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of Goshen

Local Law No. 4 **of the year 20** 16

A local law amending Chapter 97 ("Zoning") of the Code of the Town of Goshen to provide
(Insert Title)
regulations for wind and solar energy systems within the Town of Goshen

Be it enacted by the Town Board **of the**
(Name of Legislative Body)

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of Goshen **as follows:**

See attached local law.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

TOWN OF GOSHEN
LOCAL LAW NO. 4 of 2016

A LOCAL LAW AMENDING CHAPTER 97 ("ZONING") OF THE CODE OF THE TOWN OF GOSHEN TO PROVIDE REGULATIONS FOR WIND AND SOLAR ENERGY SYSTEMS WITHIN THE TOWN OF GOSHEN

BE IT ENACTED by the Town Board of the Town of Goshen, Orange County, New York as follows:

SECTION 1. PURPOSE.

The purpose of this local law is to amend Chapter 97 ("Zoning") of the Code of the Town of Goshen to provide regulations for wind and solar energy systems within the Town of Goshen.

SECTION 2. CHAPTER 97: ZONING.

Section 97-10(D) is hereby amended to add the following after the existing text:

The following shall be permissible accessory uses:

(1) Small wind or solar energy systems for the production of electric energy to serve the principal permitted use on the lot, provided the applicable requirements in Section 97-55 are met.

(2) Wind or solar energy systems for the production of electric energy on tracts of land at least ten (10) contiguous acres or more in size that are owned by the same person or entity, provided the applicable requirements in Section 97-55 are met.

Section 97-13(D) is hereby amended to include the following new subsections:

(4) Small wind or solar energy systems for the production of electric energy to serve the principal permitted use on the lot, provided the applicable requirements in Section 97-55 are met.

(5) Wind or solar energy systems for the production of electric energy on tracts of land at least ten (10) contiguous acres or more in size that are owned by the same person or entity, provided the applicable requirements in Section 97-55 are met.

Section 97-55, currently entitled "Reserved", is hereby repealed and replaced with the following language:

§ 97-55. Wind and Solar Energy Systems.

A. Purpose and Legislative Mandates.

The primary purpose of this Section is to establish standards and limitations for the installation and operation of wind and solar systems, either as permitted principal or permitted accessory uses/structures, within the Town of Goshen.

While the Town of Goshen intends to comply with the prevailing laws and encourage the use of natural energy resources, it also wishes to safeguard the farmland within its bounds, some of which has been preserved via State, County and local funding. The Town of Goshen also does not wish to jeopardize the use or tranquility of the preserved open space lands within its bounds by any neighboring inappropriate development.

The Town of Goshen notes that a 2015 New York State Energy Plan provides a framework for transforming the State's approach to energy policy. The Town agrees with a policy to focus development of a self-sustaining private-sector-driven clean energy market. The Town will pursue the plan's initiatives that include: renewable energy, building and energy efficiencies and energy infrastructure modernization.

The Town of Goshen also desires in establishing the standards and limitations for the installation and operation of wind and solar systems to safeguard the special conservation resource lands as identified in the drafted "2014 Open Space Conservation Plan" by the Department of Environmental Conservation, especially those lands and riparian corridors directly affecting water quality and biodiversity.

B. Applicable Definitions.

COLLECTOR SURFACE: Any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process but does not include frames, support and mounting hardware.

COMMERCIAL FARM: A farm operation carried on for profit, whose primary function involves the sale of products generated on that property.

MAJOR SOLAR COLLECTION SYSTEM OR SOLAR FARM: An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid in order to sell electricity to or receive a credit from a public utility entity, but also may be for onsite use. Solar farm facilities consist of one or more freestanding ground or roof-mounted solar collector devices, solar related equipment and other accessory structures and buildings, including light reflectors, concentrators, heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

METEOROLOGICAL TOWER: A structure designed to support the gathering of wind energy resource data and includes the tower, base plate, anchors, guy cables and hardware, anemometers

(wind speed indicators), wind direction vanes, booms to hold equipment, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow, and characterize the wind resource at a given location. For the purpose of this law, meteorological towers shall conform to the requirements for small wind energy systems.

