

LOCAL LAW NUMBER ____ OF 2024 OF THE TOWN OF SCIPIO

A Local Law Amending the Town of Scipio Zoning Ordinance

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

Section 1. Authority

This local law is enacted pursuant to the provisions of the New York Town Law and the New York Municipal Home Rule Law.

Section 2. Purpose

This local law proposes to amend certain provisions of the Town of Scipio Zoning Ordinance (the “Zoning Ordinance”).

Section 3. Amendments to Zoning Ordinance

See the attached amendments to the Zoning Ordinance.

Section 4. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court’s order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective Date

This local law will take effect immediately on filing in the office of the Secretary of State.

- I. **Section 2.02 shall be amended by revising the definition of Camp, revising the definition of Solar Energy System, and adding definition for Camp Structure as follows:**

§ 2.02 – Definitions

- A. As used in this Ordinance, the following terms shall have the meanings indicated:

Camp Lot– A lot upon which a camp structure may be temporarily located for recreational use.

Camp Structure – Any temporary or portable shelter.

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. A Solar Energy System is classified as follows:

1. **Building Integrated Solar Energy System.** A photovoltaic generating component which forms an integral and essential part of a permanent building structure producing power directly for the on-site end users (such as individual residential dwellings or businesses).
2. **Rooftop Mounted Solar Energy System.** A photovoltaic generating system which includes solar panels mounted on the rooftop of a permanent building structure.
3. **Ground Mounted Solar Energy System.** A photovoltaic generating system which is secured to the ground via a pole, ballast system, or other mounting system; is detached from any other structure; and which is for the primary purpose of producing electricity for onsite consumption.
4. **Commercial Solar Energy System.** Any solar energy product, including Community Solar Energy Systems, Large Scale Solar Energy Systems, or Utility Scale Solar Energy Systems, where the entity constructing or operating the solar energy project is producing electric power primarily to off-site end users intended to generate profit.

- II. **Section 4.05 – Use Table shall be amended as follows to delete ONLY the portion of the Use Table pertaining to the Use Categories of Solar Energy System, Non-Utility Scale and Solar Energy System, Utility Scale. Except as might otherwise be amended herein, all other portions of the Use Table shall remain unchanged.**

- III. **Section 4.06 (3) shall be amended as follows:**

§ 4.06 – Uses Subject to Special Conditions

(3) Camp Structures.

- a. The number of tents, trailers, houseboats, recreational vehicles, or other portable shelters on a Camp Lot shall not exceed the number of single-family dwellings which could be erected on such premises.
- b. Camp Structures shall be subject to the requirements of § 6.01.

IV. Section 4.06 (8) shall be amended as follows:

§ 4.06 – Uses Subject to Special Conditions

(8) Solar Energy Systems.

- a. All Building Integrated Solar Energy Systems shall meet the requirements of Article X.
- b. All Rooftop Mounted Solar Energy Systems shall meet the requirements of Article X.
- c. All Ground Mounted Solar Energy Systems shall meet the requirements of Article X.

V. Subsection A (2) of Section 4.08 shall be amended as follows:

§ 4.08 – Additional Regulations in the Waterfront District

- A. (2) Decks on posts or piers, gazebos, and patios, which shall be considered structures for the purpose of calculating open space percentage;

VI. Section 5.07 (A)(17) shall be amended as follows:

§ 5.07 – Requirements for Defined Special Uses

A. In addition to the procedures, requirements, and standards listed elsewhere in this Article, the following uses have specific criteria that must be met by the applicant for a Special Use Permit.

(17) Commercial Solar Energy Systems.

- a. All Commercial Solar Energy Systems shall meet the requirements of Article X.

VII. Section 6.01 shall be amended as follows:

Subsection C. Table of Dimensional Requirements shall be amended by adding Camp Structures as a Use under All Districts as follows:

District/ Use	Minimum Lot Size	Minimum Lot Width (ft.)	Front (ft.)	Side (ft.)	Rear (ft.)	Maximum Lot Coverage	Maximum Building Height
All Districts							
Camp Structures	¾ acre	80 ft.	50 ft.	20 ft.	50 ft.	***	

*** Accessory structures and Camp Structures count towards the total maximum lot coverage for the lot they are located on.

VIII. Article X. Solar Energy Systems will be deleted in its entirety and replaced with the following language:

Article X – Solar Energy Systems.

§10.01 – Applicability and Purpose

A. **Authority.** This Solar Energy Law is adopted pursuant to sections 261-263 of the New York Town Law and section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and, in accordance with the Town Law of New York State, “to make provision for, so far as conditions may permit, the accommodation of Solar Energy Systems and equipment and access to sunlight necessary therefor.”

B. **Purpose.** This Solar Energy Law is adopted with the following objectives:

1. To take advantage of a safe, abundant, renewable, and non-polluting energy resource;
2. To promote effective and efficient use of solar energy systems;
3. To promote the location of solar energy systems within agricultural lands in a manner that preserves the rural character of the Town;
4. To enhance the agricultural viability of the Town by preserving productive agricultural land resources by mitigating the impacts of solar energy systems on important agricultural lands, including, but not limited to, active farmlands, prime soils (including USDA prime soils), mapped prime farmlands, and farmland of statewide importance;
5. To avoid, to the maximum extent practicable, installation on agricultural lands consisting of highly productive soils (i.e., prime farmland soils and soils of statewide importance) as identified by the United States Department of Agriculture-Natural Resources Conservation Service (USDA- NRCS);
6. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;

7. To mitigate the impacts of solar energy systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources;
8. To establish provisions for the placement, design, construction, operation and removal of such solar energy systems
9. To regulate the physical characteristics of any solar energy system in order to mitigate potential impacts to Town residents.

