Town Of Franklin

Local Law 4 of 2024

# ALTERNATIVE ENERGY SYSTEMS LOCAL LAW

Be it enacted by the Town Board of the Town of Franklin as follows:

## ARTICLE I

## General provisions

1. Title.

This Local Law shall be referred to as Local Law No. 4-2024, entitled "Alternative Energy Systems"

1-2 Authority.

This Local Law is adopted pursuant to Section 20 of the Municipal Home Rule Law of the State of New York, which authorizes the Town of Franklin 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 alternative energy systems and equipment and access to sunlight or wind necessary therefor."

1-3. Statement of Purpose.

This Local Law is adopted to advance and protect the public health, safety, and welfare of the Town of Franklin by creating regulations for the installation and use of alternative energy systems and equipment with the following objectives:

A. Taking advantage of safe, abundant, renewable, and nonpolluting energy resources;

B. To mitigate the impacts of Alternative Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources.

C. Reducing the consumption of energy generated through fossil fuels by the owners of commercial and residential properties, including single-family homes;

D. Increasing employment and business development in the region by furthering the installation of renewable energy systems;

E. Balancing the need to improve energy sustainability through increased use of renewable energy systems with concerns for preservation of public health, welfare, and safety, as well as environmental quality, visual and aesthetic values, and existing neighborhood social and ecological stability;

F. Minimizing adverse impacts on the character of neighborhoods, property values and the scenic, historic and environmental resources of the Town.

G. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family dwellings.

H. To create synergy between alternative energy production and stated goals within the Town Comprehensive Plan.

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

Section 1-4. Applicability.

A. Alternative Energy Systems will be permitted as electric generating uses subject to Special Permit review by the Planning Board and subject to the following supplementary regulations:

   1. The manufacturers or installers identification and appropriate warning signage must be posted at the site and clearly visible.

   2. Alternative Energy Systems buildings and accessory structures must use materials colors and textures that will blend the facility into the existing environment.

   3. Appropriate landscaping and/or screening materials shall be required to help screen the alternative energy systems and accessory structures from major roads and neighboring residences, unless otherwise determined by Site Plan Review.

   4. The height of the solar panel arrays must not exceed 12 feet with a maximum height of 16 feet.

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

   6. To the maximum extent practicable, on-site power lines will be placed underground.

B. Building permits will be required for the installation and repair of all alternative energy systems facilities and equipment required for energy production and distribution.

C. The requirements of this Local Law apply to all Alternative Energy Systems, proposed, operated, modified, or constructed, permanently installed or modified that produce more than 1kW or more than 50 volts of electricity in the Town of Franklin, after the effective date of this Local Law, excluding general maintenance and repair and Building-Integrated Photovoltaic Systems.

   1. Alternative Energy Systems constructed or installed prior to the effective date of this Local Law will not be required to meet the requirements of this Local Law if it was authorized and constructed in accordance with the effective law at the time of installation. Any such preexisting alternative energy facility that does not provide energy for a continuous 12-month period must meet the requirements of this Local Law prior to recommencing energy production.

   2. Modifications to an existing Alternative Energy System will be subject to the requirements of this Local Law.

   3. Any Wind Measurement Tower existing on the effective date of this Local Law must be removed no later than twenty-four (24) months after the effective date, unless a permit pursuant to this Local Law is obtained.

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

Section 1-4. 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 1-5. Repealer.

All ordinances, local laws, and parts thereof inconsistent with this Local Law are hereby repealed, including Local Law number 1 of 2007 to the extend the provisions therein are merged and incorporated into this Local Law accordingly.

Section 1-6. 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 will apply. This section will 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.

Section 1-7. Effective Date.

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

Section 1-8. Findings

The Town of Franklin finds and declares that:

1. Wind energy and solar energy are abundant, renewable and nonpolluting energy resources of the Town and its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.
2. The generation of electricity from properly sited Alternative Energy Systems, including small systems, can be cost effective, and in many cases existing power distribution systems can be used to transmit electricity from alternative energy-generating stations to utilities or other users, or energy consumption at that location can be reduced.
3. Regulation of the siting and installation of Alternative Energy Systems is necessary for the purpose of protecting the health, safety, and welfare of neighboring property owners and the general public.
4. Wind Energy Facilities represent significant potential aesthetic impacts because of their size, lighting, and shadow flicker effects, if not properly sited.
5. Solar Energy Facilities represent significant potential aesthetic impacts because of their size, lighting, and glare, if not properly sited.

6. If not properly regulated, installation of Alternative Energy Systems can create drainage problems through erosion and lack of sediment control for facility and access road sites, and harm farmlands through improper construction methods.
7. Alternative Energy Systems may present a risk to bird and bat populations if not properly sited.
8. If not properly sited, Alternative Energy Systems may present risks to the property values of adjoining property owners.
9. Wind Energy Facilities may be significant sources of noise, which, if unregulated, can negatively impact adjoining properties.
10. Without proper planning, construction of Alternative Energy Systems can create traffic problems and damage local roads.
11. If improperly sited, Alternative Energy Systems can interfere with various types of communications.

ARTICLE II

Definitions and General Provisions for Alternative Energy Systems

Section 2. Word Usage.

For the purposes of this Local Law, and where not inconsistent with the context of a particular section, the terms, phrases, words, abbreviations, and their derivations defined below will have the meaning given in this Article. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number. The word “shall” is always mandatory and not merely directory.

Section 2-2. Definitions.

ABANDONMENT – Abandonment of an alternative energy system occurs when deconstruction has not been completed within twelve (12) months after the alternative energy system reaches the end of its useful life, or upon the failure of the alternative energy system to function in accordance with its stated purposes for a period of twelve (12) months. For purposes of this definition, an alternative energy system will be presumed to have reached the end of its useful life if the alternative energy system owner/operator fails to pay the landowner amounts owed in accordance with the underlying agreement for a period of six (6) consecutive months, or the alternative energy system produces less than 50% of the energy in accordance with the terms set forth in the application for its use over a period on more than twelve (12) months. As part of the annual permit review process, the alternative energy system owner/operator must provide to the Board a copy of its annual output documentation from the Power Company.

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

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

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

APPLICANT – Any individual, corporation, municipal corporation, municipal corporation-private entity cooperation, estate, trust-partnership, joint-stock company, association of two or more persons, limited liability company or other entity submitting an Application to the Board for a Special Use Permit for a Wind Measurement Tower/Met Tower or a WECS, and its successors and assignees or for a solar energy system.

BOARD – The Planning Board of the Town of Franklin.

BUFFER/SETBACK area – Part of a property specifically intended to separate and thus minimize the effects of land use activity (e.g., noise, dust, visibility, glare, etc. on adjacent properties. May require landscaping and/or fencing to minimize impact.

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

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

COMMERCIAL WIND ENERGY CONVERSION SYSTEM (“Commercial WECS”) – A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of more than 100 kW and which is intended to produce power for distribution on the utility grid.

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

DECIBEL (dB) – A unit for measuring the volume of sound, equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to a standard pressure of 20 micronewtons per square meter.

DECOMMISSIONING – The process for removing an alternative energy system and remediating the land to as close to a condition as prior to the installation and construction of an alternative energy system, whether due to abandonment or it has reached its maximum useful life cycle, whichever occurs sooner. Decommissioning will take place pursuant to a Board-approved decommissioning plan.

DECOMMISSIONING BOND – A bond amount approved by the Board for the decommissioning of an alternative energy system. The bond must be posted annually and in an amount that includes the greater of the previous year bond amount or the increase in the Consumer Price Index, not to exceed 5%.

DECOMMISSIONING PLAN – A Board-approved plan for the decommissioning of an alternative energy system and includes the decommissioning bond. The decommissioning plan will detail the necessary steps to safely remove the alternative energy system from the site in a manner that is safe and causes minimal environmental impact while leaving the site in a condition as close to pre-installation as possible.

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

EAF – Environmental Assessment Form used in the implementation of the State Environmental Quality Review Act as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

ENERGY STORAGE – Energy storage components including but not limited to batteries capable of storing energy in order to supply electrical energy in the future, in the form of electrical mechanical thermal or chemical energy (not to include stand-alone 12-volt car battery or electric motor vehicles).

ENVIRONMENTAL IMPACT STATEMENT (EIS) – An EIS is a written "draft" or "final" document prepared in accordance with §617.9 of State Environmental Quality Review Act. An EIS provides a means for agencies, project sponsors, and the public to systematically consider significant adverse environmental impacts, alternatives, and mitigation strategies. An EIS facilitates the weighing of social, economic, and environmental factors in the planning and decision-making process. A draft EIS (DEIS) is the initial statement prepared by either the project sponsor or the lead agency and circulated for review and comment by all involved and interested agencies before a final EIS (FEIS) is prepared.

ESCROW – Costs incurred by the Planning Board for consultation fees, expert fees, or other extraordinary expenses including but not limited to engineering, legal, architectural, planning, fire protection or traffic engineering services in connection with the review of the proposed site plan will be charged to the applicant. The applicant must deposit funds sufficient to cover these costs into an escrow account, established by the town specifically for this purpose. This amount is to be used solely by the Town of Franklin to retain qualified experts as needed for adequate review of the proposal as determined by the Board. Any unused funds will be returned to the applicant only after final action has been taken on an application and all the requirements of the Site Plan Law have been fulfilled.

