, representing about 2% of total land in the town.

For illustrative purposes, we applied the following criteria to all parcels within Town boundaries:

- Proximity to distribution powerlines (NYSEG)
- +- 15 acres of buildable area
- Avoiding slopes greater than 15%
- Avoiding designated state or federal wetlands

Parcels meeting the above criteria are outlined in yellow below. Colored lines represent NYSEG distribution lines eligible for interconnection of Tier 3 community solar projects.



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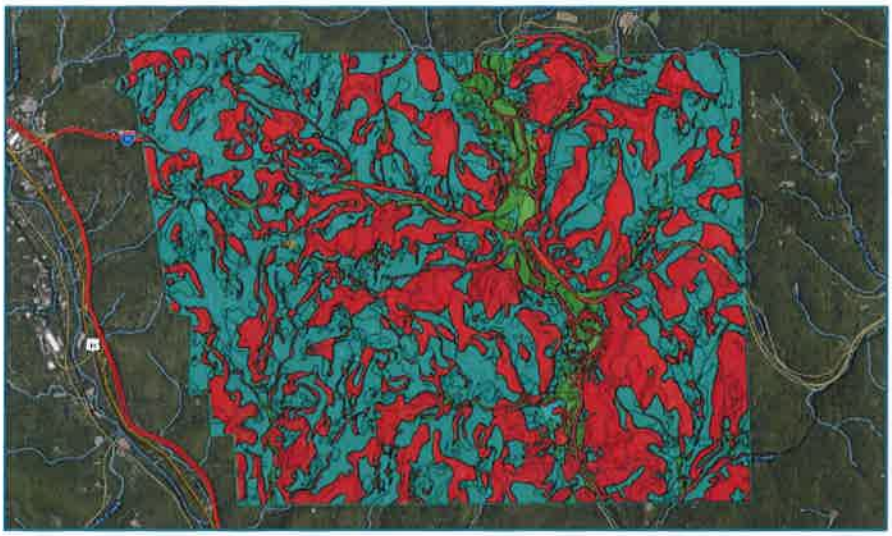
Interconnection is also a major limiting factor in development and is typically the number one reason a project does not move forward. Given the limited number of eligible NYSEG distribution lines available for interconnection in the Town, development is further limited. Willingness of property owners to lease or sell land will narrow down potential parcels even further.

Below is a USDA Natural Resources map and table showing areas classified as Farmland of Statewide Importance (blue) and Prime Farmland (green). Cumbersome restrictions on Prime Farmland and Farmland of Statewide Importance will substantially reduce the amount of land available, even if that farmland is not under active agricultural use, which may not be reasonable if the solar project incorporates an agricultural co-use or "agrivoltaic" feature.



Collapse Summary by Map Unit — Broome County, New York (NY007)
Summary by Map Unit — Broome County, New York (NY007)

Map unit symbol	Rating	Acres in AOI	Percent of AOI	Acres	%
Br	All areas are prime farmland	92.9	0.20%		
UnB	All areas are prime farmland	636.8	1.00%	2,617	4%
VoC	Farmland of statewide importance	17,468.80	28.80%	31,226	51%
Wd	Not prime farmland	920.2	1.50%	26,512	44%
Wa	Prime farmland if drained	289.5	0.50%	290	0.5%
				60,645	100%
	Town's area: 92.74 mi²=640 acres/mi²=59,353.6 acres				
	2% of Town Total Acreage as Solar Development Cap = 1,187.08			1,187	3%
	The solar cap would utilize about 3% of the combined Prime and Statewide Importance acreage of the Total Town area (34,133 acres)				

Note: The table above represents Abundant Solar Power's calculations based on publicly available USDA farmland classification data for the Town of Windsor. Figures have been processed and summarized internally for the purpose of this analysis, and may not represent official USDA totals.

USDA Natural Resources map: https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx

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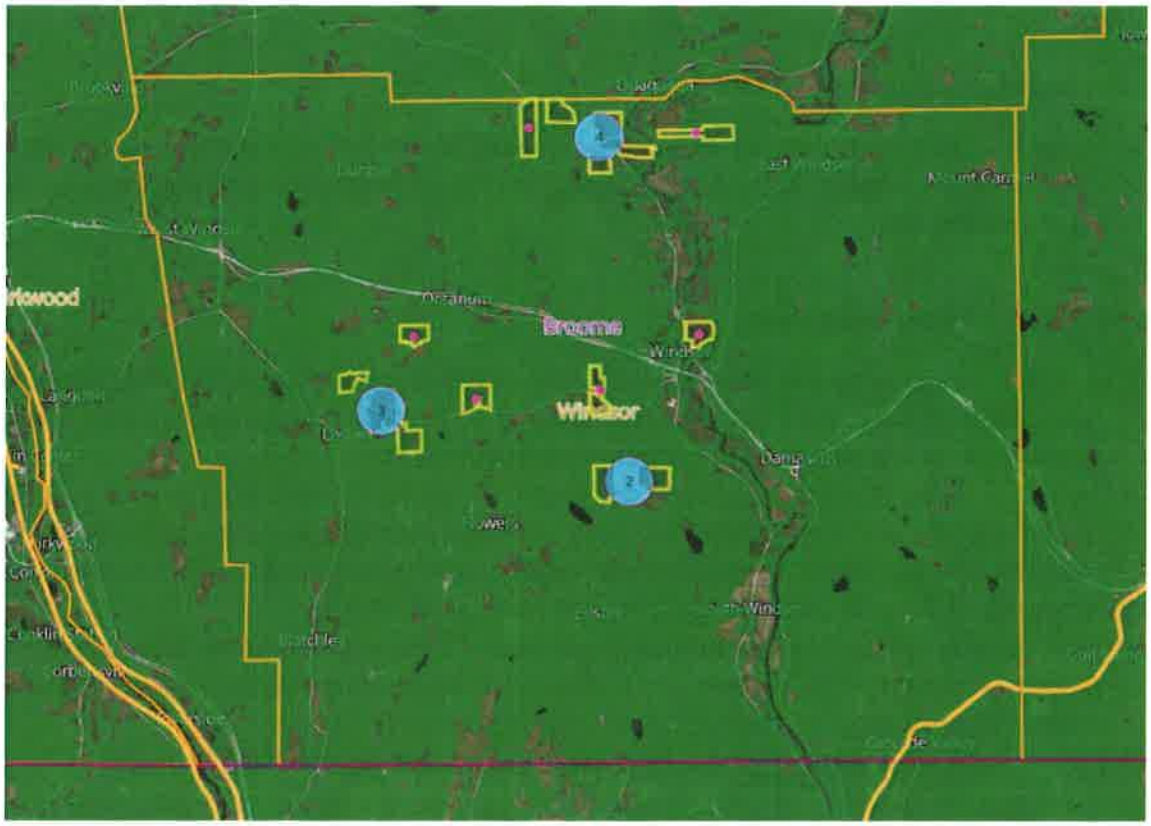
Town of Windsor forestry map

Considering the substantial forest coverage in Windsor, tree removal restrictions may unreasonably restrict projects. The below map is sourced from Paces, a licensed mapping tool[1]. Green areas represent forest cover.



Conclusion

Given the above factors, it is unlikely that Windsor will see more than 3-4 Tier 3 solar projects for the foreseeable future due to land availability and suitability and interconnection capacity limits.

[1] PACES is a paid, licensed platform that gives access to parcel maps and data developers use for planning decisions.

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Appendix B: Abundant Solar Comments – Draft Solar Code

Please see below for specific comments on sections of the draft code.

1. Farmland Restrictions – Section 100-3-1(2) and Section 100-3-5(g)(1)

Current Draft Language:

- Section 100-3-1(2) prohibits solar development on Prime Farmland and Farmland of Statewide Importance. Section 100-3.5(11)C(11) limits Tier 3 solar on these lands to 50% of the parcel area.

Abundant Solar Power Comments:

- USDA data indicates that approximately 56% of Windsor's 59,354 acres (≈33,238 acres) are classified as Prime Farmland or Farmland of Statewide Importance, while a large percentage of this land is not under active agricultural use. [2]
- Adopt a more flexible approach as found in Section 100-3-5(g)(1) and in other municipalities, allowing agricultural land coverage restrictions to be reduced at the discretion of the board for projects that incorporate meaningful dual-use practices (see Appendix C: Town of Conklin Local Law 2 of 2024, s138-16(A)).
- Solar projects with an agricultural use ("agrivoltaics") typically incorporate livestock grazing and/or crop cultivation beneath and between panels, making efficient use of land. See https://www.nyserda.ny.gov/PutEnergyToWork/Industry-Energy-Solutions/Agriculture/Agrivoltaics for more information on agrivoltaics.

2. Tree Removal – Section 100-3-1(4)(c) and Section 100-3-1(4)(d)

Current Draft Language:

- Section 100-3-1(4)(c) prohibits tree removal in forests with a basal area of over 60 square feet per acre.
- Section 100-3-1(4)(d) restricts clearing of forests to 10% of the total solar facility size.

[2] https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx

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Abundant Solar Power Comments:

- The prohibition in 100-3(4)(c) should be clarified to "merchantable basal area" per forestry industry standards to protect high value forests while acknowledging some basal area is of low value and subject to seasonal thinning in any case.
- 60 square feet per acre of basal area is somewhat restrictive given that many forested areas of Upstate New York commonly have basal areas of 120-150 square foot per acre. We would suggest a limit of 80 square feet per acre of merchantable basal area is more reasonable.
- We would also suggest the 10% limit in Section 100-3-1(4)(d) is overly restrictive.
- The addition of mitigation options for projects where tree removal in excess of the limits is unavoidable such as re-treeing offsite within the town or making contributions to a town conservation fund could balance the intent of maintaining a healthy forest with the development rights of local landowners and project feasibility.
- Windsor has extensive tree cover in Farmland of Statewide Importance not under active agricultural use. With the potential for agrivoltaics, community solar represents an opportunity to expand the agricultural industry in Windsor, if tree removal and lot coverage regulations are sufficiently flexible to allow it.