RENEWABLE ENERGY FACILITY: A facility that engages in the production of electric energy from solar technologies, photovoltaic technologies, or wind energy.

ROTOR DIAMETER: The cross sectional dimension of the circle swept by the rotating blades of a wind-powered energy generator.

SOLAR COLLECTOR: A device, structure or part of a device or structure in which is used to transform solar energy into thermal, mechanical, chemical or electrical energy.

SOLAR ENERGY: Direct radiant energy received from the sun.

SOLAR ENERGY SYSTEM: A solar energy system and all associated equipment including any generator, base, foundation, structural support, wire, batteries or other components necessary to convert solar energy into useable electrical energy through the use of solar panels.

SOLAR ENERGY SYSTEM, LARGE: A ground-mounted or freestanding solar energy conservation system consisting of solar collectors, supports, wire, controls which will be used primarily for onsite and/or offsite consumption (i) on a residential lot that is not in compliance with § 97-55(C)(2)(b)(1) is 10KW or more; and (ii) on a nonresidential lot that is not in compliance with § 97-55(C)(2)(b)(2) or has a total aggregate surface area exceeding the footprint area of the building on the lot or 2,500 square feet whichever is greater or, if no building exists on the lot, 2,500 SF.

SOLAR ENERGY SYSTEM, SMALL: A solar energy conservation system consisting of solar collectors, supports, wire, controls which will be used primarily for onsite consumption not exceed 10KW.

SOLAR PANEL: An elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array.

SYSTEM HEIGHT: For wind energy systems, the height above grade of the tower plus the wind generator.

TOWER HEIGHT: For wind energy systems, the height above grade of the fixed portion of the tower, excluding the wind generator.

VAWT SYSTEMS: A vertical axis wind turbine which utilizes vertical panels as opposed to horizontal propellers.

WIND ENERGY SYSTEM, LARGE: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics producing more energy than consumed onsite.

WIND ENERGY SYSTEM, SMALL: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics producing the same or less energy than consumed onsite.

WIND GENERATOR: Blades and associated mechanical and electrical conversion components mounted on top of the tower.

WIND, SOLAR OR PHOTOVOLTAIC ENERGY FACILITY OR STRUCTURE: A facility or structure the purpose of which is to supply electrical energy produced from wind, solar, or photovoltaic technologies, whether such facility or structure is a principal use, part of the principal use or an accessory use or structure.

WIND TOWER: The monopole, freestanding, or guyed structure that supports a wind generator.

C. Small Wind, Solar and Photovoltaic Energy Systems As Permitted Accessory Uses/Structures In All Zoning Districts.

The primary purpose of an accessory small wind, solar or photovoltaic energy system as an accessory use or accessory structure is to provide power for the principal use of the property, whether residential, nonresidential or farming, whereon said system is to be located, and shall not be for the generation of power for commercial sale purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a small wind, solar or photovoltaic energy system designed to meet the energy needs of the principal use. For the purpose of this subsection concerning permitted accessory small energy systems, the sale of excess power shall be limited so that in no event is an energy system generating more energy for sale than what is otherwise necessary to power the principal use on the property.

1. Rooftop and Building-Mounted Solar Collectors As Accessory Uses/Structures.

Rooftop and building-mounted solar collectors are permitted as accessory uses/structures in all zoning districts in the Town on all permitted principal and accessory structures in the Town, subject to the following requirements:

(a) On residential buildings, solar panels and all accessory equipment for the solar energy system shall not extend beyond the edge of the roof nor exceed a height of six (6) inches above the roofline or above the highest point of the roof structure or surface upon which the panels and equipment are located. The panels shall be set at the same angle as the roof.

(b) On all other buildings, solar panels and all accessory equipment for the solar energy system shall not extend beyond the edge of the roof nor exceed a height of six (6) inches above the highest point of the roof surface upon which they are located, but in no event shall the placement of the solar panels or any related accessory equipment result in a total height, inclusive of the subject building, exceeding that height which is otherwise permitted in the applicable zoning district. The panels shall be set at the same angle as the roof.