FACILITY OWNER – Means the entity or entities having an equity interest in the Wind Energy Conversion System, including their respective successors and assigns.

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

FARMLAND OF STATEWIDE IMPORTANCE – Land designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of 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.

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

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

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

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

HOST COMMUNITY AGREEMENT (HCA) – A contract between the Applicant and the Town of Franklin, whereby such Applicant agrees to provide the community with certain benefits and mitigate specified impacts of an alternative energy system.

HUB HEIGHT – Means the distance measured from the surface of the tower foundation to the height of the Wind Turbine hub, to which the blade is attached.

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

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

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

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

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

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

NACELLE – The portion of the wind turbine that connects the rotor to the support tower, and houses the generator, gearbox, drive train, and braking system.

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

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

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

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

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

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

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 WECS or Wind Measurement Tower/Met Tower development by the Applicant on or in the vicinity of the parcel.

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

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

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

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

QUALIFIED SOLAR INSTALLER – A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition.

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

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

RIGHT OF WAY – A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

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

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

SEQRA – The New York State 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 lot line of a parcel within which a structure is installed.

SITE – The parcel(s) of land where an alternative energy system is to be placed. The Site can be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has an alternative energy system or has entered an agreement for such an alternative energy system or a setback agreement shall not be considered off-site.

SMALL WIND ENERGY CONVERSION SYSTEM ("Small WECS") – A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended primarily to reduce consumption of utility power at that location.

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

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

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

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

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy Systems which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 & 4 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

   a. Roof-Mounted Solar Energy Systems

   b. Building-Integrated Solar Energy Systems

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

C. Tier 3 & 4 Solar Energy Systems are systems with a capacity above 20 kW AC and that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

SOLAR FARM OR SOLAR POWER PLANT: Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or

various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

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

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

SOUND PRESSURE LEVEL – According to the NYSDEC Program Policy on Assessing and Mitigating Noise Impacts, a measure of sound pressure in the atmosphere which can be determined according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11), or other accepted procedure. Also, the perceived loudness of a sound as expressed in DB or A-weighted decibel scale dB(A). For example, an L10 - 30 dBA indicates that in any hour of the day 30 dBA can be equaled or exceeded only 10% of the time, or for 6 minutes.

SPECIAL USE PERMIT or PERMIT – The official document or permit by which an applicant is allowed to construct an alternative energy system as granted or issued by the Board, including all related infrastructure, electrical lines and substations, access roads, and accessory structures.

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

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

STRUCTURE, ACCESSORY – Any structure designed to accommodate an accessory use but detached from the principal structure, such as, a free-standing garage for vehicles accessory to the principal use, a storage shed, garden house or similar facility. The use of such a structure is incidental and subordinate to the principal building, and is located on the same lot or premises as the principal building.

SURETY – The purpose of obtaining a surety bond or a bank letter of credit is to ensure that the applicant will have the financial ability to comply with the terms of this article, and to ensure that there will be sufficient financial ability to deconstruct a facility and dispose of its parts. The amount of the surety bond or bank letter of credit will be determined by numerous factors that include but are not limited to environmental liabilities, decommissioning costs, and reclamation costs. The bank or bond company must be located within Delaware County or an immediately adjacent county and must be approved by the Town of Franklin Town Board. The amount of surety required will be revised annually, as a part of the annual permit renewal process.

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

TOWER FACILITY – Site where one or more wind turbines will be located, including all accessory facilities and equipment.

TOWN – The Town of Franklin, New York.

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

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

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

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

UNIFORM CODE – The New York State Uniform Fire Prevention and Building Code, the New York State Energy Research and Development Authority, Delaware County Code, and the Town Code.

UNREASONABLY INTRUSIVE – Any sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities under the circumstances.

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

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

WIND ENERGY CONVERSION SYSTEM ("WECS") – Any mechanism or combination of mechanisms, including one or more wind turbines, designed for the purpose of converting wind energy into electrical energy and all accessory facilities related thereto. For purposes of this Local Law, there are two types of WECS:

A. Commercial WECS – A WECS that primarily produces energy for off-Site sale or consumption, or any WECS that has a capacity of 200 kilowatts or more.

B. Non-Commercial WECS – A WECS that is incidental and subordinate to another use on the same parcel and which primarily produces energy for on-Site consumption; provided, however, that if such parcel uses the WECS for net-metering with a utility company, such WECS may be considered non-commercial unless net revenue is produced

WIND ENERGY FACILITY – Any Wind Energy Conversion System, Small Wind Energy Conversion System, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

WIND ENERGY PERMIT- A permit pursuant to this Local Law granting the holder the right to construct, maintain and operate a Wind Energy Facility.

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

WIND TURBINE HEIGHT – Means the distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

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

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

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

WIND TURBINE (SMALL) – A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended primarily to reduce consumption of utility power at that location.

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

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

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

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

2-3. Town Planning Board Delegation.

The Town Board appoints the Town Planning Board as the body responsible for the administration of the Town's Alternative Energy Systems Law, including the review of Solar Energy Systems Permit Applications, and the decision whether to approve such applications. Approval of Solar Energy System Permits shall be subject to the requirements set forth in this Local Law.

The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed Solar Energy Systems Application.

Any person aggrieved by a decision of the Planning Board to approve, approve with modifications, or deny a Solar Energy Systems Permit may apply to the New York State Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty days after the filing of a decision by such board in the office of the Town Clerk.

2-4. Retention of Expert Assistance; Remboursement 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 Board may hire any consultant and/or expert necessary to assist the 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 an amount established by the Town Board. 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.

2-5. Related Permits and Fees.

A. At its own expense, a holder of a Special Use Permit granted under this Local Law shall obtain all permits and licenses required by applicable law, rule, regulation or code and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the Applicant.

B. A holder of a Special Use Permit granted under this Article shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted solar energy production facility in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, County, State and/or United States, including, but not limited to, the most recent editions of the Uniform Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.

2-6. Right to Inspect.

A. In order to verify that the Applicant and any and all lessees, renters and/or licensees of alternative energy systems place and construct approved alternative energy systems, including but not limited to all equipment and structures, 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 the Special Use Permit holders', renters', lessees', property owners', or licensees' placement, construction, modification, and maintenance of such alternative energy systems.

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 alternative energy system shall provide the Town Building Inspector/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 subject to the penalties and remedies set forth in Article 4 of this Local Law.

2-7. Liability insurance.

A. Prior to the commencement of construction of a commercial alternative 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 alternative 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 alternative 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: $5,000,000 per occurrence/$10,000,000 aggregate.

(2) Automobile coverage: $1,000,000 per occurrence/$2,000,000 aggregate.

(3) Workers' compensation and disability: statutory amounts.

(4) Umbrella coverage: $10,000,000.

B. The commercial general liability insurance policy shall specifically include the Town 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 alternative energy system is initiated, but no later than 15 days after the grant of Board approval, the Special Use Permit holder shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

G. Indemnification: Any application for a commercial Alternative Energy System within the Town shall contain an indemnification provision. The provision shall require the Applicant/Owner/Operator to at all times defend, indemnify, protect, save, hold harmless and exempt the Town of Franklin and its officers, councils, employees, attorneys, agents and consultants from any and all penalties, damages, costs or charges arising out of any and all

claims, suits, demands, causes of action or award of damages whether compensatory or punitive, or expenses arising therefrom either at law or in equity which might arise out of or are caused by the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of the commercial Alternative Energy System, excepting however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town or its employees or agents. With respect to the penalties, damages, or changes referenced herein, reasonable attorneys' fees, consultant' fees and expert witness fees are included in those costs that are recoverable by the Town.

2-8. Permit Time Frame.

The Special Use Permit authorizing construction of a commercial alternative 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 Board to extend the time to complete construction for 180 days, which extension shall not be unreasonably withheld or delayed. If the owner and/or operator fails to perform substantial construction after twenty-four (24) months, all previously granted approvals shall expire.

2-9. Enforcement and Penalties

A. The Planning 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 undertake an Alternative 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 enforcement officer, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than $350 or to imprisonment for a period of not more than six months, or subject to both such fine and imprisonment. 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 in the amount of $350 for each violation and 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.

2-10. Replacement and repair or general maintenance throughout lifecycle of alternative energy systems

Within 30 days of replacement, repair, or new installation, the Owner/Operator of an alternative energy system must provide proof to the Town Code Enforcement Officer that the discarded parts, pieces, components, etc. (collectively referred to as parts) have been properly disposed of or recycled. A detailed log of replacements and repairs shall be maintained by the Owner/Operator at its expense and made available to the Town Code Enforcement Officer to inspect upon request. At a minimum the log shall include:

(1) Date of repair or replacement;

(2) Model and serial number of the repair or replacement part(s);

(3) Model and serial number of the old part(s);

(4) Purpose for repair or replacement;

(5) Where old parts were disposed or recycled;

(6) The method and manner of disposal or recycling of the old part(s); and

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

## ARTICLE III

## Solar Energy Systems

3 Site Restrictions and Requirements

The site plan review for a solar energy system will take into account aspects of the Town's Comprehensive Plan, the general complexion of the land use in the area of a planned facility, concerns for maintaining the general area surrounding the proposed facility, the preferences of neighbors within that area and:

A. Density

a. In the Town, only a total amount of 2% of the acreage within the Town combined will be allowed for Ground Mounted Solar Facilities (25kW and above), Tier 2, 3, and 4 solar energy systems.

