

#1 2025

Local Law No. 1 of 2025 Solar Energy Facilities

Be it hereby enacted by the Town Board of the Town of Winfield as follows:

ARTICLE I INTRODUCTION

§ 1. TITLE

This Local Law shall be referred to as “Solar Energy Facilities Local Law,” an amendment to the Town of Winfield’s Zoning Law #2015-01.

§ 2. PURPOSE

The Town Board of the Town of Winfield adopts and amends the Town’s Zoning Law with this Solar Energy Facilities Local Law to ensure any use of the Town’s solar energy resource is considered for approval in a manner compatible with the Town’s Comprehensive Plan and Zoning Law, and will not compromise public health, safety, and welfare.

§ 3. AUTHORITY

The Town Board of the Town of Winfield enacts this Solar Energy Facilities Local Law under the authority granted by:

- i. Article IX of the New York State (“NYS”) Constitution, § 2 (c)(6) and (10)
- ii. NYS Statute of Local Governments, § 10 (1) and (7)
- iii. NYS Municipal Home Rule Law § 10 (1)(i) and (ii), § 10(1)(a)(6), (11), (12), (14), § 10(2)(d)(3), and § 20.
- iv. NYS Town Law § 130(1) (Building Code), (3) (Electrical Code), (5) (Fire Prevention), (7) (Use of Streets and Highways), (7-a) (Location of Driveways), (11) (Peace, Good Order and Safety), (15) (Promotion of Public Welfare), (15-a) (Excavated Lands), (16) (Unsafe Buildings), (19) (Trespass), and (25) Building Lines)
- v. New York Town Law § 64(17-a) (Protection of Aesthetic Interests), (23) General Powers), §§ 261–263.
- vi. New York Real Property Tax Law § 487.
- vii. State Environmental Quality Review 6 CRR-NY § 617.14(e).

§ 4. FINDINGS

The Town of Winfield finds and declares:

- A. Energy from the sun may be harnessed in several important and useful ways for the benefit of the environment and for direct and indirect human uses.
 - i. Solar energy may be converted by agricultural and natural plant growth into chemical energy that may be used as food for humans, domesticated animals or wildlife; or used in biofuels or other plant-based products.
 - ii. Solar energy may be converted into domestic, agricultural or industrially useful thermal energy using solar thermal energy collection and distribution systems.
 - iii. Solar energy may be converted into electrical energy using the photovoltaic effect, generating electrical power for a myriad of uses.
- B. The principal industry of the Town of Winfield is agriculture. The agricultural industry requires land and sunlight to thrive and is thus principal user of energy from the sun.
- C. Installing a Large-Scale Solar Energy System on fertile soil necessarily replaces the growth of plant life with the generation of thermal or electrical energy. Thus, the decision to install a large-scale solar energy system on open ground is not a decision between having solar energy or not to utilize solar energy, but rather a matter of selection of which type of solar energy is desired, and which will be excluded.
- D. The Town of Winfield Comprehensive Plan makes note of the Town having topography and soils particularly suited to agricultural use, and prioritizes land use for agriculture.
- E. The Town of Winfield notes that the NYS Department of Agriculture and Markets considers Small Scale Solar Energy Systems to be “on-farm” equipment when they are designed, installed, and operated so the anticipated annual total amounts of electrical energy generated do not exceed the anticipated annual total electrical needs of the farm by more than 110%. Further, the Department's guidance that if a local government classifies solar equipment as structures or buildings, they are deemed on-farm buildings. As on-farm equipment or buildings, the installation of Small-Scale Solar Energy Systems are protected under the Agricultural Districts Law.
- F. Small Scale Solar Energy Systems mounted on rooftops do not compete with agricultural uses.
- G. To protect productive farmland, The Town of Winfield notes with approval the NYS Department of Agriculture and Markets’ guidance that non-farm, large- and small-scale solar energy systems should be sited on less productive land.
- H. The Town of Winfield notes there is a distinction between farm related solar systems, and solar systems built on agricultural land that primarily serve off-site users.