§10.02 – Definitions

The defined terms below shall apply to this Solar Law.

1. Applicant. The person or entity filing an application under this Solar Law.
2. Community Solar Energy System. A Commercial Solar Project which has a Nameplate Capacity of not more than 5 MW.
3. Farmland of Statewide Importance. A land, in addition to prime farmlands, that is of statewide importance for the production of food, feed, fiber, forage, and oil seed crops as determined by the appropriate state agency or agencies. Farmlands of statewide importance may include tracts of land that have been designated for agriculture by state law.
4. Glare. The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.
5. Kilowatt (kW). A unit of power equal to 1,000 watts which is often used to describe the Nameplate Capacity of residential or commercial solar energy systems.
6. Large Scale Solar Energy System. A Commercial Solar Project which has a Nameplate Capacity of more than 5MW but less than 25 MW.
7. Megawatt (MW). A unit of power equal to 1,000 kW which is often used to describe the Nameplate Capacity of larger scale solar energy systems.
8. Nameplate Capacity. A solar energy system's maximum electric power output under optimal operating conditions.
9. Prime Farmland. Agricultural lands consisting of highly productive soils as identified by the United States Department of Agriculture-Natural Resources Conservation Service (USDA- NRCS) as land 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 (or as designated through alternative available resources such as the NYS Department of Agriculture and Markets Soil Groups 1 through 4). The parameters for Prime Farmland are national. Soils must meet specific criteria with respect to a number of soil properties, including temperature, moisture regime, erodibility, pH, water table, permeability, rock fragment content, and others as described in the National Soil Survey Handbook.

10. **Qualified 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.
11. **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. A Solar Energy System is classified as follows:
 1. **Building Integrated Solar Energy System.** A photovoltaic generating component which forms an integral and essential part of a permanent building structure producing power directly for the on-site end users (such as individual residential dwellings or businesses).
 2. **Rooftop Mounted Solar Energy System.** A photovoltaic generating system which includes solar panels mounted on the rooftop of a permanent building structure.
 3. **Ground Mounted Solar Energy System.** A photovoltaic generating system which is secured to the ground via a pole, ballast system, or other mounting system; is detached from any other structure; and which is for the primary purpose of producing electricity for onsite consumption.
 4. **Commercial Solar Energy System.** Any solar energy product, including Community Solar Energy Systems, Large Scale Solar Energy Systems, or Utility Scale Solar Energy Systems, where the entity constructing or operating the solar energy project is producing electric power primarily to off-site end users intended to generate profit.
12. **Solar Energy Equipment.** Electrical material, hardware, inverters, conduit, energy storage devices, or other electrical and photovoltaic equipment associated with the production and storage of electricity.

13. Utility Scale Solar Energy System. A Commercial Solar Project which has a Nameplate Capacity of more than 25 MW.

§ 10.03 – Permitted Locations

No Solar Energy System or device shall be installed or operated in the Town, except in compliance with this section.

TABLE 1. Summary of Permitted Solar Energy Systems by Zoning District

<i>Zoning District</i>	Solar Energy System			Commercial
	Building Integrated	Roof-Mounted	Ground-Mounted	
ARD	P	P	P*	SUP
HD	P	P	P*	NP
WD	P	P	SUP	NP

P – Permitted with Building Permit, SUP – Special Use Permit with Site Plan Review, NP – Not Permitted

** – Projects which exceed thresholds as defined in §10.07 will require SUP with Site Plan Review*

§10.04 – General Requirements for all Solar Energy Systems

1. All solar energy system installations shall be performed by a Qualified Installer.
2. Solar energy systems, unless part of a Commercial Solar Project, shall be permitted only to provide power for use by owners, lessees, tenants, residents or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through a net-metering arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute. However, solar energy system applications in a residential setting and serving a residential use on a single parcel or lot shall be limited to 25 kW or 110% of energy consumed on the site in the prior 12 months. Solar energy system applications serving an associated commercial or industrial use shall be limited to no more than 110% of the energy consumed on the site in the prior 12 months unless the Application can demonstrate a need to exceed the threshold. In the event the project exceeds the 110% threshold, such project will be subject to Special Use Permit.
3. Prior to operation, all electrical connections must be inspected by the CEO and by an appropriate electrical inspection person or agency, as determined by the CEO.
4. Any connection to the public utility grid must be inspected by the appropriate public utility, and proof of inspection must be provided to the CEO.