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

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

B. Slopes

Development is prohibited on slopes greater than 12%, unless the applicant can demonstrate through engineering studies and to the satisfaction of the Town, that the proposed development will not cause any adverse environmental impact. Any proposal to exceed 12% slope shall be approved by the Town Planning Board and all studies and the costs associated with engineering

and documentation shall be borne by the developer not the Town of Franklin. In no event shall the slope exceed 20%.

C. Deforestation (for the purpose of solar development)

   a. Not to exceed 50 acres in total area.

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

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

   d. Clearcutting of forests with a basal area of less than 60 square feet per acre is permitted if it does not exceed an area of 10% of the solar facilities total size.

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

D. 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.

E. 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).

F. No solar collector shall be closer than 100 feet from any non-participating residential property line.

G. No solar collector shall be closer than 250 feet from non-participating, habitable residential structures.

H. No solar collector shall be closer than 50 feet from non-participating, non-residential property lines.

I. No solar collector shall be closer than 50 feet from the boundary line of any public street or roadway.

J. No solar collector shall be erected ahead of the front line of any existing building.

K. 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 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.

L. All commercial ground-mounted solar energy systems must additionally include a visual buffer between the system, public roads and non-participating properties. The buffer shall consist of appropriate plantings with a mixture of evergreen and deciduous trees and shrubs a height so as to provide a visual screen of the ground-mounted system. The species, type, location and planted height of such landscaping and fencing shall be subject to the approval of the Board.

M. 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.

N. Lot Coverage Requirements. Commercial solar energy systems shall adhere to applicable maximum lot coverage requirements for principal uses, if any.

O. Siting Considerations. No commercial ground-mounted solar energy system shall be installed in a floodplain, aquifer or other environmentally sensitive area without the following:

1. Approval of an engineering plan;
2. 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;
3. Approval and acceptance of plans for battery storage;
4. Approval and acceptance of plans for utility connections;
5. Approval and acceptance of safety measures.
6. Proof of any permits or approvals from any relevant state and/or federal agencies such as the NYS Department of Environmental Conservation.

P. If property is subdivided to accommodate commercial ground-mounted solar energy systems as a primary use, the property containing the commercial ground-mounted solar energy system must have road frontage in compliance with the Town's applicable Local Laws, if any.

Q. All utilities serving the site of a commercial solar energy system shall be installed underground and in compliance with all laws, rules and regulations of the Town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code, where appropriate. If the applicant seeks to install aboveground utilities or transmission lines, the Applicant must provide sufficient proof of infeasibility of underground installation. The Board may waive or vary the requirements of underground installation of utilities whenever, in the opinion of the Board, the Applicant's proof establishes that such variance or waiver shall not be detrimental to the health, safety, general welfare and environment, including the visual and scenic characteristics of the area.

R. 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 Board, the circumstances of the project so dictate.

S. Fire access roads and access for fire apparatus equipment shall be provided, as approved by the chief of the Fire District providing the Town with fire protection services, and the Board. Any gates to the site shall be equipped with Knox Company locks to allow fire department access.

T. 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.

U. Applications for the installation of a commercial solar energy system shall be reviewed by Code Enforcement and referred, with comments, to the Board for its review and action, which can include approval, approval with conditions, or denial.

3-1.1 Additional Site Restrictions and Requirements for Commercial Ground-Mounted Solar Energy Systems located on Certain Agricultural Lands.

A. Any commercial ground-mounted solar energy system located on areas that consist of Prime Farmland and/or Farmland of Statewide Importance shall not exceed 50% of the area of Prime Farmland and/or Farmland of Statewide Importance on the parcel.

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.

3-2. Permits – General Requirements.

A. The Town Planning Board is designated and authorized to review, analyze, evaluate, and make decisions with respect to all Special Use Permit applications for commercial solar energy systems. The Planning Board may approve, approve with conditions, disapprove, recertify, not recertify or revoke any such Special Use Permit. At its discretion, the Town Board delegate or designate other officials of the Town to accept, review, analyze, evaluate and make recommendations to the Board with respect to granting or not granting, recertifying or not recertifying, or revoking site plan and/or Special Use Permit approval of commercial solar energy production facilities.

B. No solar energy system will be constructed, reconstructed, modified, repaired, or operated in the Town except by first obtaining a Solar Energy Facility Permit as provided under this Local Law. Replacement in-kind or repair of a solar energy facility may occur without Planning Board approval when:

1. there is no increase in total number of solar panels;
2. there is no change in the location or make up of the solar panels; and
3. no additional lighting or change in facility color.

C. A pre-application meeting is required with the Applicant, Town Engineer, Code Enforcement Officer and Town Supervisor prior to submitting a formal Special Use Permit application.

D. Incomplete applications not meeting the requirements stated herein, or which are otherwise incomplete may be rejected by the Board.

E. 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.

F. Solar energy systems and equipment shall be permitted only if they are determined by the Town Planning Board not to present any unreasonable safety risks, including but not limited to: Weight load, Wind resistance, and Ingress and/or egress in the event of fire or another emergency.

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

H. The Board shall hold a public hearing in accordance on the Special Use Permit application. Notice of said public hearing shall be appropriately published and posted at least ten (10) days in advance thereof. Applicants shall have delivered the notice by Certified mail. Return Receipt to adjoining landowners or landowners within five hundred (500) feet of the property at least ten (10) days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.

I. In addition to any other conditions it deems necessary to mitigate potential impacts, the Board may, require the owner and/or developer of a Commercial Solar Energy System to enter into a Host Community Agreement with the Town, to mitigate specified impacts of the Commercial Solar Energy System and otherwise provide specified benefits to the community.

J. A Solar Energy Facility Permit is non-transferrable without the Board's express approval by resolution. No sale or transfer of the entity owning and operating a solar energy system will relieve the original applicant or the purchaser/lessee of liability unless approved by the Board by resolution.

K. Escrow Account: Costs Cost incurred by the Planning Board for consultation fees or other extraordinary expenses including but not limited to engineering, legal, architectural, planning, fire protection or traffic engineering services in connection with the review of the proposed site plan shall be charged to the applicant. The applicant shall deposit into an escrow account, established by the town specifically for this purpose, a sufficient amount to be used solely by the Town of Franklin to retain a qualified experts needed for adequate review of the proposal as determined by the Planning Board. Any unused funds will be returned to the applicant only after final action has been taken on an application and all the requirements of the Site Plan Law have been fulfilled.

   a. Lot size: The property on which the Tier 3 & 4 Solar Energy System is placed shall meet the lot size requirements specified in this Local Law (See Appendix, Table 1).

   b. Setbacks: The Tier 2, 3 & 4 Solar Energy Systems shall comply with the setback standards specified in this Local Law (See Appendix, Table 2).

   c. Height: The Tier 3 & 4 Solar Energy Systems shall comply with the building height limitations for principal structures defined in this Site Plan Review Local Law.

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

L. The following components of a Tier 3 & 4 Solar Energy System shall be considered included in the calculations for lot coverage requirements:

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

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

N. Screening and Visibility:

1. Solar Energy Systems smaller than 101 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.
2. Solar Energy Systems larger than 101 acres shall be required to:
    a. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, [shall/may] be required to be submitted by the applicant.
    b. Submit a Landscape Plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the greatest extent feasible.
    c. The Landscape Plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The Landscape Plan shall be reviewed by the Town Planning Board and approved as part of the site plan approval process. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening.

O. Agricultural Resources. For projects located on agricultural lands:

1. Any Tier 3 & 4 Solar Energy System located on the areas that consist of Prime Farmland or Farmland of Statewide Importance shall not exceed 50% of the area of Prime Farmland or Farmland of Statewide Importance on the parcel.
2. To the maximum extent practicable. Tier 3 & 4 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Agriculture and Markets.
3. Tier 3 & 4 Solar Energy System owners shall develop implement and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

P. Safety

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

b. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained. including snow removal at a level acceptable to the local fire department and, if the Tier 3 & 4 Solar Energy System is located in an ambulance district: the local ambulance corps.

c. If energy storage is included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations.

Q. Permit Time Frame and Abandonment

The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of 18 months, provided that a building permit is issued for construction or construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 18 months after approval the applicant or the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 24 months, the approvals shall expire.

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

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

3-2.1. Tier 1 Solar Energy System Special Use Permit Requirements.

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

1. Roof-Mounted Solar Energy Systems:

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

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

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

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

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

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

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

i. Ensure access to the roof;

ii. Provide pathways to specific areas of the roof;

iii. Provide smoke ventilation opportunity areas;

iv. Provide emergency egress from the roof.