- I. Large- and Small-Scale Solar Energy Systems, when mounted too near a neighboring property may limit solar access for the neighboring property and/or cause annoyance. Thus, it is appropriate to establish setbacks between a ground-mounted Large- and Small-Scale Solar Energy Systems and a property line.
- J. An improperly mounted solar panel may reflect sunlight at neighboring buildings or along roads such as to create an annoyance and/or driving hazard.
- K. If improperly designed, installed and/or maintained, Solar Panels and associated equipment may create fire, electrocution and other hazards.
- L. If improperly designed, installed and/or maintained, Large- and Small-Scale Solar Energy Systems and associated equipment may impair scenic views.
- M. The electrical output of a photovoltaic system typically varies based on its age.
- N. Large- and Small-Scale Solar Energy Systems have limited useful operational life, typically ranging from 20–25 years for solar panels and significantly less for solar energy equipment such as inverters. It is appropriate to provide requirements for decommissioning at the end of a Solar Energy System's useful life.
- O. The Town of Winfield has not opted out of the Real Property Tax Law § 487, which exempts from taxation certain solar or wind energy systems. The Town may therefore require the owner of a property proposing a solar or wind energy system to enter into a contract for Payments In Lieu of Taxes (PILOT). In accordance with NYS RPTL § 487(9)(b), the Town hereby provides ongoing notice of its intent to require PILOT agreements for all eligible solar and wind energy projects. This requirement shall be deemed continuous notification to all owners and developers, and no further individual notice shall be required, provided this local law remains in effect.
- P. In October, 2019 the NYS Division of Agriculture and Markets ("NYSDAM") revised its "Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands." To the extent any feature of a proposed Large Scale Solar Energy System does not comport with these guidelines, or any subsequently revised version of the same, the application shall identify the discrepancy therewith and the justification or necessity for such discrepancy in the proposal.

§ 5. DEFINITIONS

For the purpose of this amendment to Town Zoning, the following terms shall have the meanings indicated:

ACCESSORY USE - A use customarily incidental and subordinate to the principal use or building, located on the same lot or premises as the principal use or building.

AGRICULTURAL OR FARM OPERATIONS - Agricultural or Farm Operations consist of the land and on-farm buildings, equipment, manure processing and handling facilities, and practices

which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including commercial horse boarding operations and “timber processing.” Such farm operations may consist of one or more parcels of owned or rented land. The land parcels may be contiguous or noncontiguous to each other.

AGRICULTURAL DISTRICT- A Certified Agricultural District as defined within Article 25-AA of NYS Agriculture and Markets Law.

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 from solar, wind, water and other sources, and which may be attached to or separate from the principal structure.

APPLICANT - An Applicant is the individual or business entity that seeks to secure a permit under this Local Law.

BUILDING INTEGRATED PHOTOVOLTAIC (BIPV) 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 that does not alter the relief of the roof.

CAPACITY - The total rated peak power output in kilowatts of all solar panels in a project as measured under Standard Test Conditions (STD).

CODES ENFORCEMENT OFFICER or CEO - The Codes Enforcement Officer appointed by the Town Board of the Town of Winfield.

COLLECTIVE SOLAR – Large- and Small-Scale Solar Energy Systems owned collectively through subdivision homeowner associations, a localized group, “adopt-a solar-panel programs, or other similar arrangements that are designed to provide electrical energy solely to the collective’s membership.

FEAF – Full Environmental Assessment Form used in the implementation of the SEQRA as defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

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

FREE-STANDING/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.

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

HEIGHT - The height of a Large or Small Solar Energy System to its furthest vertical extension above ground level.

HISTORICALLY SIGNIFICANT STRUCTURE - A structure is presumed to be historically significant to the Town of Winfield if it is located within the Town limits and was built prior to 1950. Structures that are associated with important historical figures or events may also be historically significant regardless of when constructed. All structures listed on the NYS or Federal Registers of Historic Places are considered significant.

LARGE-SCALE SOLAR ENERGY SYSTEM - A freestanding or ground mounted solar energy system that produces electrical energy primarily for the purpose of off-site sale or consumption. All "solar farms" and collective solar systems that are designed on a scale to generate excess energy for sale to non-collective membership customers are "Large-Scale Solar" systems.

MATURE FOREST - A mature forest is any unimproved land in excess of one (1) acre with trees that are predominantly six (6) inches in diameter or more.

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

NET-METERING/REMOTE NET-METERING - A billing arrangement that allows electricity customers to get credit for any excess electricity the customer generates and delivers back into the grid so that the customer only pays for their net electricity usage.

PERMIT GRANTING AUTHORITY - The Town's Codes Officer is charged with granting permits for the construction of Small-Scale solar energy systems.

PHOTOVOLTAIC (PV) SYSTEMS - A solar energy system that produces electricity using semiconductor devices, called photovoltaic (PV) cells that generate electricity whenever light strikes the PV cells. In this law, the term "Solar Collector" refers to a photovoltaic system for energy production.