5. Solar energy systems must be maintained in good working order at all times.
6. Solar energy systems shall be permitted only if the Town is able to determine that such solar energy system does not present any unreasonable safety risks.
7. All solar energy systems described in this article shall meet and comply with all relevant and applicable provisions of the New York State Uniform Fire Prevention and Building Code standards. To the extent the provisions of the New York State Uniform Fire Prevention and Building Code are more restrictive than the provisions set forth in this article, the provisions of the New York State Uniform Fire Prevention and Building Code shall control.
8. The application for any solar energy system shall specifically recite the use or nonuse of solar storage batteries, their placement, capacity, and compliance with all existing New York State and federal rules and regulations. If solar storage batteries are included as part of the solar energy system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform 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 other applicable laws and regulations.
9. All utility services and electrical wiring/lines shall, to the maximum extent feasible, be placed underground unless otherwise approved due to site constraints. The installation of new or modification of existing above-ground utility poles should be minimized to the maximum extent feasible.
10. To the extent practicable, solar energy systems shall have neutral, nonreflective paint colors, materials and textures to achieve visual harmony with the surrounding area.
11. The design, construction, operation and maintenance of the solar energy system shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties, public roads, public parks and public buildings. All panels and supporting structures shall utilize materials and colors that are nonreflective in nature.
12. Prior to the time of the issuance of a solar building or construction permit, the Application/owner shall demonstrate to the Code Enforcement Officer a reliable and safe master method for the deenergizing of the solar energy system in the event of an emergency.
13. Maintenance and Inspections. The land, structures, and equipment associated with all Solar Energy Systems shall be maintained in good condition in accordance with all requirements of this section. Upon

reasonable notice to the owner, the CEO shall have the right at any reasonable time to enter the premises on which a Solar Energy System is constructed to inspect all parts of the installation and require that repairs or alterations be made if in his/her judgment there may be a deficiency in the operation or the structural stability of the system. If necessary, the CEO may order the system to be secured or to cease operation. If the Code Enforcement Officer has reason to believe that an emergency situation involving danger to life or property exists, the CEO may enter the premises for purposes of inspecting the system without notifying the owner in advance and order immediate correction.

§10.05 – Building Integrated Solar Energy Systems

1. Districts Where Allowed. Building-integrated solar energy systems shall be permitted in all zoning districts within the Town, subject to the following requirements:
 - a. A building permit shall be required for installation of all Building Integrated Solar Energy Systems.
 - b. Any Building Integrated Solar Energy System which includes a rooftop installation shall be required to be referred to the CEO for a full technical review.
2. Building Integrated Solar Energy Systems shall be subject to the general requirements set forth at § 10.04.
3. Submittal Requirements and Fees.
 - a. At the time of application, unless waived by the CEO, the following documents shall be submitted:

Equipment specification sheets and documentation with sufficient details to demonstrate that the solar energy system meets the requirements of this code.
 - b. Fees. The Applicant shall deliver the fee amount as determined in the Town of Scipio Fee Schedule.

§10.06 – Rooftop Mounted Solar Energy Systems

1. Districts Where Allowed. Rooftop-mounted solar energy systems shall be permitted in all zoning districts within the Town, subject to the following requirements:
 - a. A building permit shall be required for installation of all Rooftop Mounted Solar Energy Systems.

- b. Height. Rooftop Mounted Solar Energy Systems shall not exceed the maximum allowed height of the principal use in the zoning district in which the system is located and shall specifically prohibit solar racking systems extending from the roof surface more than 18 inches on sloped roofs when measured from average grade of roof surface at maximum height and no more than six (6) feet on a flat roof. Rooftop Mounted Solar Energy Systems with greater increase in overall height of the structure than specified herein, shall require Site Plan Approval.
 - c. Access. In order to ensure firefighter and other emergency responder safety, there shall be a perimeter area around the edge of the roof and structurally supported pathways to provide space on the roof for walking around all Rooftop Mounted Solar Energy Systems. Additionally, installations shall provide for adequate access and spacing in order to:
 - i. Ensure access to the roof.
 - ii. Provide pathways to specific areas of the roof.
 - iii. Provide for smoke ventilation opportunity areas.
 - iv. Provide for emergency egress from the roof.
 - v. Exceptions to these requirements may be requested where access, pathway or ventilation requirements are reduced due to: (AA) Unique site-specific limitations; (BB) Alternative access opportunities (such as from adjoining roofs); (CC) Ground level access to the roof area in question; (DD) Other adequate ventilation opportunities when approved by the CEO; (EE) Adequate ventilation opportunities afforded by panels set back from other rooftop equipment (for example: shading or structural constraints may leave significant areas open for ventilation near HVAC equipment); (FF) Automatic ventilation devices; or (GG) New technology, methods or other innovations that ensure adequate emergency responder access, pathways and ventilation opportunities.
 - vi. In the event of any of the standards in §10.06(1)(c) are more stringent than the New York State Uniform Fire Prevention and Building Code, they shall be deemed to be installation guidelines only, and the standards of the Code shall apply.
- 2. Rooftop Mounted Solar Energy Systems shall be subject to the general requirements set in § 10.04.
 - 3. Submittal Requirements and Fees.

- a. At the time of application, unless waived by the CEO, the following documents shall be submitted:
 - i. Site Plan progressed to include sufficient details to demonstrate that the solar energy system will be installed in accordance with the requirement of this code including, but not limited to, access, height, dimensions, connections, etc.
 - ii. Equipment specification sheets
 - b. Fees. The Applicant shall deliver the fee amount as determined in the Town of Scipio Fee Schedule.
4. Non-conformance. If a Roof Mounted Solar Energy System is to be installed on any Building or Structure that is nonconforming because its height violates the height restrictions of the zoning district in which it is located, the Solar Energy System shall be permitted, so long as it does not extend above the highest point of the roof to which it is mounted and so long as it complies with the other provisions of this section.

