

**Town of Windsor, Broome County, New York
Local Law No. 1 of 2026**

**A LOCAL LAW AMENDING CHAPTER 93 (ZONING) BY ADDING A NEW ARTICLE
XVII ENTITLED “SOLAR ENERGY SYSTEMS”**

BE IT ENACTED by the Town Board of the Town of Windsor as follows:

SECTION 1. Title.

This Local Law No. 1 of the year 2026 shall be referred to as the “Solar Energy Systems Local Law”.

SECTION 2. Authority.

This Local Law is adopted pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law of the State of New York, and Sections 261-263 of the Town Law which authorize the Town of Windsor (“Town”) to adopt land use provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Town Law of New York State, “to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.”

SECTION 3. Amendment.

The Zoning Ordinance of the Town of Windsor, New York (Chapter 93, Zoning) is hereby amended to add a new Article XVII, entitled “Solar Energy Systems”, as follows:

Article XVII Solar Energy Systems

Section 93-109 – Statement of Purpose

This ‘Zoning For Solar Energy’ law is adopted 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:

- A. Taking advantage of a safe, abundant, renewable energy resource;
- B. Reducing the consumption of energy by the owners of commercial and residential properties, including single-family homes;
- C. Increasing employment and business development in the region by furthering the installation of solar energy systems; and
- D. Fulfilling the New York State Clean Energy mandate.

Section 93-110 – Word Usage and Definitions

For the purposes of this Article XVII of this Ordinance, the defined terms, phrases, words, abbreviations and their derivations shall have the meaning given in this subsection. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number. The word shall is always mandatory and not merely directory.

ACCESSORY STRUCTURE – A building or structure, the use of which is customarily incidental and subordinate to that of a principal building and located on the same lot therewith.

AGROVOLTAICS – the simultaneous use of land for both solar photovoltaic power generation and agricultural production of crops, livestock, and livestock products.

APPLICANT – Any person, firm or corporation submitting an application to the Town of Windsor for a site plan review for a solar energy production facility.

BUILDING – Any structure covered by a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or chattel.

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

CERTIFICATE OF COMPLIANCE – A certificate stating that materials and products meet specified standards or that work was done in compliance with approved construction documents.

COMMERCIAL SOLAR ENERGY SYSTEM – A solar energy system that primarily produces energy that is fed directly into the grid primarily for off-site sale or consumption, or any solar energy system with a nameplate generating capacity of 200 kilowatts or greater. Commercial solar energy systems include building-integrated, roof-mounted and ground-mounted solar energy systems that meet or exceed the above-stated nameplate generating capacity.

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

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

GROUND-MOUNTED SOLAR ENERGY SYSTEM – A solar energy system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity.

NON-COMMERCIAL SOLAR ENERGY SYSTEM – A solar energy system with a nameplate generating capacity of less than 200 kilowatts that is incidental and subordinate to another use on the same parcel and which primarily produces energy for on-site consumption. Non-commercial solar energy systems include building-integrated, roof-mounted and ground-mounted solar energy systems that do not meet or exceed the above-stated nameplate generating capacity.

NON-PARTICIPATING PROPERTY – A parcel of land not subject to any type of agreement with the Applicant.

ORDINANCE – The Land Use Ordinance of the Town of Windsor, New York (Chapter 93, Zoning), as may be amended from time-to-time.

PARTICIPATING PROPERTY – A parcel of land subject to a lease, good neighbor agreement or other contract with the Applicant, in which the property owner receives consideration in exchange for authorizing or consenting to solar energy system development by the Applicant on or in the vicinity of the parcel.

PHOTOVOLTAIC SYSTEMS – A solar energy production system that produces electricity by the use of semiconductor devices, i.e. photovoltaic cells that generate electricity when light strikes them.

PLANNING BOARD – The Town of Windsor Planning Board, as established by the Town of Windsor and/or pursuant to New York Town Law, and any duly authorized member, officer, staff designee, consultant, or agent acting within the scope of authority delegated by the Planning Board or under this Article.

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

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

SOLAR ACCESSORY FACILITY OR STRUCTURE – An accessory facility or structure serving or being used in conjunction with a solar energy system and located on the same property or lot as a solar energy system, including, but not limited to, utility or transmission equipment, storage sheds or cabinets.

SOLAR COLLECTOR/SOLAR PANEL – A photovoltaic cell, panel or array, capable of collecting and converting solar energy into electricity.

SOLAR ENERGY EQUIPMENT – Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduits of photovoltaic devices associated with the production of electrical energy.

SOLAR ENERGY SYSTEM – All components and subsystems required to convert solar energy into electric energy suitable for use. This term includes, but is not limited to, solar panels and solar energy equipment. The area of a solar energy system includes all the land and/or structures inside the perimeter of the solar project area and extends to any interconnection equipment.

SOLAR ENERGY SYSTEM LAND AREA (OR “SOLAR FARMLAND AREA”) – The total area of land within the perimeter of a commercial ground-mounted solar energy system, including solar collectors, racking, access roads, inverter pads, equipment areas, stormwater management facilities, setbacks, buffers, and all associated accessory facilities and structures, whether fenced or unfenced.

STRUCTURE – Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

TOWN BOARD – The Town Board of the Town of Windsor, New York

Section 93-111 – Applicability

The requirements of this Article shall apply to all solar energy systems installed or modified after its effective date, excluding general maintenance and repair, and building-integrated photovoltaic systems.