POLLINATOR - Bees, birds, bats and other insects and wildlife that pollinate flowering plants, including those wild and managed insects and beehives.

PRIME FARMLAND, PRIME SOILS, AND PRIME SOIL LANDS - Agricultural land meeting: (1) the national parameters for land designated "Prime Farmland" as described in the US Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic Database ("SSURGO") on WebSoil Survey; and (2) "farmland of statewide importance," pursuant to the NYS classification system for Herkimer County.

PROJECT BOUNDARY - The external property boundaries of lands owned by or leased by the Solar Energy developers, encompassing all Large-Scale Solar Energy Systems, along with any other equipment, infrastructure, or facilities associated with the project.

PROPERTY LINE - The recognized and mapped parcel boundary line as delineated on a professional survey prepared by a New York State licensed land surveyor.

PROPERTY OWNER - The owner of a parcel within the project boundary.

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 NYS Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition.

ROOF-MOUNTED SOLAR ENERGY SYSTEM - A solar panel system installed on the roof of any legally permitted building or structure for the purpose of producing electricity for on and/or off premise use.

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

SETBACK - The distance from a front lot, side lot, or rear lot property line of a parcel within which a freestanding or ground mounted solar energy system is installed.

SITE - The parcel(s) of land where a Solar Energy Facility is to be installed. One individual or a group of individuals controlling single or adjacent properties can publicly or privately own the Site. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property that has a Solar Energy System or has entered into an agreement for said Facility shall be considered a Site.

SMALL-SCALE SOLAR ENERGY SYSTEM - The term "small-scale solar" refers to any of the following solar energy collector systems and solar- thermal systems: (1) any rooftop or building mounted or integrated solar energy system regardless of the amount of kilowatts (KW) per hour of energy produced by the system, provided the system satisfies the standards of this law; (2) any ground-mounted or freestanding solar energy system that is (a) an accessory use to a principal, commercial or residential use, and (b) is designed on a scale to meet primarily the electrical needs/demands of the principal use or building on the same lot.

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.

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

SOLAR ENERGY EQUIPMENT/SYSTEM/FACILITIES - 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, and 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 four square feet in size or less.

SOLAR ENERGY PERMIT - A permit issued for a solar energy system pursuant to this Local Law.

SOLAR ENERGY STORAGE BATTERY – A device that stores electrical energy produced by a solar collector and is capable of discharging stored electrical energy as required.

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

SOLAR PANEL - A photovoltaic or solar thermal device used for the direct conversion of solar energy into electricity or for the capture of solar energy as a heat source.

SOLAR-THERMAL SYSTEMS - Solar thermal systems directly heat water or other liquid using sunlight as the heat source. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

STRATEGIC VANTAGE POINT - The location from which to assess the visual impact of a proposed Large-Scale Solar Energy System. A vantage point is considered strategic if the public can be expected to congregate there for educational or civic purposes; religious observance; enjoyment of historic or cultural resources; or for recreation whereby the enjoyment of the natural environment is a key aspect of the recreational activity. Strategic Vantage Points include both public and private venues. Some examples include: Schools, Golf Courses, Churches, and Public Buildings, Historically Significant Structures, Parks, Museums and Cemeteries. Roads and highways are considered Strategic Vantage Points.

TOWN - The Town of Winfield.

TOWN BOARD - The Town Board of the Town of Winfield.

§ 6. PERMITS REQUIRED

- A. No Solar Energy System, large or small (as defined) shall be constructed, reconstructed, modified, or operated in the Town of Winfield except pursuant to and in compliance with a Solar Energy Permit issued pursuant to this Local Law.
- B. Exemptions. No Solar Energy Permit is required under this Local Law for the following: Standard regulations requiring Building Permits for new construction or building alterations do, however, apply.
 - i. A SOLAR ENERGY SYSTEM that is portable and not connected to the electrical wiring of a building or to the electrical grid.
 - ii. A SOLAR ENERGY SYSTEM that is utilized solely for Agricultural or Farm Operations in an Agricultural District certified pursuant to Article 25-AA of the Agriculture and Markets Law and not integrated to the electrical grid.
- C. A BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM that is integrated into a building at the time of construction, and for which a Building Permit is applied for and subsequently issued. In this case, no additional Solar Energy Permit is required.

- D. The repair or replacement of a validly permitted Solar Energy System without significantly altering the footprint of the existing system.