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

i. Unique site-specific limitations;

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

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

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

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

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

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

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

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

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

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

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

i. Minimum required side yard setback: 50 feet.

ii. Minimum required rear yard setback: 50 feet

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

iv. Minimum required setback from building larger than 12x12 feet: 25 feet.

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

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

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

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

4. A Tier 1 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

3-2.2. Permitting Requirements for Tier 2 Solar Systems.

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

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

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

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

4) Screening and Visibility:

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

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

5) Lot Size and Setback Requirements: Tiers 2, 3 & 4 Solar Energy Systems shall comply with the existing lot size standards specified within this Local Law (see Appendix Tables 1 and 2).

3-2.3. Permitting Requirements for Tier 3 & 4 Solar Energy Systems.

A. All Tier 3 & 4 Solar Energy Systems are permitted through the issuance of a Solar Energy Permit, and subject to site plan application requirements set forth in this Section, in addition to the general permit requirements and application requirements.

B. Applications for the installation of Tier 3 & 4 Solar Energy System shall be:

1. A copy of an executed Interconnection Agreement with NYISO and the applicable Transmission Owner.

2. Reviewed by the Town Code Enforcement Officer for completeness. Applicants shall be advised within thirty (30) business days of receipt of their application by the Town Code Enforcement Officer. The Code Enforcement Officer shall notify the applicant(s) of the completeness of their application or any deficiencies that must be addressed prior to substantive review by the Planning Board within 62 days of receipt of application. Failure of the Town Code Enforcement Officer to advise the applicant within the 30-day period is not a soft approval that the application complies with this Local Law, and does not create a vested property right.

3. An escrow account shall be established. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses including but not limited to engineering, legal, architectural, planning, fire protection or traffic engineering services in connection with the review of the proposed site plan shall be charged to the applicant. The applicant shall deposit into an escrow account, established by the town specifically for this purpose, a sufficient amount to be used solely by the Town of Franklin to retain a qualified experts needed for adequate review of the proposal as determined by the Planning Board. Any unused funds will be returned to the applicant only after final action has been taken on an application and all the requirements of the Site Plan Law have been fulfilled.

4. Subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town of Franklin shall have a notice printed in a newspaper of general circulation in the Town at least ten (10) days in advance of such hearing. Applicants shall have delivered the notice by Certified mail, Return Receipt to adjoining landowners or landowners within five hundred (500) feet of the property at least ten (10) days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.

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

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

C. Underground Requirements. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service

connection at the utility company right-of-way and any new interconnection equipment including without limitation any poles with new easements and right-of-way.

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

E. Signage.

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

2. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad mounted transformers and substations.

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

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

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

I. Lot Size. The property on which the Tier 3 & 4 Solar Energy System is placed shall meet the lot size requirements of > 5 acres Setbacks (See Appendix, Table1). The Tier 2, 3 & 4 Solar Energy Systems shall meet the setback requirements in the Appendix, Table 2. Fencing, collection lines, and access roads shall not occur within the setback. Access roads which provide access or egress to a public road shall be excluded from the setback requirements.

J. Height. The Tier 3 & 4 Solar Energy Systems shall comply with the height limitations in the Appendix, Table 2.

K. This height requirement can be waived by the Planning Board of the Town of Franklin if the panels are being raised to accommodate continued or new agricultural purposes.

3-2.4 Permitting Approvals Required for Tier 3 & 4 Solar Energy Systems

A. All Tier 3 & 4 Solar Energy Systems shall be permitted by a Solar Energy System Permit issued pursuant to this Local Law which applies to all areas of the Town of Franklin. In addition, a site plan review is required.

B. Applicants for Tier 3 & 4 Solar Energy System Permits must submit a Solar Energy Systems Permit application in addition to an application for Site Plan Review which shall be:

1) Subject to the review of the Town Planning Board. Applications must be submitted no later than ten (10) days prior to the Planning Board's regularly scheduled meeting. The Planning Board will review the submissions for completeness and shall notify the applicant within ten (10) business days after the next monthly Planning Board meeting of any deficiencies that must be cured. Applicants shall remedy said deficiencies and resubmit a corrected application no later than ninety (90) days after receiving notice from the Planning Board.

The Planning Board shall make a substantive review of the resubmitted application within the next two monthly Board Meetings after the cured Application is received. Failure to remedy said deficiencies within the stated 90-day time period shall result in the Planning Board denying the application.

2) Subject to a public hearing. A Public Hearing will be held within 62 days of receipt of Alternative Energy Systems applications that have been accepted and deemed complete. The Planning Board shall mail notice of the Public Hearing to the applicant at least ten (10) days before the Public Hearing and shall advertise the Public Hearing in the Town's official newspaper at least five (5) days prior to the date of the hearing. If the application requires a review pursuant to section 239-m of the General Municipalities Law, the Planning Board shall submit a referral to the County Planning Board and shall mail a notice of the Public Hearing to the Delaware County Planning Board ten (10) days prior to the Public Hearing.

3) Decided within sixty-two (62) days after the Public Hearing. The time within which the Board must render a decision may be extended by mutual consent of the applicant and the Board. The Board shall render its decision to either approve, approve with modifications, or disapprove the site plan. The decision of the Board shall be filed in the office of the Town Clerk immediately upon being rendered, and a copy mailed to the applicant.

C. Application & Site Plan Review Requirements. Applications for Tier 3 & 4 Solar Energy Systems Permits, including materials for site plan review, shall include the following:

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

2) Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.

4) Map(s) of MSG 1-4 soils and Active Agriculture Lands on the parcel(s) comprising the Facility Area and adjacent parcels. Map(s) must also include identification of Prime Farmland, Prime Farmland if Drained, Farmland of Statewide Importance and Farmland of Statewide Importance if Drained, mature forest, and other existing vegetation.

5) Adjacent land uses on contiguous parcels within one thousand (1,000) feet; examples include but are not limited to residential, non-residential, agriculture, etc.

6) Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any trees larger than six (6) inches in diameter, access roads, exterior lighting, signage, fencing, landscaping, and screening vegetation or structures.

7) Vegetation Management Plan shall be used both as a baseline for returning the soil to a healthy state after decommissioning, and as the basis for vegetation establishment and management throughout the project life. Said plan shall include:

a) Chemical soil testing for nutrient status

b) A soil health assessment conducted by the Cornell Soil Health Testing Lab (or equivalent).

c) Type of vegetation to be established to achieve at least 75% ground cover with minimal bare soil areas.

d) Method of vegetation maintenance, inspection and reporting:

i) At its own expense, Owner/Operator shall provide to the Town annually; a site vegetation inspection report and the results of the chemical soil testing for nutrient status performed by a qualified, independent third party.

ii) The report shall address any required nutrient additions, the method of how they will be applied, any weed or invasive plant controls needed, the percentage ground cover if less than 75%, and in the event that said ground cover is under 75% owner/operator shall identify a remediation plan

8) Soil Compaction and Amelioration Plan Shall Include:

a) Method used to determine compaction after construction.

b) Method of compaction amelioration after construction.

9) Submit USDA Natural Resources Conservation Service (NRCS) Web Soil Survey maps showing Suitability and Limitation ratings for Solar Array Ballast Anchor Systems, and Solar Array Soil-based Anchor Systems

10) Erosion and sediment control and stormwater management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Town Planning Board, including; Runoff Rate: Pre-development and post development runoff rates shall be the same.

11) A one- or three-line electrical diagram detailing the entire Solar Energy System layout, including the number of Solar Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and overcurrent devices. The diagram should describe the location and layout of all Energy Storage System components if applicable and should include applicable setback and other bulk and area standards.

12) A preliminary equipment specification sheet that identifies in detail all proposed Solar Panels, system components, mounting systems, racking systems, inverters, and energy storage components that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

13) A Property Operation and Maintenance Plan that describes continuing site maintenance, anticipated dual-use, and property upkeep, such as mowing and trimming.

14) For Energy Storage Component Systems, a Water Storage Plan must be submitted which quantifies the onsite water storage capacity requirements or other means to adequately manage potential energy storage including but not limited to battery fires. The plan should include energy storage components' sizing, quantity and type as well the stored water location and method of accessible storage. If the site is unable to handle water storage requirements an Energy Storage Component System is prohibited. The Water Storage Plan must be prepared by a NY Licensed Professional Engineer and shall be submitted by the applicant to the Town for approval.

15) A decommissioning plan that meets the requirements of this Article.

3-4. Special Use Permit Application Requirements.

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:

B. 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, if different from the Applicant;

(3) The developer of the proposed project; and

(4) The operator of the proposed project.

C. Name of project, Tax Map parcel numbers and boundary lines of parcel(s) on which the project will be located, a location map showing proposed site's location, north arrow, and scale of the plan.

D. Application fee of $750.00 (non-refundable).

E. 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.

F. 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 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 Article. The location of all structures located on such properties shall be identified and labeled as "residential" or "non-residential".