Section 93-112 – Non-Commercial Solar Energy Systems

- A. Non-commercial solar energy systems may be permitted as a customary accessory use in all zoning districts, subject to any and all requirements of this Ordinance applicable to accessory uses, to the extent not inconsistent with this Section, and subject to the following:
- (1) A non-commercial solar energy system as an accessory use shall be limited to one or more roof-, wall- and/or ground-mounted solar collector devices and solar-related equipment.
 - (2) Solar carports shall be permitted over existing and proposed parking facilities. For the purposes of this Section, solar carports shall not be considered a structure as defined by this Ordinance.
 - (3) Roof-Mounted Non-Commercial Solar Energy Systems: Such systems mounted on a roof shall not exceed the maximum height restrictions of the zoning district within which they are located. Panels facing the front yard must be mounted at an angle that is no greater than 20 degrees greater than the angle of the roof's surface

with a maximum distance of 24 inches between the roof and the highest edge of the system.

- (4) Ground-Mounted Non-Commercial Solar Energy Systems: Such systems mounted on the ground shall adhere to the height and setback requirements of the underlying zoning district. Systems are limited to 20% lot coverage. All such systems installed in residential districts shall be installed in the side or rear yards. All ground-mounted solar energy systems shall be screened from adjacent residential uses and public rights-of-way to the maximum extent practicable through the use of existing vegetation, topography, landscaping, fencing, or other screening methods as approved by the Planning Board. Screening shall be designed to minimize visual impacts year-round and maintained for the life of the system.

- B. Installations also shall be compliant with all New York State requirements, including but not limited to, those set forth in the Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code.

Section 93-113 – Commercial Solar Energy Systems: Site Restrictions and Requirements

- A. Informational Statement Regarding Facility Scale.

For informational and planning purposes only, and to provide general context regarding the scale of commercial ground-mounted solar energy systems, the Town Board recognizes that such facilities may typically require approximately five (5) acres of land per megawatt (MW) of installed generating capacity, such that:

- (1) A facility with a generating capacity of approximately 1 MW (1,000 kilowatts) may occupy approximately five (5) acres;
- (2) A facility with a generating capacity of approximately 2 MW may occupy approximately ten (10) acres; and
- (3) A facility with a generating capacity of approximately 5 MW may occupy approximately twenty-five (25) acres.

This subsection is intended solely to provide general informational guidance and illustrative context and shall not be construed as a zoning limitation, minimum or maximum lot size requirement, entitlement, density standard, or approval criterion. All applications for commercial solar energy systems shall be reviewed based upon the specific facts and circumstances of the proposed project and in accordance with the requirements of this Article and all other applicable provisions of the Town Code.

- B. Permitted commercial solar energy systems shall not incorporate battery storage or a battery storage system. This law is intended to optimize the integration of solar energy into the existing grid infrastructure, promoting a more efficient and sustainable energy distribution system in a manner ensuring the safety and well-being of the Town's residents.

- C. Site plan review of applications for commercial solar energy systems shall be conducted by the Planning Board of the Town of Windsor in accordance with the procedures and standards set forth in Chapter 93 of the Town Code, except as otherwise provided herein.

For any Solar Energy System requiring a Special Use Permit, site plan approval shall be required.

The Planning Board shall have authority to approve, approve with conditions, or disapprove site plans for commercial solar energy systems. In exercising such authority, the Planning Board shall review technical and design-related matters, including but not limited to:

- (1) Layout and design of the solar energy system and accessory facilities;
- (2) Compliance with dimensional requirements, setbacks, height, and lot coverage;
- (3) Access, emergency access, and circulation;
- (4) Stormwater management, drainage, erosion and sediment control;
- (5) Landscaping, screening, fencing, and visual mitigation measures;
- (6) Visual impact analyses, including evaluation of leaf-on and leaf-off conditions;
- (7) Protection of agricultural soils, wetlands, floodplains, and environmentally sensitive areas; and
- (8) Any other technical or site-specific matters within the jurisdiction of the Planning Board.

Solar energy systems and equipment shall be permitted only if they are determined by the Planning Board not to present any unreasonable safety risks, including but not limited to structural loading, wind resistance, and ingress or egress in the event of fire or other emergency.

Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act ("SEQRA"). The Planning Board shall conduct the public hearing process, including required publication and neighbor notice. The Planning Board shall serve as Lead Agency under the State Environmental Quality Review Act ("SEQRA") for all actions, permits, approvals, and site plan reviews required under this Article XVII, including the issuance of Special Use Permits and site plan approval, unless another agency with jurisdiction is designated as Lead Agency in accordance with 6 NYCRR Part 617.

Any application requiring County Planning Board review shall be referred pursuant to General Municipal Law § 239-m, as applicable prior to final action.

Upon closing of the public hearing, the Planning Board shall take action on the application within sixty-two (62) days, 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.

No application for a Special Use Permit for a commercial solar energy system shall be considered complete or acted upon by the Planning Board unless and until final site plan approval has been granted by the Planning Board.