§ 7. APPLICABILITY

- A. This Local Law shall apply to all areas of the Town of Winfield.
- B. Any Solar Energy System for which a building permit has been properly issued and upon which construction has commenced prior to the effective date of this Local Law, shall not be required to meet the requirements of this Local Law; provided, however, that:
 - i. Any preexisting solar energy system that has not provided electrical energy to a building, or to the electrical grid for a continuous period of twelve (12) months must meet the requirements of this Local Law prior to recommencing the production of energy; and
 - ii. No modification or alteration to an existing solar energy system shall be allowed except for repair or in-kind replacement of Solar Energy Equipment without full compliance with this Local Law.
- C. The requirements of this Solar Energy Facilities Local Law shall apply to all Large and Small-Scale solar energy systems proposed, operated, modified, or constructed in the Town of Winfield after the effective date of this amendment to the Town Zoning Law.

ARTICLE II SMALL-SCALE SOLAR ENERGY SYSTEMS

§ 8. PURPOSE AND INTENT

The purpose of this Article is to provide standards and requirements for Small-Scale Solar Energy Systems to protect the public health, safety, aesthetic resources, and community welfare. Small-Scale Solar Systems 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, although nothing contained in this provision shall be construed to prohibit the sale of excess power through a “net billing” or “net metering” arrangement in accordance with NYS Public Service Law § 66 or similar State or Federal statute.

§ 9. PERMITTED AREAS

A Small-Scale Solar Energy System meeting the requirements of this Article may be installed on any parcel that is of sufficient size. The area beneath ground mounted and freestanding solar collectors shall be included in calculating whether the lot meets maximum permitted lot building coverage and lot surface coverage requirements for the applicable district, notwithstanding that the collectors are not “buildings.”

§ 10. STANDARDS

A. Small-Scale Solar Energy Systems and Solar Energy Equipment shall be installed in accordance with the NYS Uniform Fire Prevention and Building Code.

B. Standards for ROOF-MOUNTED SOLAR ENERGY SYSTEMS

i. ROOF-MOUNTED SOLAR ENERGY SYSTEMS that use the electricity onsite or offsite are permitted in all areas of the Town when attached to any lawfully permitted building or structure, regardless of the amount of kilowatts (KW) per hours of energy produced by the photovoltaic system.

ii. Aesthetics. ROOF-MOUNTED SOLAR ENERGY SYSTEM installations shall incorporate, when feasible, the following design requirement:

a. Panels facing the front yard, mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.

C. GROUND-MOUNTED SMALL-SCALE SOLAR ENERGY SYSTEMS shall meet the following height and setback requirements:

i. Maximum Height shall be twenty (20) feet;

ii. Setback shall be at least one hundred and fifty (150) feet from the center of the approved and accepted Town, county, or state highway. If said lot is a corner lot, said requirements apply to each highway; and

iii. Setback shall be at least fifty (50) feet from any lot line.

§ 11. APPLICATION AND COMPLIANCE INSPECTION

A. Solar Systems Applications for Small-Scale Solar Energy Systems require a Building Permit be submitted to the Town Codes Enforcement Officer ("CEO") as per Section 803 of the Winfield Zoning Law.

B. Compliance inspection(s) shall be carried out using inspection methods the CEO deems appropriate.

ARTICLE III LARGE-SCALE SOLAR ENERGY SYSTEMS

§ 12. PURPOSE AND INTENT

The purpose of this Article is to provide standards and requirements for Large-Scale Solar Energy Systems to protect the public health, safety and community welfare, and to prevent any potential degradation of the Town's rural character or its natural, agricultural, or esthetic resources as prioritized in Winfield's Comprehensive Plan.

§ 13. PERMITTED AREAS

A Large-Scale Solar Energy System meeting the requirements of this Article may be considered for installation on any parcel or groupings of parcels that are either singly or in combination of sufficient size, and sited in an area the Winfield Zoning Law has zoned for commercial use. Projects proposed in non-commercial zones must first apply for and be approved for a variance following procedures set forth in the Town's Zoning Law.