§10.07 – Ground Mounted Solar Energy Systems

- 1. Districts Where Allowed. Ground Mounted Solar Energy Systems are permitted in all zoning districts within the Town, subject to the following requirements:
 - a. A building permit shall be required for installation of all ground-mounted solar energy systems.
 - b. A Special Use Permit and Site Plan Review shall be required:
 - i. for any Ground Mounted Solar Energy System where the size exceeds the size of the largest structure; and
 - ii. for any Ground Mounted Solar Energy Systems located within the Waterfront District (WD)
 - c. Notwithstanding any other provision of this chapter, Ground-Mounted Solar Energy Systems are prohibited in all front yards and all lake abutting yards (front or rear yards with physically adjacent lake frontage but not including side yards). In cases of side yard placement, the Application shall demonstrate mitigation of any visual impacts of such placement to address the surrounding vantage points.
 - d. Setbacks. Further setbacks, area and yard requirements and bulk restrictions may be required by the Planning Board in addition to

those set forth in § 10.04 above, in order to protect the public's safety, health and welfare.

- e. Height. The height of the solar collector/panel and any mounts shall not exceed 20 feet when oriented at maximum tilt measured from the ground (average grade) and including any base.
- f. Where site plan approval is required, a Ground Mounted Solar Energy System shall be screened to the maximum extent feasible 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 the surrounding area. Where sufficient screening of aesthetic impact is considered to be infeasible, additional set-backs beyond those required by § 10.04 may be imposed at the discretion of the Planning Board.
- g. The total surface area of all Ground Mounted Solar Energy System components shall not exceed the area of the ground covered by the largest building on the lot measured from the exterior walls, excluding patios, decks, balconies, screened and open porches, and attached garages.
- h. The surface area of the Ground Mounted Solar Energy System shall be included as coverage in calculating whether the lot meets the maximum permitted lot coverage requirements for the applicable zoning district.
- i. The applicable criteria for site plans as set forth in Article XIV shall be demonstrated for each application.

2. Submittal Requirements and Fees.

- a. At the time of application, unless waived by the CEO, the following documents shall be submitted:
 - i. Site Plan progressed to include sufficient details to demonstrate that the solar energy system will be installed in accordance with the requirement of this code including, but not limited to, setbacks, screening/buffering, access, height, dimensions, connections, etc.
 - ii. Equipment specification sheets.
- b. Fees. The Applicant shall deliver the fee amount as determined in the Town of Scipio Fee Schedule.

§10.08 – Commercial Solar Energy Systems

1. Districts Where Allowed. Subject to the issuance of site plan approval and a Special Use Permit and other requirements as set forth herein, Commercial Solar Projects shall be a permitted use in zoning districts: Agricultural/Residential District (ARD) within the Town.
2. Districts Where Prohibited. Commercial Solar Projects shall be prohibited in the following zoning districts: Hamlet District (HD) and Waterfront District (WD).
3. Site Plan Review. No Commercial Solar Project may be approved without Site Plan Review by the Planning Board in accordance with the procedures and timelines set forth in Article XIV. The following submission requirements must be considered in reviewing a site plan application for a Commercial Solar Project.
 - a. A completed application form for the approval of a Commercial Solar Project.
 - b. Proof of ownership, control, or the written consent that the Application is authorized by the landowner to make such site plan application. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
 - c. Plans and drawings of the proposed Commercial Solar Project installation signed and stamped by a professional engineer registered in New York State showing the proposed layout of the entire Commercial Solar Project along with a description of all components, whether on-site or off-site, existing vegetation and proposed clearing and grading of all sites involved, along with proposed screening and fencing. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of site plan approval and written authorization from the CEO. The plans and development plan shall be drawn in sufficient detail and shall further describe:
 - i. Property lines and physical dimensions of the proposed site, including contours at a minimum of two-foot intervals.
 - ii. Location, approximate dimensions and types of all existing structures and uses on the site.
 - iii. Location and elevation of the proposed Commercial Solar Project and all components thereof.
 - iv. Location of all existing aboveground utility lines within 1,000 linear feet of the site.

- v. All transmission lines and wiring associated with a Commercial Solar Project shall be buried underground and include necessary encasements in accordance with the National Electrical Code and any State or local requirements. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the Application demonstrating that underground transmission lines are not feasible or practical. The Application is required to show the locations of all proposed overhead electric utility/transmission lines (if permitted) and underground electric utility/transmission lines, including substations and junction boxes, and other electrical components for the project, on the site plan.
- vi. Site slope analysis. Such drawing shall demarcate slopes greater than 5%, 10%, 15%, 20%, and 25% within the limits of disturbance.
- vii. Landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material, and for screening purposes. The plan shall show any trees and/or vegetation which is proposed to be removed for purposes of providing greater solar access. No more than twenty percent (20%) of the sites existing forested area shall be removed in order to accommodate a solar facility.
- viii. Perimeter screening shall be provided such that the visual impact of the solar arrays is mitigated to the satisfaction of the Planning Board. Based on site specific conditions, such as topography, adjacent structures, roadways, and natural vegetative screening, all reasonable efforts shall be made to minimize visual impacts to all identified vantage points (e.g., residential properties, public roads and sites, viewsheds and other vistas) by preserving to the maximum extent feasible the existing natural vegetation, installing decorative fencing as appropriate, creating berm structures and/or providing landscaping of sufficient size, type and variety to create a natural looking vegetative barrier.
- ix. A geotechnical report with boring log and permeability results demonstrating to the satisfaction of the Planning Board that the design of proposed elements (e.g., piles, footers, stormwater practices, etc.) is sufficient based on-site specific data. For sites within an Agricultural District, the geotechnical report shall include a soil analysis which provides measurements of soil samples for permeability, organic content, and nutrient content

for use as a baseline for comparison at the end of the life of the project. The Decommissioning Plan shall require an updated analysis upon decommissioning of the project, which analysis shall include a comparison of pre- and post-development soil conditions, concerning the chemical and physical properties of the soil.