D. Commercial solar energy systems are permitted as a primary use in all Zoning Districts within the Town by Special Use Permit issued by the Planning Board. Such systems shall require site plan approval as set forth above in Section 93-113B prior to the granting of a Special Use Permit, and shall be subject to the following restrictions and requirements:

- (1) Commercial ground-mounted solar energy systems are not permitted as an accessory use. Roof-mounted and building-integrated commercial solar energy systems may be permitted as an accessory use.
- (2) Commercial ground-mounted solar energy systems must be located on sites with at least 5 acres open for development. Other types of commercial solar energy systems shall comply with applicable lot size requirements as set forth in this Ordinance.
- (3) The height of the solar collectors and any mounts within a commercial ground-mounted solar energy system shall not exceed 15 feet from finished grade when oriented at maximum tilt. Other types of commercial solar energy systems shall comply with applicable maximum height requirements as set forth in this Ordinance.
- (4) Solar energy equipment shall be located in a manner to (i) minimize visual impacts and view blockage for surrounding properties, and (ii) shading of property to the north, while still providing adequate solar access for collectors.
- (5) Solar collectors shall be installed so as to minimize glare onto neighboring properties and roadways. All solar collectors shall be treated with anti-reflective coating(s).
- (6) Setback requirements. No commercial solar energy system, including all solar energy equipment and solar collectors, as measured from the outer perimeter of the fence enclosing the commercial solar energy system shall be:
 - i. closer than 100 feet from any non-participating residential property line.
 - ii. closer than 250 feet from the front, side or rear of any non-participating, habitable residential structure(s).
 - iii. closer than 50 feet from any non-participating, non-residential property line(s).
 - iv. closer than 50 feet from the boundary line of any public street or roadway.
 - v. closer than 1,000 feet from any property boundary lines of a school, church, public park/parkland, playground, public library or place of public assembly designed for, or regularly engaged in the simultaneous use of 100 persons or more.
- (7) No solar collector shall be erected ahead of the front line of any existing building.
- (8) All commercial ground-mounted solar energy systems and associated solar accessory structures/facilities shall be completely enclosed by a minimum eight-

foot-high anchored mini-mesh chain-link fence or deer fence with two-foot tip out and a self-locking gate. Said fence shall contain five-inch-high by sixteen-inch-wide grade-level cutouts every 75 feet to permit small animals to move freely into and out of the site.

- (9) All commercial ground-mounted solar energy systems must additionally include a visual buffer between the system, public roads and non-participating properties. The buffer shall consist of appropriate plantings with a mixture of evergreen and deciduous trees and shrubs of sufficient height to provide to provide a visual screen of the ground-mounted system. The species, type, location and planted height of such landscaping and fencing shall be subject to the approval of the Planning Board.
- (10) All proposed commercial solar energy systems shall demonstrate that the facility will be sited so as to have the least adverse visual effect on the environment and its character, on existing vegetation, and on any nearby residential dwellings. Any glare produced by the solar array shall not impair or render unsafe the use of contiguous structures, any vehicles in the vicinity, any airplanes, etc.
- (11) Lot Coverage Requirements. Commercial solar energy systems shall adhere to the maximum lot coverage requirement for principal uses within the zoning district in which they are located.
- (12) Siting Considerations. No commercial ground-mounted solar energy system shall be installed in a floodplain, aquifer or other environmentally sensitive area without the following:
 - i. Approval of an engineering plan;
 - ii. Approval and acceptance of documentation showing proper installation including a maximum tilt with the entire panel(s) at least two feet above the flood elevation;
 - iii. Approval and acceptance of plans for battery storage;
 - iv. Approval and acceptance of plans for utility connections;
 - v. Approval and acceptance of safety measures.
- (13) If property is subdivided to accommodate commercial ground-mounted solar energy systems as a primary use, the property containing the commercial ground-mounted solar energy system must have road frontage in compliance with this Ordinance.
- (14) All utilities serving the site of a commercial solar energy system shall be installed underground and in compliance with all laws, rules and regulations of the Town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code, where appropriate. If the Applicant seeks to install aboveground utilities or transmission lines, the Applicant must provide sufficient proof of infeasibility of underground installation. The Planning Board may waive or vary the requirements of underground installation of utilities whenever, in the opinion of the Planning Board, the Applicant's proof establishes that such variance or waiver shall not

be detrimental to the health, safety, general welfare and environment, including the visual and scenic characteristics of the area.

- (15) At a commercial ground-mounted solar energy systems site, at least one access road and adequate parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion. This subsection shall apply to other types of commercial solar energy systems if, at the discretion of the Planning Board, the circumstances of the project so dictate.
- (16) Fire access roads and access for fire apparatus equipment shall be provided, as approved by the chief of the Town of Windsor Volunteer Fire Company, Inc., and the Planning Board. Any gates to the site shall be equipped with Knox Company locks to allow fire department access.
- (17) Commercial ground-mounted solar energy system owners shall develop, implement, and maintain Native Perennial Vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the landowners and/or solar energy system owners shall use native plant species and seed mixes.
- (18) Applications for the installation of a commercial solar energy system shall be reviewed by Code Enforcement and referred, with comments, to the Planning Board for site plan review and action, and thereafter to the Planning Board for review and action on the Special Use Permit.

Section 93-114 – Commercial Ground-Mounted Solar Energy Systems Located on Certain Agricultural Lands.

- A. Any commercial ground-mounted solar energy system located on areas that consist of Prime Farmland and/or Farmland of Statewide Importance shall not exceed 50% of the area of Prime Farmland and/or Farmland of Statewide Importance on the parcel. However, if the Planning Board determines that the Applicant has meaningfully committed to making the Prime Farmland/Farmland of Statewide Importance on the parcel occupied by the commercial solar energy system available for a meaningful agricultural use in addition to the commercial solar energy system as a condition of the Special Use Permit, this 50% limit shall not apply.
- B. Commercial solar energy systems located on Prime Farmland and/or Farmland of Statewide Importance shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.