§ 14. APPLICATIONS

- A. Special Use Permit applications for proposed Large-Scale Solar Energy projects, meeting the criteria of Large-Scale Energy Systems as defined, are to be submitted to the Town Board, and will require a Site Plan Review and SEQRA. The overall size shall be calculated by determining the outside dimensions of the project area, with no deduction taken for spaces between Solar Panels or between rows of Solar Panels.
- B. The Town Board may, but is not required to delegate the responsibility to conduct Site Plan Review and to make recommendations to it to the Planning Board.
- C. Large-Scale Solar Energy System applications for proposed projects that are intended primarily for Agricultural and Farm Operations in an Agricultural District certified pursuant to Article 25-AA of the Agriculture and Markets Law, and which are to be integrated to the electrical grid, shall be deemed Type II actions not requiring coordinated review under SEQRA, provided that the total amount of electrical energy generated does not exceed one hundred and ten percent (110%) of the anticipated annual electrical needs of a farm.
- D. Application Contents. Applications for a Solar Energy Permit shall include:
 - i. Name, address, telephone number and email address of the Applicant, being the property owner and, if the project site is leased, the lessee. If the Applicant is to be represented by an agent, the name, address, telephone number and email address of the agent, as well as an original signature of the Applicant authorizing the agent to represent the Applicant is required.
 - ii. If the property of the proposed project is to be leased, a copy of the legal contract between all involved parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
 - iii. Blueprints showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect. A Landscape Architect or Land Surveyor may sign supplemental landscape plans or surveys.
 - iv. A projection of the proposed photovoltaic system's maximum, total generating capacity, for years 1–25, inclusive of the degradation rate.
 - v. Identity of the Qualified Solar installer the Applicant intends to use in completing the project.

- vi. Design drawings signed by a Professional Engineer or Registered Architect providing an overview of the system's components, including the numbers of, tilt, dimensions, and layout of photovoltaic panels and the numbers and locations of inverters, Battery Storage Facilities, and any other site-specific information that will aid in making an overall evaluation of the system.
- vii. Specific information regarding the project site, including but not limited to, an up-to-date lot line survey, copies of testing or other information from which the Applicant has determined the depth to bedrock at the site, depth to groundwater, direction of groundwater flow, and whether the site sits atop any principal or secondary aquifer. Such information shall be signed by a licensed surveyor, Professional Engineer, or Registered Architect, as may be appropriate.
- viii. Property Operation and Maintenance Plan. Such plan shall describe anticipated requirements for photovoltaic maintenance and property upkeep, such as mowing and trimming, which shall account for esthetic considerations, grass fire prevention, rodent control, snow removal, and emergency access.
- ix. A commitment to provide mandatory annual training for all active, local emergency responders participating in fire-ground operations must be made. Appropriate training must be taught by a State certified instructor, and include training covering all aspects of potential hazards including those unique to solar panels, such as their resistance to and reaction under heat exposure, inverters, Battery Storage Facilities, etc. Said training shall be offered by and paid for by the facility operator, and shall be required at the request of any fire department located within a 15-mile radius of the facility's perimeters. Annual training shall be offered until all equipment has been removed from the site.
- x. A draft Emergency Response Plan. The plan must include procedures for safely shutting down the solar energy system, protocols for emergency personnel access, and contact information for the facility's designated emergency liaison. The draft plan shall be subject to review and approval by the Fire Chief of the fire district in which the solar farm is situated. The applicant must provide any revisions requested by the Fire Chief to ensure the plan meets local emergency response requirements.
- xi. Decommissioning Plan. To ensure the proper removal of Large-Scale Solar Energy Systems, a Decommissioning Plan shall be submitted as part of the Application. Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan and compliance therewith shall be a condition for the issuance of a Special Use Permit under this Section. The Decommissioning Plan must specify that after the Large-Scale Solar Energy System can no longer be used, is deemed abandoned, or obsolete, the applicant and/or any subsequent owner shall remove it. The plan shall demonstrate how the removal of all infrastructures and the remediation of soil and vegetation shall be conducted in order to return the parcel to its original state prior to construction. If the Large-Scale Solar Energy System was sited in a Certified Agricultural District