(c) Any ground-mounted accessory equipment associated with the rooftop or building mounted solar collectors shall be no higher than ten (10) feet in height, shall be located within side or rear yard areas only and within ten (10) feet of the structure upon which the panels are located and shall conform to the accessory building setbacks and the coverage requirements of the applicable zoning district.

(d) See Subsection § 97-55(F) of this law herein below for additional general requirements.

(e) For farms, see Subsection § 97-55(D) herein below for additional provisions, requirements, limitations and standards.

(f) For all residential and nonresidential buildings, a zoning permit for a compliant rooftop or building-mounted solar energy system on a property is required from the Town Building Inspector in accordance with § 97-55(G) and § 97-64 of this Chapter, and all information required by the Building Inspector to determine compliance with the provisions of this law shall be provided for the permit.

(g) In the instance where a proposed rooftop or building-mounted solar energy system on a residential or nonresidential property is not compliant with the provisions of this law, a variance is required pursuant to § 97-69 in addition to minor site plan approval in accordance with § 97-77 of this Chapter and § 97-55(G) of this law.

2. Ground-Mounted and Freestanding Solar Collectors as Accessory Uses/Structures.

Ground-mounted and freestanding solar collectors are permitted as accessory uses/structures in all zoning districts of the Town subject to the following requirements:

(a) Ground-mounted arrays and freestanding solar collectors may be located only on properties at least one (1) acre or greater in area where the applicant proves to the satisfaction of the Planning Board or the Building Inspector, as the case may be, that rooftop or building-mounted solar collectors are not feasible on the subject site.

(b) The total surface area of all ground-mounted or freestanding solar collectors shall be as follows:

(1) On a residential lot, the total surface area shall not exceed a maximum aggregate area of 750 square feet on lots 1 acre to 2 acres in area, 1,200 square feet on lots 2 acres to 5 acres in area, and 1,500 square feet on lots 5 acres or larger.

(2) On a nonresidential lot, the total surface area shall not exceed the existing building coverage of the building served by the ground-mounted or freestanding solar collectors.

(c) The solar collectors and accessory equipment shall not be permitted within any front yard areas.

(d) The location of any ground-mounted or freestanding solar collectors or other structures or equipment associated with a solar energy system shall be as follows:

(1) On a residential lot, the setback shall be 40 feet from all side and rear property lines or the accessory building setback requirement of the applicable zoning district, whichever distance is greater.

(2) On a nonresidential lot, the setback shall be 50 feet or the accessory building setback requirement of the applicable zoning district, whichever distance is greater.

(e) The height of the solar collectors and any mounts shall not exceed twelve (12) feet when oriented at maximum tilt.

(f) See § 97-55(F) below for additional general requirements.

(g) For farms, see § 97-55(D) below for additional provisions, requirements, limitations and standards.

(h) For any accessory ground-mounted or freestanding solar energy system on a residential lot that that complies with § 97-55-(C)(2)(b)(1) of this law, and for any accessory ground-mounted or freestanding solar energy system on a nonresidential lot that complies with § 97-55-(C)(2)(b)(2) of this law and has a total aggregate surface area less than 2,500 square feet, a zoning permit is required from the Town Building Inspector in accordance with § 97-64 of this Chapter, and any other information required by the Town Building Inspector to determine compliance with the provisions of this law shall be provided for the permit.

(1) The Town Building Inspector shall consult with the Town Landscape Architect and/or Planner regarding the adequacy of the proposed landscape screening.

(2) An escrow account shall be established by the applicant with the Town to pay for the time expended by the Town Landscape Architect and/or Planner.

(i) All accessory ground-mounted or freestanding solar energy systems on a residential lot not in compliance with § 97-55-(C)(2)(b)(1) of this law, and all accessory ground-mounted or freestanding solar energy systems on a nonresidential lot not in compliance with § 97-55-(C)(2)(b)(2) of this law and/or with a total aggregate surface area of 2,500 square feet or greater, shall require site plan approval in accordance with Article IX of this Chapter and § 97-55(G)(2)(b) of this law with any required variance relief.