G. 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 3-4 of this Article. The fencing shall have self-locking gates, and shall bear warning signs with the owner's name and emergency contact information on any access point to the system and perimeter of the fencing. The fencing and the system shall be further screened by any landscaping needed to avoid adverse aesthetic impacts.

H. 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 3-12 of this Article.

(9) The Applicant shall furnish a visual impact assessment, in a manner approved by the Board, to demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the proposed commercial solar energy system and all related structures which shall, at minimum, include:

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

ii. Pictorial representations of before and after views from key viewpoints both inside and outside of the Town, including, but not limited to, state highways and other major roads; airports; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. The Town Code Enforcement Officer, acting in consultation with the Town's consultants/experts, will provide guidance concerning the appropriate key sites at the pre-application meeting. An assessment of the visual impact of the commercial solar energy system and accessory buildings from abutting and adjacent properties and streets.

(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. The plan will also include the following:

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

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

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

I. A Completed State Environmental Quality Review Act ("SEQRA") Full Environmental Assessment Form ("FEAF").

J. The Board may, in its discretion, modify or waive any of the requirements described in this section to the extent that such conditions are inapplicable to a given application. The Board may also require that the Applicant submit additional information not listed herein that it deems necessary in order to inform and complete its review of the Applicant's Special Use Permit application.

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

1. That the Applicant's proposed commercial solar energy system shall be maintained in a safe manner and in compliance with all conditions of the site plan approval, without exception, unless specifically granted relief by the Board in writing, as well as all applicable and permissible local codes, ordinances and regulations, including any and all applicable county, state and federal laws, rules, and regulations.

2. That the construction of the proposed commercial solar energy system is legally permissible, including but not limited to the fact that the Applicant is authorized to do business in New York State.

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

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

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

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

Prior to a Public Hearing occurring on the project, the applicant shall, by certified mail, deliver notice of said public hearing to adjoining landowners and landowners within 500 feet of the property at least 10 days prior to the hearing. Proof of Notification must be sent to the Town Planning Board prior to the Public Hearing Commencing. Additionally, a

public hearing notice must be published in the official paper for two consecutive weeks prior to the hearing with proof of publication submitted to the Planning Board. Signs shall be posted conspicuously on the property where the solar project will be installed for no less than fourteen (14) days stating the name of the project along with the date, time and location of the public hearing.

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

Q. The Town, executions, or filing with the Town Clerk of cash, bond, letter of credit or other form of security reasonably acceptable to the Town attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be one hundred and twenty-five (125) percent of the cost of removal of the Tier 3 & 4 Solar Energy System and restoration of the property with an escalator of two (2) percent annually for the life of the Solar Energy System.

3-4.1. Site plan application.

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

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

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

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

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

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

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

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

3-5. Decommissioning.

All Tier 2, 3, & 4 solar energy systems must contain a decommissioning plan in accord with the provisions of this Section.

A. At minimum, the decommissioning plan required by this Section shall include the following:

(1) The removal of all aboveground solar panels/collectors, solar energy equipment and accessory facilities/structures. Other structures, buildings, roads, fences, cables, electrical components or associated facilities and foundations, including substations, shall be removed to a depth of at least 4 feet or to the depth of bedrock, whichever is less, to the extent the components of the development are not otherwise in or proposed to be placed in productive use by the landowner.

(2) The removal of all footings, foundations or similar installations to a depth of four (4.0) feet below grade or to the depth of bedrock, whichever is less. Below ground 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 from the landowner is received by the Town. 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. If no timeframe is included in the decommissioning plan, decommissioning and site restoration activities will be completed within six months.

(6) Any solid and/or hazardous waste originating from and/or created by the SES shall be removed in accordance with local, state and federal waste disposal regulations.

(7) All graveled areas and access roads shall be removed unless the landowner requests in writing for it to remain.

(8) For SES's located on areas consisting of Mineral Soil Group (MSG) 1-4 and/or Active Agricultural Lands, owner/operators shall meet the following requirements for decommissioning; removal of all operator owned equipment, concrete, conduits, structures, fencing and foundations located less than 36-inches below the soil surface and/or less than 48-inches below the soil surface in accordance with the decommissioning requirements contained in the NYS Department of Agriculture and Markets "Guidelines for Solar Energy Projects- Construction Mitigation for Agricultural Lands" (Revision of 10/18/2019).

(9) Solar panels and other components shall be recycled to the extent possible.

(10) All disturbed ground surfaces shall be restored to original conditions including; topsoil and seeding, grading to pre-construction grade and restoration of all vegetation disturbed during construction and decommissioning.

(11) The Vegetation Management Plan as defined in this law shall be used as a baseline for restoring the soil to a healthy state after decommissioning. For a two-year period after decommissioning and restoring are completed, the Owner/Operator shall annually provide to the Town, a site vegetation inspection report and a chemical soil nutrient report, at its own expense. The reports shall address any required nutrient additions and/or required vegetation or forestation. Owner operator shall follow and/or apply all recommendations of said reports to the decommissioned land within 90 days of receiving the same; at its own expense.

B. The implementation of the decommissioning plan shall commence and proceed in accordance with subsections C, D and E of this Section, 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 Board as described in subsection A above, 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 Tier 3 or 4 solar energy system falls into such a state of disrepair that it creates a health or safety hazard.

(5) When Tier 3 or 4 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 Article, 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 C and/or D of this Section do not apply, the Town shall notify the owner and/or operator of the commercial solar energy system to implement the decommissioning plan. Within 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 irrevocable letter or letters of credit posted by the owner and/or operator in accordance with subsection G of this Section, and from the defaulted owner and/or operator directly, if necessary. Any decommissioning costs incurred by the Town which have not been fully paid by the owner and/or operator shall be assessed against the property, shall (in addition to any other available remedies) become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes. The decommissioning plan shall provide for the ability of the Town, or its assignee or designee, to access the property owners' land in order to complete decommissioning if necessary.

G. Prior to the issuance of a building permit, the owner or operator of an approved Tier 3 or 4 solar energy system shall post an irrevocable letter or letters of credit 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. Each said letter of credit 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 letter(s) of credit in favor of any third party. The amount of the financial guarantee shall be reviewed by the Applicant and the Board every five 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 there is a change of ownership of a Tier 3 or 4 solar energy system that has been granted a Special Use Permit, 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 an irrevocable letter or letters of credit to the Town Clerk in accordance with the provisions of subsection G above. All signs required shall be updated accordingly.

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

1. Abandonment Conditions. The Owner/Operator must notify the Town of the existence of conditions that require decommissioning of the Solar Energy System and the implementation of the Decommissioning Plan. Abandonment Conditions include, but are not limited to:

    a. The land lease ends and the project owner has not acquired the land or the land lease is not renewed,

    b. The solar energy system ceases to generate electricity on a continuous basis for 6 months.

    c. The solar energy system is damaged, unsafe, hazardous or inoperable.

    d. The Owner/Operator and/or entity charged with operation and/or maintenance of the solar energy system is insolvent and/or dissolved and/or defunct.

    e. Upon application of Landowner/Lessor to the Town as to a material default of 6 or more months by the Owner/Operator/Lessee of the underlying land lease. For purposes of this section, a failure to make contracted payments for a period of 6 or more months in violation of terms of the lease agreement shall constitute a material default.

2. Upon application of a landowner, or upon the Town's discretion to declare an abandonment, the Town shall serve by certified USPS mail, return receipt requested, and by regular mail a 30-day written notice to the Owner/Operator of a Tier 3 or 4 solar energy system that the Town intends to declare the same "abandoned." Upon being served with the 30-day notice, the Owner/Operator may file with the Town Clerk a written 180-day cure notice. Such 180-day notice will afford the Owner/Operator an additional 180 days to cure abandonment condition(s). If the abandonment condition(s) has not been cured after either the 30-day notice or the 180-day notice, the Town will conduct a public hearing to determine and/or declare the Tier 3 or 4 solar energy system abandoned. The Town Board will hear arguments and accept evidence from anyone willing to present either at the public hearing and take it into

consideration before holding a final vote. The condition(s) for abandonment will be established by a preponderance of the evidence.

J. The Decommissioning Plan must be prepared by a NY Licensed Professional Engineer and signed by the applicant.

K. The Plan shall include a cost estimate for decommissioning. The cost estimates shall take into consideration inflation and be reviewed by a Professional Engineer every five (5) years during the operation of the solar energy system and will not include credit for salvage value.

L. In the case of Agricultural land or lands having Prime or Statewide important Agricultural soils, including if drained, the Plan shall assure compliance with the standards of NYS Department of Agriculture and Markets and "Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands" (Revision of 10/18/2019).

M. All land and/or property leases for the purposes of building a Tier 2, 3, or 4 solar energy system must include a provision that provides for a decommissioning plan in accord with the Local Law.

N. Upon completion of the decommissioning the parcel of land shall be returned to the condition it was prior to the installation. Security.

3-5.2 Security for Decommissioning

The Security shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued, and shall provide for the removal of the SES and restoration of the affected land.