Section 93-115 – Commercial Solar Energy Systems: Forest Clearing / Deforestation Standards

- A. Deforestation for the purpose of commercial solar energy development shall not exceed fifty (50) acres in total area within the Solar Energy System Land Area.
- B. Commercial solar energy systems shall not be sited in forested areas that have been harvested for timber within the three (3) years preceding the date of a complete application.
- C. Clearcutting of forests with a basal area, as determined by a New York State licensed forester, of greater than sixty (60) square feet per acre is prohibited.
- D. Clearcutting of forests with a basal area of less than sixty (60) square feet per acre may be permitted, provided that such clearcutting does not exceed ten percent (10%) of the total Solar Energy System Land Area.
- E. Forested areas where all trees are less than six (6) inches DBH (diameter at breast height) shall be deemed immature forest, and the restrictions set forth in this Section shall not apply.

Section 93-116 – Commercial Solar Energy Systems: Special Use Permit Required

- A. Notwithstanding the provisions of Chapter 93, Article XI (“Special Use Permits”) of this Ordinance, this Section 93-116 and Section 93-117 shall govern the requirements for and consideration of all Special Use Permit applications for commercial solar energy systems.
- B. The Planning Board is hereby designated and authorized to review, analyze, evaluate and make decisions with respect to all Special Use Permit applications for commercial solar energy systems. In so doing, the Planning Board may approve, approve with conditions, disapprove, recertify, not recertify or revoke any such Special Use Permit. The Planning Board may, at its discretion, delegate or designate other officials of the Town to accept, review, analyze, evaluate and make recommendations to the Planning Board with respect to granting or not granting, recertifying or not recertifying, or revoking site plan and/or Special Use Permit approval of commercial solar energy production facilities.
- C. No commercial solar energy system shall be installed or constructed until the site plan is reviewed and approved by the Planning Board and a Special Use Permit has been issued by the Planning Board.
- D. A pre-application meeting is required with the Applicant, Town Engineer, Code Enforcement Officer, Town Supervisor and/or Planning Board Chair prior to submitting a formal Special Use Permit application.
- E. Incomplete applications not meeting the requirements stated herein, or which are otherwise incomplete may be rejected by the Planning Board.
- F. The Special Use Permit application shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. If the

landowner(s) of the project location is not the Applicant, the Applicant shall additionally provide one of the following:

- (1) A signed writing from each landowner consenting to the filing of the Application by the Applicant; or
- (2) A copy of the agreement(s) between the Applicant and each landowner authorizing the Applicant to use the landowner's property as proposed in the Application.

G. The Special Use Permit application shall include a statement in writing:

- (1) That the Applicant's proposed commercial solar energy system shall be maintained in a safe manner and in compliance with all conditions of the site plan approval, without exception, unless specifically granted relief by the Planning Board in writing, as well as all applicable and permissible local codes, ordinances and regulations, including any and all applicable county, state and federal laws, rules, and regulations.
- (2) That the construction of the proposed commercial solar energy system is legally permissible, including but not limited to the fact that the Applicant is authorized to do business in New York State.

H. At the discretion of the Planning Board, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.

I. Upon a majority vote of the Planning Board, the Planning Board may hold a public hearing on the Special Use Permit application if one is not otherwise required.

J. Except as otherwise expressly provided in this Article, any request for relief from the dimensional, bulk, use, or other zoning requirements of this Article XVII shall be made to the Zoning Board of Appeals in accordance with Article XVI of this Chapter and New York Town Law § 267-b.

No variance granted by the Zoning Board of Appeals shall relieve an Applicant of the obligation to obtain site plan approval, Special Use Permit approval, or compliance with the State Environmental Quality Review Act ("SEQRA") as required under this Article.

The relief and exemption authority of the Town Board set forth in Section 93-128 is legislative and contractual in nature and shall not substitute for or supersede the variance authority of the Zoning Board of Appeals.

Section 93-117 – Special Use Permit Application Requirements for Commercial Solar Energy Systems

All Special Use Permit applications for proposed commercial solar energy systems shall show and include a site plan with maps, drawings and any/all necessary supplemental reports and documentation that show and include the following:

A. Names, mailing addresses, email addresses and telephone numbers of:

- (1) The Applicant and, if the application is made on behalf of a business entity, the entity's authorized agent(s) responsible for the application; and, if different from the Applicant
- (2) The owner(s) of the proposed project site
- (3) The developer of the proposed project
- (4) The operator of the proposed project

B. Name of project, Tax Map parcel numbers and boundary lines of parcel(s) on which the project will be located, zoning district(s) in which the said parcels are situated, a location map showing proposed site's location, north arrow, and scale of the plan.

C. Application fee (non-refundable) in amount to be set by the Town Board by resolution.

D. Stamped drawings to scale signed by a New York State Licensed Professional Engineer or Registered Architect showing:

- (1) The layout of the proposed solar energy system,
- (2) A survey of the property or properties
- (3) The location of all lot lines, easements and rights of way
- (4) The location of all current and proposed utility connections, transmission lines and solar accessory facilities/structures
- (5) Existing and proposed topography and five-foot contour intervals
- (6) Location of all proposed landscaping and screening per the landscaping and screening plan required by subsection F of this section.
- (7) Proposed road and emergency access to the project site, including provisions for paving, if any.