3. Small Wind Energy Systems as Accessory Uses/Structures.

Small wind energy systems are permitted as accessory uses/structures on lots in all zoning districts in the Town, subject to the following requirements:

(a) A minimum lot size of four (4) acres shall be required to install a small wind energy system, and no more than one (1) small wind energy system shall be permitted on a lot.

(b) Small wind energy systems shall not be located within any front yard areas.

(c) Towers shall be set back a distance equal to one and one-half (1.5) times the height of the tower from all property lines, public roads, dwellings, and overhead power lines. The distance shall be measured from the center of the tower. No exemptions shall be granted for setback requirements to power lines, as to do so would substantially and critically endanger the health and welfare of the Town's residents.

(d) The maximum total height of any small wind energy system shall not exceed one hundred twenty (120) feet; the total height shall include the vertical distance from the ground to the tip of a wind generator blade when the tip is at its highest point.

(e) A meteorological tower shall be permitted under the same standards and requirements as a small wind energy system.

(f) See § 97-55(F) of this law herein below for additional general requirements.

(g) For farms, see § 97-55(D) herein below for additional provisions, requirements, limitations and standards.

(h) All small wind energy systems as an accessory use/structure shall require minor site plan approval in accordance with § 97-77 of this Chapter and § 97-55(G)(3) of this law.

D. Additional Provisions, Requirements, Limitations and Standards for Wind, Solar & Photovoltaic Energy Systems As Accessory Uses/Structures On Preserved Farmland, Commercial Farms and Other Farms.

1. Preserved Farmland and Conservation Easements.

   (a) Notwithstanding any law, rule or regulation to the contrary, a person who owns preserved farmland (under a Purchase of Development Rights) may not construct, install, or operate solar, or wind energy generation systems, structures, and equipment on the preserved portion of the farm.

   (b) Notwithstanding any law, rule or regulation to the contrary, a person who owns land under a declaration of conservation easement may not construct, install, or operate solar, or wind energy generation systems, structures, and equipment on the property so designated.

2. Commercial Farms.

   (a) Notwithstanding the provisions of any State to the contrary, the owner or operator of a commercial farm, located in an area in which it is a permitted use under the Town zoning and is consistent with the Town Comprehensive Plan, or which commercial farm which does not pose a direct threat to public health and safety, may engage in the generation of power or heat from solar, or wind energy as accessory uses/structures to the farm use, provided that structures and power generations are compliant with the NYS Building Codes and Public Service Laws.

   (b) If such approval is required, a landowner shall seek and obtain the approval of the State Department of Agriculture, and proof of said approval shall be provided to the Building Inspector, before constructing, installing, or operating energy generation facilities, structures, and equipment.

   (c) The installation of any solar, or wind energy generation facility on a commercial farm shall abide by the rules, standards and regulations, established by the Department of Agriculture as well as those set forth in this law, provided that the latter are not in conflict with any rules, standards and regulations established by the Department of Agriculture.

   (d) See § 97-55(D)(3) herein below for additional provisions and requirements.

3. Additional Provisions and Requirements for Any Farm.

Notwithstanding anything to the contrary in this Chapter, the following requirements shall also be applicable to any accessory wind or solar energy system on any commercial farmland or on any other farm:

   (a) The minimum distance between any portion of a solar energy facility and a street property line shall be 100 feet, and the minimum distance from any other property

line shall be 100 feet, unless a greater setback is required by the Department of Agriculture or any other outside agency. Such minimum setback distances from streets shall be provided with adequate screening (either existing or new) which screening shall consider the typography and be part of a site plan review by the Planning Board.

(b) Wind towers shall be set back a distance equal to one and one-half (1.5) times the height of the tower from all property lines, public roads, dwellings, and overhead power lines. The distance shall be measured from the center of the tower.

(c) The maximum total height of any small wind energy system shall not exceed one hundred twenty (120) feet; the total height shall include the vertical distance from the ground to the tip of a wind generator blade when the tip is at its highest point.

(d) No portion of any wind, solar or photovoltaic energy system shall be constructed or installed on prime agricultural soils as defined by the USDA Natural Resources Conservation Service, unless the applicant can demonstrate to the satisfaction of the Planning Board that there is no other option for the location of such accessory structures on the farm.