A. Security shall consist of one or more of the following:

1. Certified or Bank funds from a nationally licensed bank of the United States with a credit rating of "A" or better; or
2. A surety bond issued by an insurance company, certified by the U.S. Department of Treasury, with an AM Best rating of A or better and total assets exceeding $100 billion; or
3. A standby letter of credit issued by a nationally licensed bank of the United States with credit rating of "A" or better and total assets exceeding $100 billion.

B. The Owner/Operator shall satisfy the security for decommissioning by making the respective deposit, or filing of said security bond or execution of said standby letter of credit with the Town of Franklin. Said respective deposits, execution or filing shall be made prior to the construction of the Tier 3 or 4 solar energy system.

C. The amount of the security for decommissioning shall be 125% of the estimated cost of decommissioning of the Tier 3 or Tier 4 solar energy system and restoration of the land. The security shall be renewed and adjusted, as necessary, every five (5) years during the life of the project to reflect updated decommissioning cost estimates.

D. Town will deposit all funds in an interest-bearing trust account located at a federally insured, nationally licensed U.S. bank with a credit rating of "A" or better and total assets exceeding $100 billion, naming the bank as "Trustee" of the funds.

E. In the event that the Town establishes and/or declares the solar energy system "abandoned" in accordance with this Article, or the Owner/Operator is in default of any of its obligations under this chapter, including but not limited to the security provisions for decommissioning and restoration, the Town may, at its discretion, utilize the security for the removal of the solar energy system and the restoration of the site in accordance with the Decommissioning Plan and the provisions of this chapter, without any additional notice to the Owner/Operator; at the Owner/Operator's expense. At the option of the Owner/Operator, the expense shall be paid directly from the security deposited with the Town pursuant to this Local Law.

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

Table 1, LOT SIZE REQUIREMENTS FOR TIER 3 & 4

The following table displays the minimum size requirements of the lot for Ground-Mounted Solar Energy Systems, Tier 3 and Tier 4, to be permitted:

## APPENDIX: Table 1, LOT SIZE REQUIREMENTS FOR TIER 3 & 4

The following table displays the size requirements of the lot for Ground-Mounted Solar Energy Systems, Tier 3 and Tier 4, to be permitted.

Table . Lot Size

| ea | Tier 3 Solar Energy Systems | Tier 4 Solar Energy Systems |
|---|---|---|
| Town of Franklin Lighting Districts | Not Allowed | Not Allowed |
| All Other Areas | 5 acres | 5 acres |

The following table provides setback requirements for Ground-Mounted Solar Energy Systems, Tier 2,3 and 4. Landscaping may occur within the setback.

## APPENDIX: Table 2, SETBACKS FOR TIERS 2,3,4

The following table provides setback requirements for Ground-Mounted Solar Energy

| | Tier 2 Ground- | Tiers 3 & 4 Ground-Mount | | |
|---|---|---|---|---|
| | | Front | Side | Rear |
| Town of Franklin Lighting Districts | NA | NA | NA | NA |
| Non-participating, Residential Property Lines | 100 ft | 200ft | 200 ft | 200 ft |
| Non-participating, Residential Occupied Dwelling | 600ft | 1200 ft | 1200 | 1200 ft |
| Non-Participating, Non-Residential Property Lines | 100 ft | 100 ft | 100ft | 100ft |
| From Public Road ROW (right of way) | 75 ft | 75ft | 75ft | 75 ft |

NA – Not Allowed

4. Application Requirements

A. A complete application for a Wind Energy Permit for commercial WECS shall include the following:

1. A copy of an executed Interconnection Agreement with NYISO and the applicable Transmission Owner.

2. A completed Application for Wind Energy Facilities, obtained from the Code Enforcement Officer.

3. A site plan prepared by a licensed surveyor or engineer drawn to a scale to be established by the Planning Board consistent with the size of the site and in sufficient detail to clearly describe the following.

a) Property lines and physical dimensions of the Site;

b) Location, approximate dimensions and types of major existing structures and uses on the Site, public roads, and adjoining properties within five hundred (500) feet of the boundaries of the proposed WECS Site.

c) Location and elevation of each proposed WECS.

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

e) Location and size of structures above 35 feet within a one and one-half tower radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.

f) To further demonstrate compliance with the setback requirements of this Local Law, buffers shall be drawn around each proposed tower location in accordance with the requirements set forth in Section 306 (A).

g) Location of the nearest residential structure(s) on the Site and located off the Site, and the distance from the proposed WECS.

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

4. For each proposed WECS, include make, model, picture and manufacturer's specifications, including noise decibels data. Include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants. Vertical drawing of the WECS showing Total Height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each WECS of the same type and Total Height.

5. Landscaping Plan depicting existing vegetation and describing any areas to be cleared and the specimens proposed to be added, identified by species and size of specimen at installation and their locations. The plan must be drawn to a scale established by the Planning Board consistent with the size of the site and in sufficient detail to clearly describe the existing and proposed vegetation.
6. Lighting Plan showing any FAA-required lighting and other proposed lighting. The application should include a copy of the determination by the Federal Aviation Administration to establish required markings and/or lights for the structure, but if such determination is not available at the time of the application, no building permit for any lighted facility may be issued until such determination is submitted.
7. Erosion and sediment control plan prepared to NYSDEC Phase II or NYCDEP stormwater requirements, as appropriate.
8. A construction schedule describing commencement and completion dates, including a traffic analysis with a description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.
9. The applicant shall submit an operations and maintenance plan for the proposed facility which shall include:
    a) a regular periodic maintenance schedule;
    b) any special maintenance requirements;
    c) procedures and notification requirements for restarts during icing events
10. Decommissioning Plan. The applicant shall submit a decommissioning plan, which shall include:
    a) the anticipated life of the WECS;
    b) the estimated decommissioning costs in current dollars;
    c) how said estimate was determined;
    d) the method of ensuring that funds shall be available for decommissioning and restoration;
    e) the method, such by annual re-estimate by a licensed engineer, that the decommissioning cost shall be kept current; and
    f) the manner in which the WECS shall be decommissioned and the site restored, which shall include removal of all structures and debris to a depth of 3 feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner.
11. List of property owners, with their mailing address, within 500 feet of the outer boundaries of

the proposed Site.

12. Complaint Resolution: the application shall include a complaint resolution process to address complaints from nearby residents. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint.

13. Completed Part 1, 2 & 3 of the Full EAF along with a Visual EAF Addendum.

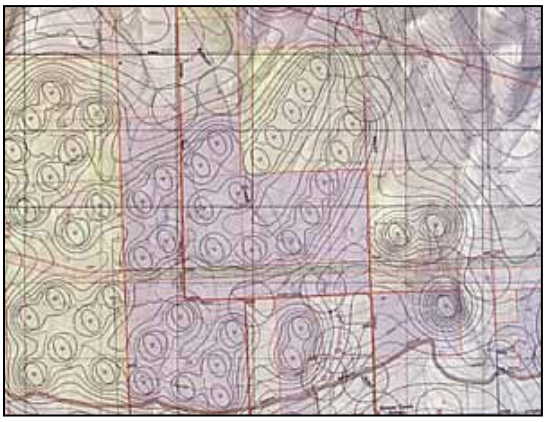
14. If a positive declaration is determined by the SEQRA lead agency, the following information shall be included in the Draft Environmental Impact Statement (DEIS) prepared for a Wind Energy Facility. Otherwise, the following studies shall be submitted with the application:

    a) Shadow Flicker: The applicant shall conduct a study on potential shadow flicker. The study shall include a graphic to identify locations where shadow flicker may be caused by the WECSs and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences and describe measures that shall be taken to eliminate potential impacts on any residences.

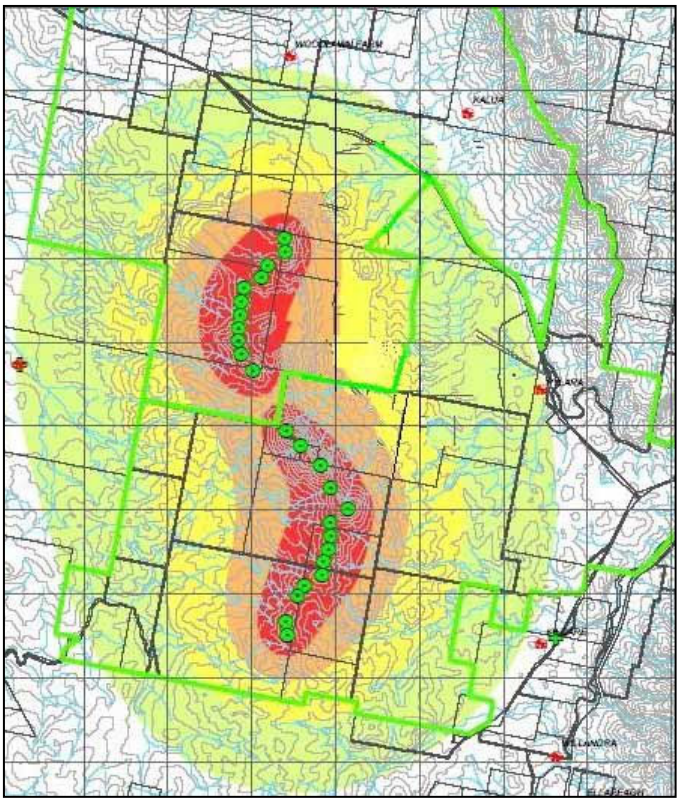
    b) Visual Impact: Applications shall include a visual impact study of the proposed WECS as installed, which may include a computerized photographic simulation, digital elevation models, and the like, demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed Site from at least two locations accurately depicting the existing conditions shall be included. 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. The NYSDEC Program Policy Assessing and Mitigation Visual Impacts must be referenced by the applicant when completing the visual impact study.