E. A map or maps showing:

- (1) Location and distance of the solar energy system and associated solar accessory facilities/structures to the nearest non-participating residential property line.
- (2) Location and distance of the solar energy system and associated solar accessory facilities/structures to the nearest non-participating, occupied residential structure.
- (3) Location and distance of the solar energy system and associated solar accessory facilities/structures to the nearest non-participating, non-residential property line.
- (4) Location of nearest habitable structure.
- (5) Location, size and height of all existing structures on the property or properties that are the subject of the application.
- (6) Location, size, and height of all proposed solar collection and accessory structures.

- (7) The names, addresses and Tax Map parcel numbers of all owners of record of abutting parcels and those within fifteen hundred (1,500) feet of the property lines of the parcel(s) where development is proposed. Each such owner shall be designated as “participating” or “non-participating” as those terms are defined in this Section.

F. A landscaping and screening plan showing:

- (1) All existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material and erosion control measures.
- (2) Appropriate fencing around the entirety of a ground-mounted solar energy system in accordance with the requirements of Section 93-113C(8) and (9) above. The fencing shall have self-locking gates, and shall bear warning signs with the owner's name and emergency contact information on any access point to the system and perimeter of the fencing. The fencing and the system shall be further screened by any landscaping needed to avoid adverse aesthetic impacts.

G. A report or series of reports containing the information hereinafter set forth. Where this section calls for certification, such certification shall be by a qualified New York State Licensed Professional Engineer and/or architect acceptable to the Town, unless otherwise noted.

- (1) The proposed solar energy production capacity design level proposed for the facility and the basis for the calculations of the solar energy system’s capacity.
- (2) The make, model and manufacturer of the solar production component parts and schematic drawings of same.
- (3) A description of the proposed commercial solar energy system and all related fixtures, structures, appurtenances and apparatus, including height above preexisting grade, materials, color and lighting.
- (4) Applicant's proposed commercial solar energy system maintenance/inspection procedures and related system of records. This report shall further include a list of contacts for the property, notification procedures for the transfer of ownership and plans for continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- (5) Certification from all relevant County, State and/or Federal authorities that the proposed commercial solar energy system will not cause interference with air traffic.
- (6) Certification that a topographic and geomorphologic study/analysis has been conducted, taking into account subsurface features and a proposed drainage plan pursuant to a Storm Water Pollution Prevention Plan (SWPPP), such that the proposed site is deemed adequate to assure the stability of the proposed commercial ground-mounted solar energy system.
- (7) Plans to prevent the erosion of soil both during and after construction, excessive runoff, and flooding of other properties, as applicable. There should be pre-construction and post-construction drainage calculations for the site completed by

a licensed engineer. From this the engineer must show how there will be no increase in runoff from site. A SWPPP will be required if disturbance of the land exceeds one acre.

- (8) A decommissioning plan completed in conformance with Section 93-127.
 - (9) 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 solar energy system and all related structures which shall, at minimum, include:
 - i. A zone of visibility map, which shall be provided in order to determine locations where the commercial ground-mounted solar energy systems may be seen.
 - ii. Pictorial representations of before and after views from key viewpoints both inside and outside of the Town, including, but not limited to, state highways and other major roads; airports; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. The Town Engineer and/or Code Enforcement Officer, acting in consultation with the Town's consultants or experts, will provide guidance concerning the appropriate key sites at the pre-application meeting. The applicant shall prepare an assessment of the visual impact of the commercial solar energy system and any accessory buildings from identified abutting and adjacent properties and public streets, including an evaluation of visibility under both leaf-on and leaf-off conditions.
 - (10) The Applicant shall furnish a visual impacts minimization and mitigation plan that responds to any concerns raised as a result of the visual impact assessment. Said plan shall include proposed minimization and mitigation alternatives based on an assessment of mitigation strategies, including screening (landscaping), architectural design, visual offsets, relocation or rearranging facility components, reduction of facility component profiles, alternative technologies, facility color and design, lighting options for work areas and safety requirements, and lighting options for FAA aviation hazard lighting.
- H. An Emergency Response Plan shall be submitted as part of the application. The plan shall identify procedures for emergency shutdown, emergency contacts, site access, fire suppression and hazard mitigation. The plan shall be subject to review and approval by the Code Enforcement Officer and referral to emergency service providers as appropriate.
 - I. A Completed State Environmental Quality Review Act ("SEQRA") Full Environmental Assessment Form ("FEAF").
 - J. The Planning Board may, in its discretion, modify or waive any of the requirements described in this section to the extent that such conditions are inapplicable to a given application. The Planning Board may also require that the Applicant submit additional

information not listed herein that it deems necessary in order to inform and complete its review of the Applicant's Special Use Permit application.

Section 93-118 – Contractual Agreements Required

The Planning Board may grant site plan approval and/or a Special Use Permit for a commercial solar energy system without requiring the prior execution of the agreements set forth in this section. However, no building permit shall be issued, and no construction shall commence until all required agreements have been fully executed and approved by the Town Board, unless expressly waived by resolution of the Town Board. The Town Board's approval of agreements under this section is contractual in nature and shall not constitute land use approval.

- A. The Applicant for a commercial solar energy system shall execute the following agreements with the Town, unless waived in whole or in part by resolution of the Town Board based upon applicability:
 - (1) Payment in Lieu of Taxes (PILOT) Agreement, if applicable, pursuant to § 93-119 of this Article and Real Property Tax Law § 487.
 - (2) Road Use Agreement, where Town roads are proposed to be used for construction or operation of the project, at the discretion of the Town Board.
 - (3) Indemnification Agreement, requiring the Applicant, owner and operator to defend, indemnify and hold harmless the Town, its officers, officials, employees, attorneys, agents and consultants from all claims, damages, costs and expenses arising out of the placement, construction, operation, maintenance or removal of the commercial solar energy system, except to the extent caused by the negligent or intentional acts or omissions of the Town.
 - (4) Host Community Agreement, providing a public benefit payment to mitigate additional municipal impacts associated with the project, in an amount and on terms approved by resolution of the Town Board.