(e) The construction and installation of any energy system shall be designed to minimize any adverse impacts on the productivity of the soil and the farm operation.

(f) See § 97-55(F) herein below for additional general requirements.

(g) Where site plan approval is required for any energy management system on a farm, a plan that prescribes the conservation and natural resource management measures for the conservation, protection and development of natural resources, the maintenance and enhancement of agricultural or horticultural productivity, and the control and prevention of non-point pollution shall be required as part of the site plan application.

(h) The maximum area of any farm area to be used for energy systems shall be no more than 50% of the unconstrained lands.

4. Agricultural Operations and Protection.

Operators of wind or solar facilities are subject to the provisions of § 97-47 of the Code regarding the protection and regulation of agricultural operations including the possible impacts from farming operations which include the potential for dust and smoke.

E. Large Scale Wind, Solar and Photovoltaic Energy Systems as Permitted Principal Uses/Structures.

Notwithstanding anything to the contrary in this Chapter, the development of large scale wind, solar and photovoltaic energy systems shall be a principal use in all zoning districts, subject to major site plan approval by the Planning Board and a special permit from the Town Board, and be guided by the provisions of this section of the code and other sections that are applicable to all systems for principal and accessory use.

1. A minimum lot size of ten acres is required.
2. The minimum distance between any portion of a solar or photovoltaic energy facility and a street shall be 100 feet and the minimum distance from any other property line shall be 100 feet.
3. Wind towers shall be set back a distance equal to 1-1/2 times the height of the tower from all property lines, public roads, dwellings, and overhead powerlines. The distance shall be measured from the center of the tower.
4. The maximum total height of any wind energy system shall not exceed 120 feet. The total height shall be the vertical distance from the ground to the tip of the wind generator blade when the tip is at its highest point.
5. The number of towers for a large wind energy system shall be limited to no more than four (4) as a principal permitted use.
6. No roof top installation is permitted for wind, solar or photovoltaic energy facilities as a principal use.
7. Large scale wind energy systems may have a capacity of 10 KW or more.

F. General Requirements for All Accessory and Principal Wind, Solar and Photovoltaic Energy Systems.

1. The installation of any wind, solar or photovoltaic energy system, including any accessory equipment, shall be outside any land area exhibiting sensitive environmental characteristics such as fresh water wetlands, 100-year flood hazard areas, severe topography (slopes > 15%), stream corridors, wetland transition areas, habitats for endangered, rare, or threatened species, historic and/or culturally significant areas . Systems shall not be within any conservation easement or conservation deed restricted area. System that are proximate to airfields shall be demonstrated to be in compliance with all regulatory requirements of such airfield operations including those related to agricultural operations. Potential developers of solar and wind systems should be aware of agricultural operations in the area and potential issues on their intended operations from dust from soil cultivation, trucking, crop dusting and other agricultural operations.

2. Any proposal for a wind, solar or photovoltaic energy system shall conform to the provisions of § 97-47 of this Chapter, entitled "Protection and Regulation of Agriculture" and Chapter 53 ("Clearing and Grading Control"), as well as the following:

(a) Any trees and/or shrubs to be removed or topped to accommodate the installation of a

wind, solar or photovoltaic energy system shall be accompanied by a site plan identifying the location, size and species of trees to be removed or topped and demonstrating the need to remove or top the trees.

(b) An applicant shall locate a wind or solar energy system so that tree removal is not required to the greatest extent practical. Where trees are to be removed, the Building Inspector, Planning Board or Zoning Board of Appeals, as the case may be, may require the replacement of trees on the subject property at up to a one-to-one ratio, depending upon the consideration of environmental factors and the good judgment of the authority having jurisdiction. For the purposes of this review and potential replacement program "trees" shall be defined as those having a 6-inch diameter at breast height (dbh).

(c) The installation of any wind or solar energy system shall respect the landscaping and trees within any conservation easement or deed restricted area or within any required buffer area so that there is no damage or harm to the plant materials within those areas.

(d) In any case, any tree clearing shall be justified with emphasis on development of previously cleared areas and any proposed clearing not to exceed an area more than fifty percent (50%) of the subject property's size. Clearing shall be minimized, and limited to the area necessary for site access and the installation and operation of solar panels and related equipment. Natural vegetation shall be maintained to the greatest extent practicable.