- x. For sites within an Agricultural District, include soils map including active farmlands, prime soils (including USDA prime soils), mapped prime farmlands and farmland of statewide importance, with supporting description of site historical agricultural use.
 - xi. Submission of a written operation and maintenance plan for the proposed Commercial Solar Project that include measures for maintaining safe access, operational maintenance of the Commercial Solar Project, and general property upkeep, such as mowing and trimming, and an agricultural soils preservation plan if applicable. The operation and maintenance plan shall be filed and recorded by the Application in the Cayuga County Clerk's office (indexed to the property) following approval of the site plan by the Planning Board.
- d. Submission of a written operation and maintenance plan (O&M Plan) for the proposed Commercial Solar Project that include measures for maintaining safe access, operational maintenance of the Commercial Solar Project, and general property upkeep, such as mowing and trimming, and an agricultural soils preservation plan if applicable. The O&M Plan shall include a timeframe for the replacement of dead/diseased trees/shrubs and will include a requirement to notify the Town within 30 days of the change of control of the site. The O&M Plan shall be filed and recorded by the Application in the Cayuga County Clerk's office (indexed to the property) following approval of the site plan by the Planning Board. The owner/operator will be required to enter into a legally binding Maintenance Agreement for ongoing implementation of the plan while the Solar Energy System is operational.
- e. Visual Impact Analysis.
- i. A digital elevation model-based project visibility map showing the impact of topography upon visibility of the project from other locations within 2 miles from the center of the project to aid in the selection of impacted vantage points.
 - ii. Photographic simulations shall be included showing the proposed Commercial Solar Project, including elevation views

with dimensions in accordance with the manufacturer's specifications and photos of the proposed solar energy system, solar collectors, solar panels and all other components comprising the Commercial Solar Project from all neighboring properties and from other vantage points, all as selected by the Planning Board. Such photos will depict before-and-after simulations showing the extent of mitigation from vantage points selected by the Planning Board.

- iii. No fewer than four color photos taken from locations, as selected by the Planning Board and computer-enhanced to simulate the appearance of the as-built aboveground Commercial Solar Project components as they would appear from these locations.
- f. Glare Hazard Analysis is required to determine potential glint and glare impacts to adjacent roadways and airports at selected hourly increments (including seasons) at full tilt in both directions.
- g. Documentation of access to the project site(s), including current and proposed location of all access roads, gates, parking areas, etc.
- h. A plan for clearing and/or grading of the site and a stormwater pollution prevention plan (the "SWPPP") for the site.
- i. Decommissioning Plan in accordance with § 10.16.
- j. Equipment specification sheets for all major components.
- k. Documentation of utility notification.
- l. NYS Agriculture and Markets findings and report, if applicable.
- m. U.S. Army Corps of Engineers wetlands determination, if applicable.
- n. Detail and specifications for all gates and/or fencing. Commercial Solar Projects shall be enclosed by perimeter fencing to restrict unauthorized access, with "HIGH VOLTAGE" placards affixed every 100 feet, and as otherwise approved by the Planning Board. Style and type of fence shall be approved by the Planning Board as part of the site plan. Fence height shall be established at a minimum of seven feet, subject to Planning Board approval. Unless waived by the Planning Board Security, fencing shall be wildlife friendly with minimum 6 foot clearance that allows the passage of small mammals and reptiles designed to minimize wildlife injury and death due to entanglement,

- o. Sign-off from first responders/emergency medical service providers.
 - p. The design, construction, operation and maintenance of the solar energy system shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties, public roads, public parks and public buildings.
 - q. Artificial lighting of Commercial Solar Projects shall be limited to lighting required for safety and operational purposes, shall be shielded from all neighboring properties and public roads.
 - r. Part I full environmental assessment form for purposes of environmental review under the New York State Environmental Quality Review Act (“SEQRA”).
 - s. The Application shall submit details of the proposed noise that may be generated by solar inverter fans or other Commercial Solar Project components. The Planning Board may require a noise analysis to determine potential adverse noise impacts. In no instance shall noise exceed 50 decibels as measured from the subject parcel’s property line.
4. Special Use Permit Required. No Commercial Solar Project may be approved without issuance of a Special Use Permit by the Planning Board. In addition to the criteria set forth in Article V, the following criteria are hereby established for purposes of granting a Special Use Permit for a Commercial Solar Project under this Chapter:
- a. A Commercial Solar Project shall not be installed in any location that would materially detract from or block the view(s) of all or a portion of a recognized scenic view, as viewed from any public road, right-of-way or publicly owned land within the Town or that extends beyond the border of the Town. Consideration shall be given to any relevant portions of the current, amended and/or future Comprehensive Plan and/or any other prior, current, amended and/or future officially recognized Town planning document or resource.
 - b. The Application shall demonstrate the existence of adequate emergency/safety measures. The Application shall post an emergency telephone number so that the appropriate entities may be contacted should any solar panel or other component of the Commercial Solar Project need immediate repair or attention. This emergency telephone number should be clearly visible and in a location which is convenient and readily noticeable to someone likely to detect a problem. The manufacturer’s or installer’s

identification and appropriate warning signage shall be posted at the site and be clearly visible.