Failure to timely execute any required agreement shall constitute grounds for the denial or suspension of a building permit, issuance of a stop-work order, or revocation of approvals in accordance with this Article.

Section 93-119 – Payment in Lieu of Taxes (PILOT)

- A. Pursuant to Real Property Tax Law § 487(9)(b), the Town of Windsor hereby declares its intent to require a PILOT agreement for all commercial solar energy systems that qualify for a real property tax exemption under Real Property Tax Law § 487. This Article shall serve as written notice of such requirement pursuant to Real Property Tax Law § 487(9)(a).
- B. The owner of real property on which a commercial solar energy system is located shall enter into a PILOT agreement with the Town, except for:
 - (1) Non-commercial, residential solar energy systems; and

- (2) Solar energy systems that do not seek or qualify for a real property tax exemption under Real Property Tax Law § 487.
- C. A lessee or licensee controlling the solar energy system may enter into the PILOT agreement on behalf of the property owner.
- D. Nothing herein shall exempt any Applicant from compliance with applicable state or local codes, nor authorize installation of a solar energy system without all required approvals. An exemption application pursuant to Real Property Tax Law § 487 shall be filed as required.
- E. Each PILOT agreement shall include, at minimum:
 - (1) Owner and operator identification and contact information;
 - (2) Tax map parcel numbers affected;
 - (3) A term of 15 years;
 - (4) Installed generating capacity and pro-rata adjustment provisions;
 - (5) Acknowledgment of tax-exempt status pursuant to Real Property Tax Law § 487;
 - (6) Assignment provisions requiring Town consent, except for financing-related assignments;
 - (7) Payment amounts and escalation, which may be established by Town Board resolution or delegated to the Broome County Industrial Development Agency; and
 - (8) Remedies for nonpayment, including cancellation of the PILOT agreement and restoration of full taxation upon failure to cure within thirty (30) days.

Section 93-120 – Retention of Expert Assistance; Reimbursement by Applicant

- A. The Applicant for a Special Use Permit for a commercial solar energy system shall be responsible for the cost of the engineering review by the Town Designated Engineer (TDE), as well as any additional consultants and/or experts the Town may hire to assist in the review and evaluation of the Application and any request for recertification of a previously issued special use permit. The Town may hire any consultant and/or expert necessary to assist the Planning Board in reviewing and evaluating the application and any requests for recertification.
- B. An Applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of TDE, consultant and expert evaluation and consultation to the Board in connection with the review of any application. The initial deposit shall be no less than \$15,000.00. These funds shall accompany the filing of an application, and the Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall bill or invoice the Town no more frequently than monthly for their services in reviewing the application and performing their duties. If at any time during the review process this escrow account has a balance less than 50% of the initially deposited amount, the Applicant shall immediately, upon notification by the Town, replenish said escrow account so that the balance of said account equals the amount of the initial

deposit. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the Town is more than the amount of the actual billing or invoicing at the conclusion of the review process, the difference shall be promptly refunded to the Applicant.

Section 93-121 – Related Permits and Fees

- A. A holder of a Special Use Permit granted under this Article shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the Applicant.
- B. A holder of a Special Use Permit granted under this Article shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted solar energy production facility in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, County, State and/or United States, including, but not limited to, the most recent editions of the New York State Uniform Fire Prevention and Building Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.

Section 93-122 – Right to Inspect

- A. In order to verify that the Applicant and any and all lessees, renters and/or licensees of commercial solar energy systems place and construct approved solar energy systems, including solar collectors and solar inverters, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other applicable requirements, the Town, its authorized officers, agents and/or designees may inspect all facets of said Special Use Permit holders', renters', lessees' or licensees' placement, construction, modification and maintenance of such facilities.
- B. The costs of all inspections conducted pursuant to this Section shall be borne by the Applicant.
- C. Upon request of the Town, its authorized officers, agents and/or designees, the owner of the commercial solar energy system shall provide the Code Enforcement Officer a report showing the rated capacity of the system, and the amount of electricity that was generated in the most recent twelve-month period. The report shall be submitted no later than 45 days after a written request for the same. Failure to submit a report as required herein shall be considered a violation of this Section subject to the penalties and remedies set forth herein.

Section 93-123 – Liability Insurance

- A. Prior to the commencement of construction of a commercial solar energy system, the owner/operator thereof shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage for the duration of the useful life of the commercial solar energy system. Insurance policy amounts shall be determined by the Town Board in consultation with Town's insurer to cover damage or injury that may result from the failure of a commercial solar energy system or any other part(s) of the generation or transmission facility. However, at minimum, the owner/operator shall carry the following insurances in the following amounts:
- (1) Commercial general liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate.
 - (2) Automobile coverage: \$1,000,000 per occurrence/\$2,000,000 aggregate.
 - (3) Workers' compensation and disability: statutory amounts.
- B. The commercial general liability insurance policy shall specifically include the Town of Windsor as additional named insured.
- C. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least "A."
- D. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least 30 days prior written notice in advance of the cancellation of the insurance.
- E. Renewal or replacement policies or certificates shall be delivered to the Town at least 15 days before the expiration of the insurance policies currently in place.
- F. Before construction of a permitted commercial solar energy system is initiated, but no later than 15 days after the grant of the Town Board approval, the Special Use Permit holder shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