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

    d) Noise Analysis: a noise analysis that includes the low frequency of turbines and other noises generated shall be prepared by a competent acoustical consultant. The analysis shall include an assessment of ambient sound surveys at the site property lines and nearby residences to document environmental sound levels before the turbines are installed for comparison to similar measurements



after the project is operational. The noise analysis shall also include a projection of noise levels generated from each WECS using noise contours in increments of 10 decibels (dBA) out to a level of 30 dBA. Noise level contours from one or more proposed turbines should be laid over an aerial photograph or topographic map [as illustrated to the right] of the site vicinity in order to visualize the cumulative noise impacts from the entire wind farm on surrounding properties. All residences surrounding the proposed site vicinity should be clearly shown. Since the turbines only produce noise under windy conditions the noise modeling shall take into account the direction and speed of winds because this also affects sound propagation.



The applicant shall also submit a design for post-development noise monitoring.

e) Property value analysis prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact of values of properties neighboring WECS Sites.

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

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

h) An assessment of the impact of the proposed development on area federal and state-listed historic resources.

15. A statement, signed under penalties of perjury, that the information contained in the application is true and accurate.

16. An escrow account shall be established. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses including but not limited to engineering, legal, architectural, planning, fire protection or traffic engineering services in connection with the

review of the proposed site plan shall be charged to the applicant. The applicant shall deposit into an escrow account, established by the town specifically for this purpose, a sufficient amount to be used solely by the Town of Franklin to retain a qualified experts needed for adequate review of the proposal as determined by the Planning Board. Any unused funds will be returned to the applicant only after final action has been taken on an application and all the requirements of the Site Plan Law have been fulfilled.

4-2. Application Review Process

A. Applicants may request a pre-application meeting with the Planning Board or with any consultants retained by the Planning Board for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.

B. Ten (10) copies of the complete application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission.

C. Town staff or Town designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this Article is included in the application. Unless the Planning Board waives any application requirement, no application shall be considered until deemed complete.

D. If the application is deemed incomplete, the Planning Board or its designated reviewer 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 submittal of the additional information unless the number of WECSs proposed is increased.

E. Upon submission of a complete application, including the grant of any application waiver by the Planning Board, the Town Clerk shall transmit the application to the Planning Board.

F. The Planning Board shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within **1,000** feet of the boundaries of the proposed WECSs, and published in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Town, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

G. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested waivers.

H. Notice of the project shall also be given, if applicable, to the Delaware County Planning Board, as required by General Municipal Law §239-l and 239-m.

I. SEQRA review. Applications for WECS are deemed Type I projects under SEQRA. As a result, the

Town must conduct a coordinated review. The Town Planning Board should seek lead agency status for the coordinated review.

J. The Town may require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review. At the completion of the SEQRA review process, if a positive declaration of environmental significance has been issued and an environmental impact statement prepared, the Town shall issue a Statement of Findings, which Statement may also serve as the Town's decision on the applications.

K. Upon receipt of the recommendation of the County Planning Board (if applicable), the holding of the public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the WECS application, in accordance with the standards in this Local Law.

4-3. Physical Standards for Commercial Wind Energy Facilities

A. The following standards shall apply to commercial WECS, unless specifically waived by the Planning Board as part of a Wind Energy Permit.

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

2. No television, radio or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the Town Code. Applications may be jointly submitted for WECS and telecommunications facilities.

3. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.

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

5. All applicants shall use measures to reduce the visual impact of WECSs to the extent possible. WECSs shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. WECSs within a multiple WECS project shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the Project, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.

6. The use of guy wires is prohibited.

7. No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other

personal communication systems would produce electromagnetic interference with signal transmission or reception. No WECS shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy electromagnetic interference is grounds for revocation of the Wind Energy Permit for the specific WECS or WECSs causing the interference.

8. All solid waste and hazardous waste and construction debris shall be removed from the site and managed in a manner consistent with all appropriate rules and regulations.

9. WECSs shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas shall be given priority wherever possible. To the extent practicable, development on agricultural lands shall follow the Guidelines for Agricultural Mitigation for Windpower Projects published by the State Department of Agriculture and Markets.

10. WECSs shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity, particularly bird and bat species.

11. Wind energy conversion facilities shall be located in a manner consistent with all applicable state and Federal wetlands laws and regulations.

12. Stormwater run-off and erosion control shall be managed in a manner consistent with all applicable state and Federal laws and regulations.

13. Construction of the WECS shall be limited to the hours of 7 a.m. to 7 p.m. except for certain activities that require cooler temperatures than possible during the day, subject to approval from the Town.

14. No shadow flicker shall be permitted in any off-site residences.

4-4. Required Site Safety Measures

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

B. Unless the property owner submits a written request that no fencing be required, a six-foot-high fence with a locking portal shall be required to enclose each tower or group of towers. The color and type of fencing for each WECS installation shall be determined on the basis of individual

applications as safety needs dictate.

C. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage and the hazard of falling ice. A sign shall be posted on the entry area of fence around each tower or group of towers and any building (or on the tower or building if there is no fence), containing emergency contact information. The Planning Board may require additional signs based on safety needs.

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

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

F. WECSs shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.

4-5. Traffic Routes and Road Maintenance

A. Construction of WECS poses potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECSs and/or associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include minimizing:

1) Traffic impacts from construction and delivery vehicles

2) WECS-related traffic during times of school bus activity

3) Wear and tear on local roads

4) Impacts on local business operations

Wind Energy Permit conditions shall limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public.

B. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a WECS. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by the Planning Board, sufficient to compensate the Town for any damage to local roads. The Applicant must consult with the Town Highway Superintendent and Delaware County Department of Public Works to obtain a written recommendation for bonding form and amount, which form and amount shall be approved by the Planning Board.

C. The Applicant shall provide photographic evidence of the condition of the roads and other public infrastructure along the proposed route.

4-6. Setbacks

A. Each WECS shall be set back:

1. One and one-half times the Wind Turbine Height of the largest proposed WECS from the nearest Site boundary line or public road.

2. Five times the Wind Turbine Height from the nearest off-site residence, measured from the exterior of such residence. Notwithstanding any other provision of this Local Law regarding waivers or setback easements, no WECS shall be within 1,750 feet of an off-site residence, whether or not said residence is located in the Town of Franklin.

3. Seven times the Wind Turbine Height from the nearest off-site hotel or motel, hospital, day care center, dormitory, sanitarium, nursing home, municipal building, school or other building used for educational purposes, or correctional institution, measured from that building.

4. One and one-half times the Wind Turbine Height of the largest proposed WECS from any non-WECS structure or any above-ground utilities, unless waived by the utility companies.

B. The statistical sound pressure level generated by a WECS shall not exceed $L_{10}$ - 30 dBA measured at the nearest residence located off the Site. Sites can include more than one piece of property and the requirement shall apply to the combined properties. If the ambient sound pressure level exceeds 30 dBA, the standard shall be ambient dBA plus 5 dBA. Independent verification by an acoustical engineer certified with the Institute of Noise Control Engineering shall be provided before and after construction demonstrating compliance with this requirement.

C. In the event audible noise due to Wind Energy Facility operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in subparagraph (B) of this subsection shall be reduced by five (5) dBA. A pure tone is defined to exist if the one-third (1/3) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one third (1/3) octave bands by five (5) dBA for center frequencies of five hundred (500) Hz and above, by eight (8) dBA for center frequencies between one hundred and sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dBA for center frequencies less than or equal to 125 Hz.

D. In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is exceeded for more than six (6) minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences, schools, hospitals, churches and public buildings. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project

Site are sufficient to allow wind turbine operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location.

4-7. Noise and Setback Easements

A. In the event a Wind Energy Facility does not meet a setback requirement or exceeds noise or other criteria established in this Local Law as it existed at the time the Wind Energy Permit is granted, a waiver shall be granted from such requirement by the Planning Board in the following circumstances:

   1. Written consent from the affected property owners has been obtained stating that they are aware of the Wind Energy Facility and the noise and/or setback limitations imposed by this Local Law, and that consent is granted to (1) allow noise levels to exceed the maximum limits otherwise allowed or (2) setbacks less than required; and

   2. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, has been recorded in the County Clerk's Office describing the benefited and burdened properties. Such easements shall be permanent and shall state that they may not be revoked without the consent of the Planning Board, which consent shall be granted upon either the completion of the decommissioning of the benefited WECS in accordance with this Local Law, or the acquisition of the burdened parcel by the owner of the benefited parcel or the WECS.