or on a parcel that contains an active agricultural or farm operation, the Decommissioning Plan shall be consistent with NYSDAM's Guidelines for Solar Energy Projects. The Decommissioning Plan shall also include an expected timeline for execution. A Professional Engineer shall prepare a cost estimate detailing the projected cost of executing the Decommissioning Plan. Cost estimates shall take into account inflation, but shall not take into account the resale, recycled, salvage, or scrap value of any components. As part of the Decommissioning Plan, the applicant shall be responsible to provide proof that a Surety Bond or other financial security acceptable to the Board is in place for the amount detailed in the cost estimate that is provided by the Professional Engineer as part of the Application to install any Solar Energy System. Each year after acceptance of the Application, the Applicant shall provide the Town further proof of said Surety Bond or other financial security remaining in place. The amount of said Surety Bond or other financial security shall be increased by the rate of inflation as of the date of renewal thereof. In the event the Applicant intends to sell, convey, or otherwise transfer its interest in the Large-Scale Solar Energy System to another person or entity, said transfer shall not take place until the Town has received notification thereof. Such transfer is subject to all relevant provisions of this Local Law, including, but not limited to, said new person or entity obtaining or assuming a Surety Bond or other financial security pursuant to this Local Law. If the Large-Scale Solar Energy System is not decommissioned by the Applicant or its transferee after being considered abandoned, the Town may use funds obtained through the Surety Bond or other financial security to remove the system, restore the property to its original condition, and impose a lien on the property to cover any costs to the Town not covered by the Surety Bond or other financial security. The Town may also require the Applicant to enter into a reasonable Decommissioning Agreement with the Town in order to fully effectuate this requirement.

- xii. A visual analysis of the Large-Scale Solar Energy System as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components, and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.
- xiii. Written evidence that the electric utility service provider that serves the proposed Site has been informed of and agreed to the Applicant's intent to install an interconnected electricity generator.
- xiv. A completed Full Environmental Assessment Form (FEAF) (Part 1) as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.
- xv. General Municipal Law Section 809, disclosure form regarding Conflicts of Interest of Municipal Officers and Employees.

- xvi. Such other information as the Planning Board or Town Board may reasonably require.

§ 15. APPLICATION REVIEW PROCESS

- A. Escrow agreement. The Town shall require the Applicant to enter into an agreement for the payment of municipal review expenses, including retaining the services of outside consulting, legal, and engineering professionals. The Town shall require the Applicant to fund an escrow account to cover invoices for such services as they come due.
- B. Application submission. Six copies of the application shall be submitted to the CEO and the Town Clerk.
- C. Application sufficiency review. The CEO or Town designated consultant shall:
 - i. Determine if all information required of the Solar Permit Application and all financial agreements required under this Article are included in the application.
 - ii. Unless the Town Board waives any application requirement, no application shall be considered until deemed sufficiently complete.
 - iii. If the application is deemed insufficient, the Town shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submission of the additional information, unless the project size is increased.
- D. Upon submission of a complete application, the Planning Board may conduct Site Plan Review and issue any recommendations it has regarding the Application to the Town Board.
- E. Public Hearing. When the application is determined to be complete, either the Planning or Town Board shall hold at least one Public Hearing on the application.
 - i. The applicant shall provide notice of the Public Hearing by registered mail with return receipt to owners of property parcels located wholly or partially within a one thousand (1,000) foot radius of the proposed site, and shall publish a notice in the Town's official newspaper, no less than ten nor more than twenty days before any hearing. Should the hearing be adjourned to hear additional comments, no further publication or mailing shall be required. The assessment roll of the Town shall be used to determine mailing addresses.
 - ii. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested waivers.

- F. County Planning Board Notice. A full statement of the proposed action for the project shall also be given to the applicable county-wide body, if applicable pursuant to General Municipal law §§239-1 and 239-m.
- G. No Segmentation. The applicant shall disclose the full scope of planned size of the Large-Scale Solar Energy System and shall not segment the application for purposes of reducing the apparent significance of proposed plans. Where the lead agency has reason to believe that the ultimate scope of the project might exceed that which is actually proposed by an applicant at one time, it shall conduct its review and base its findings on the larger potential scope.
- H. Application Decision. Upon receipt of the recommendation of the applicable county-wide planning body, the holding of the public hearing, completion of Site Plan Review, if applicable, and the completion of the SEQRA process, the Town Board may approve, approve with conditions, or deny the application.

§ 16. DEVELOPMENT STANDARDS

A. LARGE-SCALE SOLAR ENERGY SYSTEMS - Acreage Limits

- i. Large Scale Solar Systems shall not collectively occupy more than a total of 150 acres in the Town of Winfield.
- ii. There is a maximum of 50 acres for a single Large-Scale solar system applicant.