Section 93-124 – Penalties for Violations

- A. A violation of this Section is hereby declared to be an offense, punishable by a fine not exceeding \$250 or imprisonment for a period not to exceed fifteen (15) days, or both. Each week's continued violation shall constitute a separate additional violation.
- B. Notwithstanding anything in this Section, the owner/operator of a commercial solar energy system may not use the payment of fines, liquidated damages or other penalties to evade or avoid compliance with this Section or any provision herein. An attempt to do so may subject the owner/operator of a commercial solar energy system to the termination and revocation of any or all previously granted certificates, permits or approvals for the commercial solar energy system pursuant to the procedures described in Section 93-124, below. The Town may also seek injunctive relief to prevent the continued violation of this Section, without limiting other remedies available to the Town.

Section 93-125 – Default and/or Revocation

- A. If a commercial solar energy system is repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Section, the Code Enforcement Officer shall notify the owner/operator of the commercial solar energy system in writing of such violation. Such notice shall specify the nature of the violation or noncompliance and state that the violations must be corrected within thirty (30) days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this or any other subsection of this Section, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Code Enforcement Officer or his/her authorized designee may, at his/her sole discretion, order the violation remedied within 24 hours.
- B. If, within the period set forth in subsection A above, the commercial solar energy system is not brought into compliance with the provisions of this Section or substantial steps are not taken in order to bring the same into compliance, the Code Enforcement Officer may revoke any or all certificates, permits or approvals issued by him/her and shall notify the owner/operator of the same within 48 hours of such action. The Code Enforcement Officer shall additionally inform the Town Board of the owner/operator's failure to comply with subsection A above. The Town Board may thereafter, in its discretion, and after providing the owner/operator with notice and an opportunity to be heard, revoke any previously granted Special Use Permit for the commercial solar energy system in question.

Section 93-126 – Permit Time Frame

The Special Use Permit authorizing construction of a commercial solar energy system shall be valid for a period of eighteen (18) months from the date of issuance, conditional upon the subsequent issuance of building permit authorizing the commencement of construction. In the event construction is not completed in accordance with the approved site plan within eighteen (18) months after Special Use Permit approval, the Applicant may apply to the Planning Board to extend the time to complete construction for 180 days, which extension shall not be unreasonably withheld or delayed. Any such extension shall be considered part of the Planning Board's continuing jurisdiction over the Special Use Permit and site plan approval. If the owner and/or operator fails to perform substantial construction after twenty-four (24) months, all previously granted approvals shall expire.

Section 93-127 – Abandonment of Use and Decommissioning

- A. The decommissioning plan required by this Section shall include, at minimum, the following:
 - (1) The removal of all aboveground solar panels/collectors, solar energy equipment and accessory facilities/structures.

(2) The removal of all footings, foundations or similar installations to a depth of four (4.0) feet below grade. Belowground solar accessory facilities or structures, such as collection lines, are not required to be removed, unless otherwise required by applicable law. In addition, access roads may be left in place if written consent is received by the Town from the landowner. However, all solar energy equipment and accessory facilities or structures installed underground must be fully removed and the land reclaimed where such equipment or materials will:

- i. interfere with or prevent continued compliance by the landowner with any Environmental Laws,
- ii. give rise to any liability to the Town or the landowner under any Environmental Laws, or
- iii. form the basis of any claim, action, suit, proceeding, hearing or investigation under any Environmental Laws. “Environmental Laws” shall mean any applicable law (including common law), statute, regulation, ordinance, order, code, guidance standard recognized by regulatory authorities, or other legal requirement relating to protection of the environment, Hazardous Material(s) and/or worker health and safety adopted by any applicable federal, state, or local governmental authority. “Hazardous Material” means any pollutant, contaminant, hazardous or toxic substance, waste, and any other material (a) subject to regulation or governed by any Environmental Law; and (b) the presence, or discharge of, or exposure to which could result in liability as a result of its impact or potential impact on human health or the environment; and including asbestos and asbestos containing material; petroleum, petroleum products and waste oil; any flammable explosives, radioactive materials, or toxic mold.

(3) Restoration of the surface grade and soil after removal of all aboveground solar panels, solar energy equipment and accessory facilities or structures.

(4) Revegetation of restored soil areas with native seed mixes that exclude any invasive species.

(5) A reasonable timeframe for the completion all decommissioning and site restoration activities.

B. The implementation of the decommissioning plan shall commence and proceed in accordance with subsections 93-127 (C), (D) and (E), as applicable, upon the occurrence of any of the following:

(1) The Applicant abandons or otherwise ceases operation of the commercial ground-mounted solar energy system for a cumulative period of 180 days in any 365-day period;

(2) The Applicant or subsequent owner begins but does not complete construction of the project within 18 months, or 24 months upon the granting of an