   3. Waivers granted under this Section differ from waiver requests under Section 107 of this Local Law in that no Section 107 waiver is required if a waiver is given under this Section, and a Section 107 waiver must be sought rather than a waiver under this Section if the adjoining property owner shall not grant an easement pursuant to this Section.

4-8. Issuance of Wind Energy Permits

A. Upon completion of the review process, the Planning Board shall, upon consideration of the standards in this Local Law and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated.

B. If approved, the Planning Board shall direct the Town Clerk to issue a Wind Energy Permit upon satisfaction of all conditions for said Permit, and direct the building inspector/code enforcement officer to issue a building permit, upon compliance with the Uniform Fire Prevention and Building Code and the other pre-construction conditions of this Local Law.

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

D. If any approved Wind Energy Facility is not substantially commenced within one year of issuance of the Wind Energy Permit, the Wind Energy Permit shall expire.

4-9. Abatement

A. If any WECS remains non-functional or inoperative for a continuous period of 1 year, the applicant agrees that, without any further action by the Planning Board, the applicant shall remove said system at its own expense following the requirements of the Decommissioning Plan. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the demonstrates to the Town that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after public hearing.

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

C. Decommissioning Bond or Fund. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town for the removal of non-functional towers and appurtenant facilities, in an amount to be determined by the Town, for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant. All decommissioning bond requirements shall be fully described in the Decommissioning Plan.

4-10. Limitations on Approvals; Easements on Town Property

A. Nothing in this Local Law shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the Wind Energy Facility. Nothing in this Local Law shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any Wind Energy Facility. It shall be the sole responsibility of the Facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.

B. Pursuant to the powers granted to the Town to manage its own property, the Town may enter into noise, setback, or wind flow easements on such terms as the Planning Board deems appropriate, as long as said agreements are not otherwise prohibited by state or local law.

4-11. Permit Revocation

A. Testing fund. A Wind Energy Permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as biannually, or more frequently upon request of the Planning Board in

response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Wind Energy Permit and this Local Law and shall also include an evaluation of any complaints received by the Town. The applicant shall have 90 days after written notice from the Planning Board, to cure any deficiency. An extension of the 90-day period may be considered by the Planning Board, but the total period may not exceed 180 days.

B. Operation. A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Planning Board. The applicant shall have 90 days after written notice from the Planning Board, to cure any deficiency. An extension of the 90-day period may be considered by the Planning Board, but the total period may not exceed 180 days.

C. Notwithstanding any other abatement provision under this Local Law and consistent with §310 and §311(B), if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Town may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (1) order either remedial action within a particular timeframe, or (2) order revocation of the Wind Energy Permit for the WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the Planning Board shall have the right to use the security posted as part of the Decommission Plan to remove the WECS.

## ARTICLE V

## WIND MEASUREMENT TOWERS

### 5-1. Site Assessment

The Planning Board acknowledges that prior to construction of a WECS, a wind site assessment must be conducted to determine the wind speeds and the feasibility of using particular sites. Installation of Wind Measurement Towers, also known as anemometer ("Met") towers, shall be permitted on the issuance of a Wind Energy Permit in accordance with this Article.

### 5-2. Application Requirements

A. An application for a Wind Measurement Tower shall include:

1. Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

2. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property

owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

3. Address of each proposed tower location, including Tax Map section, block and lot number.
4. Proposed Development Plan and Map.
5. Decommissioning Plan, including a security bond for removal.

5-3. Standards

A. The distance between a Wind Measurement Tower and the property line shall be at least 1.5 times the Total Height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.

B. Wind Energy Permits for Wind Measurement Towers shall be issued for a period of two years and shall be renewable upon application to the Planning Board.

## ARTICLE VI

## SMALL WIND ENERGY FACILITIES

6. Purpose and Intent

The purpose of this Article is to provide standards for small wind energy conversion systems (small WECS) designed for residential, farm, institutional and business use on the same parcel, and that are primarily used to reduce consumption of utility power at a single location. The intent of this Article is to encourage the development of small WECS and to protect the public health, safety, and community welfare.

6-2. Authority

The Planning Board is hereby authorized to approve, approve with conditions, or disapprove small wind energy conversion system applications in accordance with this Local Law. The Planning Board may hire a professional engineer or consultant to assist in the review of an application at the applicant's expense.

6-3. Procedure

A. Completed applications for siting small WECS shall be submitted to the Town Clerk at least ten (10) days prior to the regular meeting of the Planning Board. Applications may be made by the owner of the property or his/her duly authorized representative, who shall attend the meeting of the Planning Board to discuss the application.

B. Within sixty-two (62) days after the Planning Board meeting where the complete application is submitted, a public hearing shall be held. Notice of such public hearing shall be published in the

official newspaper of the Town at least ten (10) days prior to the date thereof. The applicant shall give notice in writing by certified mail to all property owners of the land immediately adjacent to the proposed parcel where site is proposed. The applicant shall mail these notices at least ten (10) days in advance of the hearing and furnish the Planning Board with Post Office receipts as proof of notification.

C. Within sixty-two (62) days of the public hearing, the Planning Board may approve, conditionally approve, or disapprove the application. The time in which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board on the application shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered and a copy thereof mailed to the applicant.

6-4. Application Requirements

A. Applications for small WECS permits shall include:

1. Property owner's contact information. If the applicant shall be represented by an agent, the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.
2. Site plan map of the proposed tower, at a scale to be established by the Planning Board consistent with the size of the site, including Tax Map section, block and lot number.
3. Manufacturer's drawings and specifications of the proposed system as indicated in Section 301(A)(4).
4. Engineering drawings of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the New York State Uniform Fire Prevention and Building Code.
5. The applicant must provide a written statement demonstrating that the system shall be used primarily to reduce consumption of electricity at that location.
6. Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and states so in the application, to connect the system to the electricity grid.
7. A visual analysis of the small WECS 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.

6-5. Standards

A. All small WECS shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this Local Law that are not in conflict with the requirements contained in this Article.

1. A system shall be located on a lot a minimum of one acre in size; however, this requirement can be met by multiple owners submitting a joint application.
2. Only one small WECS per legal lot shall be allowed, unless there are multiple applicants, in which their joint lots shall be treated as one site for purposes of this Article.
3. Small WECS shall be used primarily to reduce the on-site consumption of electricity.
4. Total heights may be allowed as follows:
   a) 65-100+/- feet or less on parcels between one and five acres.
   b) 130-160+/- feet or less on parcels of five or more acres.
   c) The allowed height shall be reduced if necessary to comply with all applicable Federal aviation requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.
5. The maximum turbine power output is limited to 100 kW.
6. The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.
7. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas.
8. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
9. All on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the Planning Board if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
10. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.
11. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall

be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.

12. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
    a) Tower-climbing apparatus located no closer than 12 feet from the ground.
    b) A locked anti-climb device installed on the tower.
    c) A locked, protective fence at least six feet in height that encloses the tower.
13. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.
14. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre- existing natural condition after completion of installation.
15. To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a 250-foot radius. Modification of this standard may be made when the applicant demonstrates that a lower height shall not jeopardize the safety of the wind turbine structure.
16. All small WECS structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Prevention and Building Code.
17. All small WECS shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

6-6. Setbacks

A. Small WECS shall comply with the following standards:
    1. Setback requirements. A small WECS shall not be located closer to a property line than one and a half times the Total Height of the facility.
    2. Noise. Except during short-term events including utility outages and severe wind storms, a small WECS shall be designed, installed, and operated so that noise generated by the system shall not exceed the 30 decibels (dBA), as measured at the closest neighboring inhabited dwelling.

6-7. Abandonment

A. A small WECS which is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Town.

B. All small WECS shall be maintained in good condition and in accordance with all requirements of this section.

## Article VII

## MISCELLANEOUS

7. Fees

A. Permit Fees

1. Commercial WECS Permit: $100 per megawatt of rated maximum capacity
2. Wind Measurement Towers Permit: $200 per tower ($50 for a renewal)
3. Small WECS Permit: $150 per WECS

B. Retention of Expert Assistance and Reimbursement by Applicant

1. The Town may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the application, including but not limited to site inspections, the construction and modification of the site, once permitted, and any requests for recertification.
2. An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the review of the application.
   a) The initial deposit shall be $8,500.00 and shall be placed with the Town preceding the pre-application meeting.
   b) The Town shall maintain a separate escrow account for all such funds. The Town's consultants/experts shall invoice the Town for their services in reviewing the application including the modification of the site, once permitted.
   c) If at any time during the process this escrow account has a balance less than $2,500.00, the applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of at least $5,000.00. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application.

d) In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.

3. The total amount of the funds needed as set forth in subsection (B) of this section may vary with the scope and complexity of the project, the completeness of the application, and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

C. Host Community Agreements

Nothing in this Local Law shall limit the ability of the Town to enter into Host Community agreements with any applicant to compensate the town for expenses or impacts on the community.

7-2. Tax Exemption

The Town hereby exercises its right to opt out of the tax exemption provisions of Real Property Tax Law §487, pursuant to the authority granted by paragraph 8 of that law.