- c. All Commercial Solar Projects shall be secured to restrict unauthorized access.
 - d. Where necessary, constructing any roadways necessary to access the Commercial Solar Project, such roadway shall be constructed in a way that allows for the passage of emergency vehicles. Each application shall be accompanied by correspondence from the responding fire department and emergency care provider as to the acceptability of the proposed ingress to and egress from the Commercial Solar Project site. Access roads shall be designed to be permeable to encourage proper drainage and reduce runoff.
 - e. The development and operation of the Commercial Solar Project shall not have a significant impact on fish, wildlife, animal or plant species or their critical habitats, or other significant habitats identified by federal or state regulatory agencies.
 - f. In reviewing the application for a Special Use Permit, the Planning Board shall strive to permit the location of Commercial Solar Projects in such a manner so that no one area or neighborhood in the Town shall be overburdened by the placement of any proposed Commercial Solar Project(s). Screening, including plantings, berms, and other screening methods, may be required to mitigate any unavoidable impacts. Such plantings and screening shall be continuously maintained and replaced if dead, dying, or falling into disrepair.
 - g. The Planning Board may, in its discretion, require native ground cover, under and between the rows of solar panels, which is suitable for animal grazing and/or pasturing shall be low-maintenance, drought-resistant, non-fertilizer-dependent and shall be pollinator-friendly to provide a habitat for bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.
 - h. The Planning Board may, in its discretion, waive one or more of the submission requirements imposed herein.
5. A building permit shall be required for the installation of a Commercial Solar Project.
 6. Lot Area, Yard and Other Regulations. The following lot area, yard regulations and siting criteria shall apply to Commercial Solar Projects.
 - a. Maximum height: 20 feet.

- b. Minimum lot area: 30 acres.
- c. Minimum front yard setback to fence: 200 feet.
- d. Minimum rear yard setback to fence: 200 feet.
- e. Minimum side yard setback to fence: 200 feet.
- f. Commercial Solar Projects that are contiguous to wetland areas shall, at a minimum, conform to the setback requirements mandated by either the New York State Department of Environmental Conservation or the U.S. Army Corps of Engineers. Said setback(s) may be varied based upon information that may be required by the Planning Board and supported by appropriate submissions that may require a greater setback. Setbacks will be determined on a case-by-case basis and a proper record supporting any such greater setback requirement shall be established as part of the review process.
- g. Commercial Solar Projects will be set back at least 1,000 feet of any lake.
- h. Each Commercial Solar Project application shall demonstrate that the facility operator owns or controls sufficient land area to properly operate and maintain the facility.
- i. To prevent the oversaturation of Commercial Solar Projects in one area of the Town, no Commercial Solar Project shall be approved if it is within one mile of an already approved Commercial Solar Project unless the Planning Board makes specific findings that it will not have a significant impact on the community character of the area.
- j. When Application is unable to meet siting and/or mitigation requirements, each application shall formally address and assess the availability and feasible use of alternative sites if less objectionable.

§10.09 – Payment in Lieu of taxes (“PILOT”) Agreement and Host Community Agreement

- a. In every instance of a Commercial Solar Project application, the Application shall be required to propose a PILOT agreement. The developer shall also comply with the notice requirements of NYS Real Property Tax Law § 487. The Application will then contact the Town’s attorney to negotiate the terms of said agreement.

- b. In addition to a PILOT agreement, the Application shall propose to the Town, on projects involving one megawatt and above, a host community agreement benefit package for consideration by the Town Board as part of the approval process. Once the application package materials are deemed complete and while the Planning Board is completing its reviews, the project/application shall be referred to the Town Board to decide on the completion and terms of a host community agreement. This agreement shall be in addition to a PILOT agreement.

§10.10 – Public Hearing

No action shall be taken by the Planning Board to issue site plan approval or a Special Use Permit until after public notice and a public hearing. Proper notice of a hearing before a board shall be given by legal notice published in the official newspaper of the Town at least five days before the date set for such public hearing(s) and written notice mailed to the Application or his agent at the address given in the application to be considered. The Application shall be responsible for notifying, by certified mail, all property owners of record within 500 feet of the outside perimeter of the boundary line of the property involved in the application, as well as other property owners deemed by the Planning Board to be potentially impacted by the project, of the time, date and place of such public hearing at least 10 days prior to such hearing. Notice shall be deemed to have been given if mailed to the property owner at the tax billing address listed on the property tax records of the Town Assessor or at the property address.

§10.11 – Compliance with New York State Uniform Fire Prevention and Building Code

- a. Building permit applications shall be accompanied by standard drawings of structural components of the Commercial Solar Project and all its components (including but not limited to solar panel, solar collector, solar energy system, etc.). Drawings and any necessary calculations shall be certified, in writing, by a New York State registered professional engineer that the system complies with the New York State Uniform Fire Prevention and Building Code. This certification would normally be supplied by the manufacturer.
- b. Where the structure, components or installation vary from the standard design or specification, the proposed modification shall be certified by a New York State registered professional engineer for compliance with the structural design provisions of the New York State Uniform Fire Prevention and Building Code.