- extension by the Town Board as described in Section 93-126, after receiving Special Use Permit approval; or
- (3) The Special Use Permit for the commercial solar energy system is revoked, terminated, or expires and is not renewed.
 - (4) When a permitted commercial solar energy system falls into such a state of disrepair that it creates a health or safety hazard.
 - (5) When commercial solar energy systems are located, constructed or modified without first obtaining, or in a manner not authorized by, the required site plan review approval, Special Use Permit, or any other necessary authorization.
- C. In the event that construction of an approved solar energy system and/or solar accessory facilities or structures has been started but is not completed and functioning within 18 months of the issuance of the final site plan approval and Special Use Permit, the Town may notify the Applicant to complete construction and installation of the facility within 90 days. If the Applicant fails to perform, or to apply for and receive a Special Use Permit extension in accordance with this Section, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of such notification by the Town.
- D. Upon revocation, termination or non-renewal of an expired Special Use Permit, the Applicant, owner and/or operator must fully complete the decommissioning plan within 180 days of the date of revocation, termination or non-renewal.
- E. Upon the occurrence of any event listed in subsection (B) above, to which the requirements of subsections 93-127 (C) and/or (D) do not apply, the Town shall notify the owner and/or operator of the commercial solar energy system to implement the decommissioning plan. Within 90 days of the service of said notice, the owner and/or operator shall either restore operation equal to 50% of approved capacity, or commence implementation of the decommissioning plan, which plan must be fully completed within 180 days after implementation thereof.
- F. If the owner and/or operator fails to fully complete the decommissioning plan within the 180 day time period and restore the site as required, the Town may, at its own expense, provide for the restoration of the site in accordance with the decommissioning plan and may, in accordance with the law, recover all expenses incurred for such activities from the removal bond or other decommissioning security posted by the owner and/or operator in accordance with subsection 93-127 (G) below, and from the defaulted owner and/or operator directly, if necessary. Any decommissioning costs incurred by the Town which have not been fully paid by the owner and/or operator shall be assessed against the property, shall (in addition to any other available remedies) become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes. The decommissioning plan shall provide for the ability of the Town, or its assignee or designee, to access the property owners' land in order to complete decommissioning if necessary.

- G. Prior to the issuance of a building permit, the owner or operator of an approved commercial solar energy system shall post a removal bond or other decommissioning security in a form acceptable to the Town in a face amount of not less than 120% of the estimated cost of complete decommissioning and removal to ensure proper, safe removal of the solar energy system and accessory facilities/structures in accordance with the decommissioning plan required by this Section 93-127. The removal bond or security shall state on its face that it is held by and for the sole benefit of the Town. The owner and/or operator shall not encumber or create any security interest(s) in the removal bond or decommissioning security in favor of any third party. The amount of the financial guarantee shall be reviewed by the Applicant/owner and the Town Board every three years and may be changed based upon majority vote of the Board. The form of the guarantee must be reviewed and approved by the Attorney for the Town, and the guarantee must remain in effect until the system is fully removed and final inspection is completed by the Code Enforcement Officer.
- H. Ownership Changes – If the ownership of a commercial solar energy system that has been granted a Special Use Permit changes, the Special Use Permit shall remain in force and all conditions of the Permit will continue to be obligations of succeeding owners. The Town Clerk shall be notified and the ownership change registered with the Town. At the time of the notification of the ownership change the new owner(s) must provide a removal bond or decommissioning security to the Town Clerk in accordance with the provisions of subsection G above. All signs required shall be updated accordingly.

Section 93-128 – Relief from Requirements of this Article

Any Applicant desiring relief or exemption from any aspect or requirement of this Article may request such from the Town Board, acting in its legislative discretion, at a pre-application meeting, provided that the relief or exemption is contained in the original application for site plan review or, in the case of an existing or previously granted site plan approval, a request for modification of its facilities. Such relief or exemption shall be limited to matters of legislative policy or contractual obligation and shall not constitute or replace site plan approval or Special Use Permit approval, which are vested in the Planning Board. Such relief may be temporary or permanent, partial or complete, at the sole discretion of the Town Board consistent with the purposes of this Article. The Applicant shall bear the burden of proving the need for the requested relief or exemption to the satisfaction of the Town Board. The Applicant shall further bear all costs of the Town Board or the Town in considering the request, and the relief shall not be transferable to a new or different owner/operator for commercial ground-mounted solar energy systems without the specific written permission of the Town Board. No such relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted, the relief or exemption will have no significant effect on the surrounding environment, or on the health, safety and welfare of the Town, its residents and other service providers, including, but not limited to, law enforcement agencies and emergency services providers, and shall not interfere with or undermine the Planning Board's authority to apply objective site plan, Special Use Permit, and SEQRA requirements under this Article.

Section 93-129 – Adherence to State and/or Federal Rules and Regulations

To the extent that applicable State or Federal laws, rules, regulations, standards or provisions of same are modified during the operation of a commercial solar energy system, the owner/operator thereof shall conform the permitted commercial solar energy system to the applicable changed and/or modified law, rule, regulation, standard or provision thereof within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard or provision thereof, or sooner, if required by a State or Federal agency responsible for the administration of the changed law, rule, regulation, standard or provision thereof.

SECTION 4. Severability.

If any provision, clause, sentence, subsection, word or part of this Local Law is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which this Local Law or part thereof is held inapplicable, had been specifically exempt therefrom.

SECTION 5. Repealer.

All ordinances, local laws, and parts thereof inconsistent with this Local Law are hereby repealed.

SECTION 6. Conflict with Other Laws.

Where this Local Law differs or conflicts with other laws, rules and regulations, the more restrictive applicable law, rule or regulation shall apply. This section shall be inapplicable where County, State or Federal law preempts the application of a more restrictive law, rule or regulation, including the provisions contained in this Local Law. Notwithstanding the foregoing, in the event of any conflict between Article XVII ("Solar Energy Systems") and any other provision of Chapter 93, Article XVII shall control as it relates to solar energy systems.

SECTION 7. Effective Date.

This Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.