(e) Once constructed, the ground cover below the solar or wind energy system must be restored with low maintenance, drought resistant, native, non-fertilizer dependent flora or other protective low maintenance surface as the Town Planning Board may approve or, if no Planning Board approval is required, as the Building Inspector may approve.

3. The design of a wind or solar energy system shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend into the natural setting and existing environment.

4. Wind and solar energy systems and any associated structures shall not be used for displaying any advertising or signage, except for reasonable identification of the operator of the system and appropriate warning signs, with phone numbers for ESO/emergency contacts all not to exceed, in aggregate, four (4) square feet in area per 100 lineal feet of running perimeter. All signs shall be affixed to equipment unless otherwise authorized by the approving authority (Building Inspector or Planning Board).

5. The installation of a clearly visible warning sign concerning voltage must be placed at the base of all pad mounted transformers and substations.

6. All solar and wind energy systems shall be designed and located in order to prevent any unabated reflective glare toward any inhabited buildings on adjacent properties as well as adjacent roadways with sufficient studies submitted to confirm this has been mitigated to the extent practicable.

7. Lighting of the pertinent structures shall be limited to that minimally required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

8. When a new driveway or road is required for access to the wind, solar or photovoltaic systems, the surface shall be either pervious pavement or gravel and shall be the minimum width to accommodate maintenance as well as emergency vehicles.

9. All wind and solar energy system installations must be securely fenced. Fencing may be chain-link or other suitable fence acceptable to the Planning Board and consistent with the Zoning Code.

10. All wind, solar and photovoltaic energy system installations must be performed by a qualified installer, and prior to operation, the electrical connections must be inspected by the Town or other appropriate electrical inspection agency, as determined by the Town. In addition, any interconnection to the public utility grid must be inspected by the appropriate public utility.

    (a) All power lines from a wind, solar or photovoltaic energy system to onsite interconnection equipment shall be located underground and installed by a certified professional and must meet all applicable National, State, and local electrical codes.

    (b) The installation of any energy system shall conform to the National Electric Code.

    (c) Wind, solar and photovoltaic energy systems that connect to the electric utility grid shall comply with Article 7 of the New York State Public Service Law and Section 68 if the plant is to generate more than 80 MW of energy as required by the electric utility servicing the property.

    (d) Systems shall be installed by a qualified installer as listed on the NYSERDA Approved Installers list with a North American Board of Certified Energy Practitioners (NABCEP) certified installer.

11. When batteries are included as part of the wind, solar or photovoltaic energy system, the batteries require a charge controller and must be placed in a secure container or enclosure meeting the requirements of the NYS Uniform Fire Prevention Code when in use, and, when no longer used, the batteries shall be disposed of in accordance with the laws and regulations of Orange County and other applicable laws and regulations. Unless

practically infeasible, the energy system shall be connected to the energy grid in lieu of stand-alone systems relying upon batteries to store excess power.

12. Landscaped vegetative screening shall be required, as well as fencing as may be determined appropriate by the Planning Board, between any ground-mounted solar collectors or any ground-mounted equipment for any energy system and adjacent properties and streets in accordance with the following:

    (a) The overall purpose of the landscaped screening is to obscure or substantially buffer the view of the solar energy system year-round.

    (b) The landscaped screening shall be comprised of a minimum of one (1) evergreen tree, at least six (6) feet high at time of planting, plus two (2) supplemental shrubs, all planted within each ten (10) linear feet of the area to be screened or such other equivalent and appropriate landscape solution as is acceptable to the Planning Board.

    (c) Existing vegetation may be used to satisfy all or a portion of the required landscaped screening.

    (d) Any fencing shall be at least four (4) feet but generally no greater than six (6) feet in height, provided that any fencing higher than four (4) feet shall be located in the rear yard and shall be set back at least fifteen (15) feet from any property line. Fencing shall provide security protection for the facility and may also provide screening of the facility for visual protection of neighboring properties. Fencing shall satisfy all NEC requirements as needed. Deer fencing of up to 8-feet is permitted but does not take the place of security fencing which must be of substantial construction (see § 97-55(F)(9)).