B. All LARGE-SCALE SOLAR ENERGY SYSTEMS shall meet the following requirements:

- i. Be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Protection and Building Code and National Electric Code.
- ii. Maximum Height shall be twenty (20) feet.
- iii. Setbacks shall be at least:
 - a. One hundred eighty-three (183) feet from the center of the approved and accepted Town, county, or state highway. If said lot is a corner lot, said requirements apply to each highway;
 - b. One hundred fifty (150) feet from any lot line;
 - c. One thousand (1000) feet from the one-hundred-year flood hazard zones considered an AEZone on the FEMA Flood Maps, unless the Application is submitted with specific flood risk mitigation plan or comparable engineering safeguard; and
 - d. One thousand (1000) feet from Properties included on the NYS or National Register of Historic Places, or otherwise identified as, or eligible for inclusion

as, historically and/or significant resources. Significant archaeological resources shall be protected and preserved. Any mitigation measures proposed as a part of the development of a Large-Scale Solar System shall be undertaken in consultation with the NYS Historic Preservation Office and all other pertinent local and state historical preservation authorities.

- ii. Shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing.
- iii. Electrical Transmission Lines shall be buried at a minimum 48 inches, except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines. The Town Board may modify this standard where the project terrain is determined to be unsuitable for reasons of excessive grading, biological impacts, or similar factors.
- iv. A Solar Energy System owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to painting, structural repairs, erosion control, and upholding the landscaping/screening plan and the integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the facility and any access road(s), unless accepted as a public way.
- v. Landscaping must screen the system to avoid adverse aesthetic impacts. Vegetation used as ground cover or screening must use a non-invasive native seed mixes and/or mature plant species, or be agricultural crops common to the area.
- vi. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for the initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation. Exempt from this requirement are access routes needed for maintenance and emergency access. Emergency access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services.
- vii. Lighting is discouraged, but if used, shall be of the "full cut-off" variety so as to cast light down and not horizontally, and will be operated so as to be in the off state when personnel are not on site.
- viii. Wetlands. Large-Scale Solar Energy Systems shall be sited consistent with all applicable State and Federal wetlands laws and regulations.
- ix. Stormwater. Stormwater run-off and erosion control shall be managed in a manner consistent with all applicable State and Federal laws and regulations.
- x. Solar facility buildings and accessory structures shall, to the extent possible, use materials, colors, and be textured so to blend the facility into the existing environment.

- xi. Solar panels and equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.
- xii. 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 and visibly obvious, and replaced as necessary to maintain legibility.
- xiii. MSDS sheets must be provided to all area emergency responders for all chemicals or compounds found on site, to include chemicals used for vegetation and pest control. Agriculture and Markets law pertaining to the use of such chemicals, such as requirements to notify neighboring property owners, must be adhered to.
- xiv. Solar equipment shall be placed so as to not:
 - a. Create disharmony with the existing character of the Town;
 - b. Imperil the public health and safety; or
 - c. Discourage the development and use of adjacent land and buildings or impair their value.

§ 17. ABANDONMENT AND DECOMMISSIONING REGULATIONS FOR LARGE-SCALE SOLAR ENERGY SYSTEMS

- A. Applicability and purpose. This section governing decommissioning and abandonment shall apply to Large-Scale, ground-mounted solar energy systems. It is the purpose of this section to provide for the safety, health, and welfare of residents, and to insure property values and the general appearance of the Town are not impacted negatively by the degradation or abandonment of solar energy systems. Unused, neglected or abandoned commercial solar energy systems shall be removed pursuant to a decommissioning plan submitted by the property owner(s) and/or facility operator to the Town's Codes Enforcement Officer and Planning Board.
- B. Removal required. Large-Scale Solar Energy System components will at some point, either in whole or in part, reach the end of their serviceable life, and if no longer commercially viable. The owner or operator of the facility and owner of the land upon which the system is located shall be jointly and severally responsible for physically removing all components of the system within one year of their abandonment.
- C. Abandonment. A Large-Scale Solar Energy System shall be deemed "abandoned" if the system fails to generate and transmit electricity at a rate of more than fifty percent (50%) of its rated capacity over a continuous period of one year. If requested by the CEO, the property owner and/or operator of the solar collector system shall provide the CEO, within forty-five (45) days of a written request, a report certified by a qualified consultant demonstrating that the solar energy system is operating at a rate of at least 50% of its rated capacity. Failure to provide a report within 45 days of a