§10.12 – Compliance with State, Local and National Electrical Codes

- a. Building permit applications shall be accompanied by a line drawing identifying the electrical components of the Commercial Solar Project to be installed in sufficient detail to allow for a determination that the manner of installation conforms with the National Electrical Code. The application shall include a statement from a New York State registered professional engineer indicating that the electrical system conforms with good engineering practices and complies with the National Electrical Code, as well as applicable state and local electrical codes. This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.
- b. Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a New York State registered professional engineer for compliance with the requirements of the National Electrical Code and good engineering practices.

§10.13 – Post-construction / Installation Certification

Following construction/installation of the Commercial Solar Project, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust and demonstrating established growth. Every operations and maintenance plan shall include provisions for reseeded and maintaining established growth. Following the construction / installation of the Commercial Solar Project, the Application shall provide a post-construction/installation certification from a professional engineer registered in New York State that the project complies with any and all applicable codes and industry practices and has been constructed and operating according to the drawings and development plan(s) submitted to the Town.

§10.14 – Inspections

The CEO and any other employee or agent of the Town shall have the right at any reasonable time to enter, in the company of the owner or its agent, the premises on which a Commercial Solar Project is being or is constructed, to inspect all parts of said Commercial Solar Project installation and require that repairs or alterations be made if, in their judgment, there exists a deficiency in the operation or the structural stability of the Commercial Solar Project or any component thereof. If necessary, the CEO may order the system secured or to otherwise cease operation. It shall not be required that the owner or agent be present in the event of an emergency situation involving danger to life, limb or property. Any inspections required by the Town that are beyond its scope or ability shall be at the expense of the Solar Energy Applicant and/or the Owner/Operator.

§10.15 – Power to Impose Conditions

In granting any site plan approval, Special Use Permit or variance for a Commercial Solar Project, the Planning Board may impose reasonable conditions to the extent that such board finds that such conditions are necessary to minimize any adverse effect or impacts of the proposed use on neighboring properties and to protect the general health, safety and welfare of the Town.

§10.16 – Abandonment and Surety

- a. A Commercial Solar Energy System shall be deemed to be abandoned after it has ceased operating for a continuous one (1) year period at which time, the Town may notify the owner and/or operator of the facility to implement the Decommissioning Plan within one-hundred and eighty (180) days.
- b. In the event that construction of the Commercial Solar Energy System has been started but is not completed and functioning within eighteen (18) months of the issuance of the Building Permit, the Town may notify the operator and/or the owner to complete installation of the facility within three-hundred and sixty-five (365) days. If the owner and/or operator fails to perform, the Town may require the owner and/or operator to implement the Decommissioning Plan.
- c. Applications for extensions of the time periods set forth in this subsection of no greater than ninety (90) days shall be reviewed by the CEO.
- d. If the owner and/or operator fails to fully implement the Decommissioning Plan within the prescribed time period and restore the site as required, the Town may use the financial surety posted by the owner and/or operator to decommission the site.
- e. Any costs incurred by the Town shall be assessed against the property, shall 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.
- f. Decommissioning Bond. Prior to issuance of a Building Permit for a Commercial Solar Project, the owner or operator of the project shall post a surety in an amount and form acceptable to the Town for the purposes of removal in the event the facility is abandoned. The amount of the surety required under this section shall be 125% of the projected cost of removal of the facility and restoration of the property with a minimum escalator of 2% annually for the life of the project. Acceptable forms shall include, in order of preference; cash; irrevocable letter of credit; or a bond that cannot expire; or a combination thereof. Such surety will be used to guarantee removal of the Commercial Solar Project should the system be abandoned.

The surety amount may be reviewed and adjusted, as necessary, by the Town at five-year intervals.

§10.17 – Decommissioning and Removal of Commercial Solar Project Facilities

The applicant for a Commercial Solar Project shall submit a Decommissioning Plan and Cost Estimate. The following shall be the minimum requirements to be addressed for the decommissioning of every Commercial Solar Project, as determined by the Planning Board and Town Attorney:

- a. Lease start/end date.
- b. Removal of above-ground and below-ground equipment, structures and foundations.
- c. Restoration of the surface grade and soil after removal of equipment.
- d. Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
- e. A time frame for the completion of site restoration work. Such time frame may not exceed 365 days.
- f. Soil remediation in accordance with the New York State Department of Agriculture and Markets Guidelines for Solar Energy Mitigation
- g. Requirement to return the site to its pre-development condition. A pre-development photo log of existing site conditions shall be included.
- h. Unless required by the CEO, all landscaping and vegetative screening is to remain in place following decommissioning.
- i. Disposal of hazard materials in accordance with state and federal laws.
- j. An adequate decommissioning bond or other form of security. The decommissioning cost estimate shall be site specific, based on estimated quantities and unit rates for the removal, transport and disposal of components to a specified disposal facility. The cost estimate shall assume prevailing wage rates and shall not include salvage value.
- k. Replanting/replacement of trees destroyed or lost in the decommissioning process with a species that will be capable of reestablishment after 25 years from planting (for those trees installed by the developer).
- l. Specifically address: the useful lifespan of proposed solar facility and any storage batteries; the current New York State and federal rules and regulations regarding placement thereof and disposal thereof at the end of

their useful lifespan; together with plans for replacement of solar storage batteries.

- m. Requirement for geotechnical and/or soil analysis upon decommissioning of the Commercial Solar Project, including comparison of pre- and post-development soil conditions, concerning the chemical and physical properties of the soil.
- n. Such decommissioning plan shall be executed by the Application and the property owner and shall be recorded against the property in the Cayuga County Clerk's office.