13. If a wind or solar energy system ceases to perform its originally intended function for more than 12 consecutive months or construction is not completed within 18 months of final site plan approval, the property owner shall remove the tower, collector, mount and/or associated equipment and facilities by no later than 90 calendar days after the end of the period noted and shall restore the property to its original condition unless he can show to the satisfaction of the Building Inspector good cause as to why this time should extended and then only to a maximum extension of an additional forty five (45) calendar days. To secure such removal, the developer shall post a decommissioning cash bond with the Town in an amount to be established by the Town Board upon recommendation from the Town Engineer. The cash bond amount will equal one hundred fifty percent (150%) the decommissioning and reclamation costs for the entire system. This shall include the removal of footings however such removal shall be at the discretion of the Town Engineer should the sites erosion control be better serviced by leaving the footings in place. The bond must remain valid until the decommissioning obligations have been met and therefore, must be renewed or replaced if/when needed and account for any

changes in the total decommissioning cost. Bonds shall be reviewed for such revisions every five (5) years. When required, solar projects are to be decommissioned in the most environmentally friendly way practicable. At the end of their life cycle (25 to 40 years), at such time as required under this Code or as determined by the owner or operator of the facility, decommissioning is expected to follow the following general requirements:

(a) Remove all non-utility owned equipment, conduits, structures, and foundations to a depth of at least 3 feet below grade.
(b) Remove all fencing, unless the owner of property requests in writing it to stay in place and it is not a hazard.
(c) Restore the land to the condition which existed before construction, including an adequate layer of topsoil where existing topsoil has been removed or eroded.
(d) Disposal or recycle of all materials in an environmentally responsible manner.

14. Where site plan approval is required (see § 97-55(G)), the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of the proposed wind or solar energy systems and its components. Site plan applications and zoning permits for a wind, solar or photovoltaic energy system shall include information demonstrating its efficiency and its compliance with the provisions of this law.

15. The operations and maintenance manual from the manufacturer shall be followed, which shall include provisions for replacement or removal of damaged or faulty sections in a timely manner. A copy of the manual shall be provided to the Building Department and Fire Department when the applicant requests a building permit be issued. Failure to abide by the manufacturer's recommendations in a timely manner and, in no case greater than 90 days, or gross operational deficiencies shall be subject to system removal as outlined in Subsection 13 above.

16. The property owner shall be responsible for the cleanup of damaged solar or wind equipment in the event of wind, fire, or other naturally occurring environmental phenomena or vandalism of any kind. Procedures for cleanup of these systems shall be clearly identified in the operations and maintenance manual outlined in subsection 15 above.

17. Additional requirements specific to solar energy systems:

(a) The solar collectors shall be located so that any glare is directed away from any adjoining property or street or is otherwise mitigated to extent practicable. Failure to adequately mitigate glare will be reason for rejection of an application for a building permit or site plan approval.

(b) Solar energy systems shall be designed to sustain wind loads up to 110 miles per hour (mph) and snow loads of 50 pounds per square foot (psf) unless more stringent

requirements are mandated by other regulatory agencies.

(c) Ground areas beneath solar panels shall not be covered with stone but shall be planted with a seed mixture of native, non-invasive shade tolerant grasses in order to prevent soil erosion and the spread of weeds or other invasive species and to promote biodiversity and a natural habitat; the ground area shall be mowed on a regular basis as may be needed. Solar panels shall not be included in any calculation of impervious surface or impervious cover.

(d) In order to ensure that there will be minimal disturbance and impact to the land and to promote easy removal and rehabilitation of the site, the preferable method of installation of the solar collectors or panels is by removable earth screws, auger driven piers or a similar system that does not require concrete footings or other relatively permanent foundations. The installation shall conform to the natural contours of the land, and no grading of any material quantity shall be permitted for the installation of the system.

(e) Solar energy systems shall be constructed entirely with non-hazardous materials. Disposal of the panels will regulated by New York State Solid Waste Procedures and all other applicable regulations.