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

- D. Decommissioning and removal: Decommissioning and removal of all ground mounted solar collector systems shall consist of:
- i. Physical removal of all above and below ground equipment, structures and foundations, including but not limited to all solar arrays, buildings, security barriers, fences, electric transmission lines and components, roadways and other physical improvements to the site;
 - ii. Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations;
 - iii. Remediation of the ground surface and soil to permit resumption of farming; and
 - iv. Stabilization and re-vegetation of the site with native seed mixes or plant species (excluding invasive species), or common agricultural plantings to minimize erosion.
- E. Decommissioning and removal by Town. If a Large-Scale Solar Energy System owner/operator, and/or landowner fail to decommission and remove an abandoned facility in accordance with the requirements of this Section, the Town may enter upon the property to decommission and remove the system at the owner/operator, and/or landowner's expense.
- F. Removal by Town and reimbursement of Town expenses. All costs and expenses incurred by the Town in connection with any proceeding or work performed by the Town or its representatives to decommission and remove a Large-Scale Solar Energy System, including legal costs and expenses, shall be reimbursed by the system owner or landowner. Any costs incurred by the Town for decommissioning and removal that are not paid, including legal costs, shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become part of the taxes to be levied and assessed thereon, and shall be enforced and collected with interest by the same officer and in the same manner, by the same proceedings, at the

same time and under the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town.

§ 18. REIMBURSEMENT FOR COSTS OF REVIEW OF A LARGE-SCALE SOLAR ENERGY SYSTEM BY TOWN DESIGNATED ENGINEER

- A. The Applicant for a Solar Energy Permit for a Large-Scale Solar Energy system shall be responsible for reimbursing the Town for the cost of the legal, technical, and engineering review by the Town designated engineer, lawyer, or other professionals. The amount of the escrow shall be commensurate with the scale of the project.
- B. The Town Board may use its designated engineer, lawyer, or other retained experts/consultants as necessary to assist it in reviewing and evaluating the Application.
- C. Financial Surety. Prior to issuing a Large-Scale Solar Energy Permit, the Applicant and/or landowner shall present evidence that it is capable of providing financial assurance that it will fund the full cost of a decommissioning and removal in the event the system is not removed by the system owner and/or landowner. Evidence of financial assurance shall be in effect throughout the life of the system and shall be in the form of a Surety Bond or other financial security acceptable to the Board and Town Attorney. The Surety Bond or other financial security shall include an auto extension provision, to be issued by an A-rated institution solely for the benefit of the Town. The Town shall be entitled to draw on the Surety Bond or other financial security in the event that the solar energy system owner and/or landowner is unable or unwilling to commence decommissioning activities within the time periods specified in this law. In the event ownership of the system is transferred to another party, the new owner (transferee) shall file evidence of financial assurance with the Town at the time of transfer. The amount of financial assurance covering decommissioning and removal costs, shall be determined by the Town Engineer and may be adjusted at any time by the Town based upon the Town Engineer's updated cost estimates for decommissioning and removal.

ARTICLE IV MISCELLANEOUS

§ 19. FEES

- A. A non-refundable application fee of \$200 shall be submitted with any application for a permit to build and operate a Small-Scale Solar Energy System.
- B. A non-refundable application fee of \$2,000 shall be submitted with any application for a permit to build and operate a Large-Scale Solar Energy System.
- C. Upon Town Board approval of a Large-Scale Solar Energy System, a non-refundable Building Permit fee of \$2,000, plus an additional \$2,000 per megawatt of the project's capacity, shall be submitted with the application for the final permit to the Code Enforcement Officer (CEO).

§ 20. CERTIFICATE OF OCCUPANCY

No Large or Small-Scale solar energy system erected subject to the Uniform Code and this Local Law shall be used until a Certificate of Occupancy has been issued.

§ 21. ENFORCEMENT, PENALTIES AND REMEDIES FOR VIOLATIONS

- A. Staff. The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce this Local Law.
- B. Any person owning, controlling or managing any building, structure or land who shall construct or operate a large or small-scale solar energy system in violation of this Local Law or in noncompliance with the terms and conditions of any permit issued pursuant to this Local Law, or any order of the Codes Enforcement Officer, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine or imprisonment as assessed through legal proceedings. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties of an amount to be legally determined for each violation. Each week said violation continues shall be deemed a separate violation.
- C. In case of any violation or threatened violation of any of the provisions of this Local Law, including the terms and conditions imposed by any permit issued pursuant to this Local Law, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.

§ 22. CONFLICT WITH OTHER LAWS

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

§ 23. SEVERABILITY

Should any other section of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than that specific part so decided to be unconstitutional or invalid.

§ 24. EFFECTIVE DATE

This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.