SOLAR
LOCAL LAW

Town

of

WINDSOR, NEW YORK

2025

Solar Use Law
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Solar Use Law

ARTICLE I

General Provisions

§100-1 GENERAL PROVISIONS

§100-1.1. Enactment.

The Town Board of the Town of Windsor, Broome County, New York, does hereby ordain and enact the Town of Windsor Solar Use Local 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 Windsor Solar Use Local Law." The Town of Windsor is hereinafter referred to as the "Town."

§100-1.3. Intent and purpose.

The purpose of this Local Law is to advance and protect the public health, safety, and welfare of the Town of Windsor 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 natural resource development, agriculture 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.

§100-1.4. Authorization of Planning Board to review Solar Energy Deriving Projects.

The Planning Board is hereby authorized to review and approve or disapprove Solar Use Permits within the Town of Windsor in accordance with the standards and procedures set forth in this local law.

§100-1.5. Applicability of review requirements.

1) Solar installations and Solar Power Plants shall be permitted as an electric generating use subject to review and approval 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 installations 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 the Planning Board and included in the approved permit.

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

   e. Solar installations 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 Windsor, 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 if 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 Windsor Planning Board.

§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 conflicts 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 establishes a Board of Appeals for granting variances from strict adherence to this law as hardships are deemed applicable."

§100-1.7. 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.

§100-1.8. Effective Date.

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

§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 occurs 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.

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.

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.

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.

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 solar energy facility is to be placed. The Site can be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has a solar energy facility or has entered 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 25 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 25 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.

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

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 Broome County or an immediately adjacent county and must be approved by the Town of Windsor Town Board. The amount of surety required will be revised annually, as a part of the annual permit renewal process.

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

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

§ 100-3 Solar Use Provisions

§ 100-3.1 Restrictions

There are no areas in the Town of Windsor that are directly prohibited for Solar Energy Facilities. However, the application for permit approval and review will consider 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 Windsor 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 shall have limited solar development and shall incorporate, to the greatest extent possible dual use provisions to preserve the agricultural lands for their greatest and best use. Acceptable dual uses may include agrivoltaics that allow for continued agricultural operations while also providing limited solar development.

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 Windsor. 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 10% 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.

§ 100-3.2 Permits.

No solar energy generating system shall be constructed, reconstructed, modified, repaired or operated in the Town of Windsor 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 or 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.

§ 100-3.3 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 Windsor 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) Documentation to verify where old parts were disposed or recycled
5) Name of person and/or contractor making repair or replacement.

§ 100-3.4 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").

§ 100-3.5 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 farmland, with a copy of the Broome County Soil Survey map for that area

   b. slope of the land

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

4) Part 1 SEQR application, based on the type of action identified along with all supporting environmental documentation including but not limited to soils analysis, wetland determinations, impact to flora and fauna and visual assessments.

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 Windsor. 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 14 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, the Town Clerk shall publish a public hearing notice 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 shareholders, responsible members of the corporate board of directors or responsible person(s) of all involved shareholder groups. A resolution and letter of authorization/representation shall be submitted prior to an application being heard before the Town of Windsor Planning Board.

A. 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 Windsor.

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 Officer;

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.

B. 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 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 Solar Use Local Law lot size or the To0wn of Windsor Zoning lot size, whichever is greater.

C. 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 Windsor 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 Windsor shall have a notice printed in a newspaper of general circulation in the Town at least fourteen (14) 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 fourteen (14) 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 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 Town of Windsor, 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 8 herein.

10) Site plan application. For any Solar Energy system requiring a Solar 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 shareholders 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) Solar 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 Local Law or the Town of Windsor Zoning, whichever is greater.

b. Setbacks: The Tier 3 Solar Energy Systems shall comply with the setback standards specified in this Local Law and in compliance with standards as established in the Town of Windsor Zoning for principal structures.

c. Height: The Tier 3 Solar Energy Systems shall comply with the building height limitations for principal structures as defined in this 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 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 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 be prohibited.

2) To the maximum extent practicable, Tier 3 Solar Energy Systems located on agricultural lands 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.

D. 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.

E. Permit Time Frame and Abandonment

1) The Solar 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.

§ 100-3.6 Variance and Appeals

Any property owner, tenant or representative thereof may, appeal a decision of the Code Enforcement Officer of the Town of Windsor, The Town of Windsor Planning Board or the Town of Windsor Town Board, with respect to this Local Law and request a variance from its literal terms. Application for a variance may be made after an application for a building permit or Solar Use 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 Town of Windsor Zoning Board of Appeals for a decision on the variance request.

A. General procedures. All appeals and variance applications made to the Zoning Board of Appeals shall be written on the forms prescribed by the Board. Every appeal or variance application shall refer to the specific provision of this Local 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. The burden of proving hardship and the needs of the applicant to alleviate the hardship shall rest solely on the applicant. All variances shall be in accordance with the procedures as established in Section 267-A of New York State Town Law.

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

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 Windsor, [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:_____