§10.18 – Fees

The applicant shall deliver the fee amount as determined in the Town fee schedule. It shall be the Applicant's responsibility to reimburse the Town for any and all reasonable and necessary legal, engineering and other professional fees incurred by the Town in reviewing and administering an application and operation of a Commercial Solar Project under this article.

- a. The Applicant for either state or local siting approval shall deliver, along with its application for a Commercial Solar Energy System if local approval is sought, and concurrent with the filing of a New York State Executive Law § 94-c Permit Application, if applicable, an amount specified in the Town of Scipio fee schedule, then in effect. This sum shall be held by the Town in a non-interest-bearing account to be administered in accordance with the following:
 - i. These funds shall be available to pay consultants and attorneys engaged by the Town to assist in application review if a local permit is sought, and in review of a Section 94-c Permit Application should awarded intervenor funds be insufficient and/or otherwise exhausted.
 - ii. Escrow funds may be used to pay consultants engaged by the Town to undertake periodic construction inspections and/or corrective action required to address deficiencies identified within the Engineer's construction inspection report, including but not limited to deficiencies related to erosion and sediment control.
 - iii. Funds may also be used to pay contractors engaged by the Town to undertake corrective actions for sites that are operating in violation of their site specific SWPPP, and/or which have not corrected issues identified within the Engineer's construction inspection report by the Owner/Operator within seven days of notification.
 - iv. Following the grant or denial of the state or local application, and/or following the final construction inspection, the Town shall return to the Applicant any excess remaining in escrow. If the escrow account

has been depleted throughout the duration of the review and/or construction inspection period, the Applicant shall replenish the escrow in accordance with the fee schedule, depositing such funds as necessary for the Town to pay any outstanding fees to consultants and contractors.

- v. After construction is complete, the Owner/Operator shall engage the services of a New York State licensed engineer to complete annual site inspections of the condition of the perimeter landscaping, site access road, and the overall condition of the site and vegetative cover. Following each annual site inspection, said engineer shall provide a written report to the Code Enforcement Officer including timeframe for required corrective actions to address deficiencies.

- b. **Operation and Maintenance Bond.** Where solar facilities are to be operated, maintained and inspected by and at the responsibility of the Applicant or developer, prior to issuance of the building permit, these entities may be required to provide the Town with a bond, cash escrow, irrevocable letter of credit from an approved financial institution, or other acceptable surety, to ensure there are resources available to support and sustain the proper operation and maintenance of all stormwater management, site civil and landscaping elements until the facility is removed from operation. If there is failure undertake annual inspections, address corrective actions, and/or operate and maintain said facility in good working order, the Town may draw upon the account to cover costs of proper inspection, operation and maintenance, including legal, engineering and contractor costs. The bond amount shall be based on the estimated cost of annual inspections and typical maintenance actions over a five-year period, subject to third party review at the developer's expense, if requested by the Planning Board.

§10.19 – Waiver

The Planning Board may, under appropriate circumstances, waive one or more of the submission requirements contained herein.

- IX. Section 11.02 shall be amended to replace the definition of Wind Energy Facility, Community with the following language:**

Wind Energy Facility, Community - A wind energy conversion system that benefits the Scipio Community, and/or interconnects to the utility grid, consisting of one (1) or more wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 20 kW.

- X. Section 11.05(A)(7) shall be amended as follows:**

- 7. An Environmental Assessment as required by law for Community Wind Energy Facilities. In addition to any legal requirements, the Environmental

Assessment shall include baseline well water testing be performed before, during, and after the installation of wind turbines at the location of the a turbine, or such other areas reasonably requested by the Planning Board. Such baseline testing shall measure the following non-exclusive list:

- a. Flow;
- b. Turbidity;
- c. Total suspended solids;
- d. Total dissolved solids;
- e. Specific Conductance (i.e. Conductivity);
- f. pH;
- g. Total Coliform/E. Coli
- h. Chloride;
- i. Floride;
- j. Calcium Hardness;
- k. Iron;
- l. Manganese;
- m. Nitrate+- Nitrate-Nitrogen as N;
- n. Sodium; and
- o. Sulfate.

The above list should not be considered an exhaustive list, further baseline testing can be requested by the Planning Board in order to grant a Special Permit.

XI. The chart contained in Section 11.06 shall be amended as follows:

Wind Energy Facility Setbacks				
Wind Energy Facility Type	Minimum Setback Requirements			
	Occupied Buildings on Participating Landowner Property	Occupied Building on Non-Participating Landowner Property	Property Lines on Non-Participating Landowner Property	Public roads
Small System	0.0	2.0	1.1	1.5
Community System	1.1	2.5	1.5	1.5

Section 13.02 shall be deleted in its entirety and replaced with the following language:

§13.02 – Alteration or Extension

A. A use of land or structure which does not conform to the regulations of this Ordinance shall not be altered, reconstructed, extended, or enlarged, except in accordance with the following provisions:

1. Such alteration shall be permitted only upon the same lot as in existence at the date the use became non-conforming.
2. A non-conforming use shall not be permitted to increase in volume, area, or extent during the life of the non-conformity.
3. Any alteration of the non-conforming use shall be in accordance with the other provisions of this Ordinance.
4. For the purposes of this Section “volume” does not mean volume of business but rather an increase of cubic volume within a structure or on a parcel of land.

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