18. Additional requirements specific to wind energy systems:

(a) Wind energy systems shall be placed in such a manner as to minimize visual impacts to adjacent residential zoning districts and/or existing residential uses.

(b) Access restrictions to the wind energy system shall be designed as follows:

(1) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

(2) The tower shall be designed and installed so as not to provide permanent step bolts, ladders, or other publicly accessible means of climbing the tower for a minimum height of ten (10) feet above the ground.

(c) A wind energy system shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration or other applicable authority.

(d) The blades on the wind energy system shall be constructed of a corrosive resistant material, and the tower shall not be constructed of aluminum.

(e) A wind energy system shall remain painted or finished in a grey or white color that was originally applied by the manufacturer unless the approving authority determines that their visual impact on the surrounding landscape will be minimized by another

color or finish.

(f) The level of noise produced by a small wind energy system shall not exceed 55 dBa or be above the ambient noise levels prior to construction as measured at the property boundaries of the property on which the small wind energy system is to be located and shall comply with the following:

(1) The noise level limit shall not apply during short-term events such as utility outages and/or severe windstorms.

(2) The applicant shall provide technical information on noise levels prepared by a qualified professional.

(g) No wind energy system shall be roof mounted, except that a VAWT system may be installed upon any portion of a roof, provided that the total height of the system shall not extend beyond ten (10) feet above the roof line and provided further that the said VAWT system shall be setback no less than fifty (50) feet from any property line.

(h) All wind energy systems, except for a VAWT system permitted to be constructed on a roof, shall be mounted on a monopole, shall not utilize a truss frame construction, and shall not require a wired guyed system.

(i) All wind energy systems shall be designed with an automatic braking system and an over-speed control to prevent over-speeding and excessive pressure on the tower structure during periods of excessively high winds.

(j) There shall be a minimum ground clearance of at least fifteen (15) feet between the finished grade and bottom of any rotor, blade or moving part of a small wind energy system.

(k) A list of safety measures to prevent unauthorized climbing on the tower must be provided to the Building Inspector and Town Engineer, and implemented.

19. Visual Assessment

(a) Where applicable, the provisions of the Scenic Road Corridor Overlay District (SR) shall apply (see § 97-29).

(b) For areas outside the SR District, a visual impact assessment shall still be prepared and, at a minimum, shall include:

(1) A viewshed analysis in order to determine locations where solar or wind power and appurtenant facilities may be visible.

(2) Graphic representations of before and after views from key viewpoints located inside and outside of the Town, including but not limited to State highways and other major roads, State and local parks, other public lands, preserves and historic sites normally open to the public, residential developments and from any other locations where the site is visible to a large number of visitors or travelers.

(3) Assessment of alternative designs and color schemes.

(4) Assessment of the visual impact of the facilities from abutting properties and streets.

(5) Appropriate mitigations, in terms of landscaping, berms, hedges, fences, grading and other forms of screening shall be provided as needed to limit visual impact.

G. Zoning Permit & Site Plan Application Requirements.

1. For Rooftop and Building Mounted Solar Collectors As Accessory Uses/Structures.

(a) For all residential and nonresidential buildings, a zoning permit for a compliant rooftop or building mounted solar energy system on a property is required from the Town Building Inspector in accordance with § 97-64 of this Chapter for designated local historic sites and/or properties within designated local historic districts, § 97-63 of this Chapter, and all information required by the Building Inspector to determine compliance with the provisions of this law shall be provided for the permit.

(b) In the instance where a proposed rooftop or building-mounted solar energy system on a residential or nonresidential property is not compliant with the provisions of this law, a variance is required in accordance with § 97-69 of this Chapter.

2. For Ground-Mounted and Freestanding Solar Collectors As Accessory Uses/Structures.

(a) For any accessory ground-mounted or freestanding solar energy system on a residential lot that that complies with § 97-55(C)(2)(b)(1) of this law, and for any accessory ground-mounted or freestanding solar energy system on a nonresidential lot that complies with § 97-55(C)(2)(b)(2) of this law and has a total aggregate surface area less than the building footprint, if one exists, or 2,500 square feet, whichever is greater, a zoning permit is required from the Town Building Inspector in accordance with §§ 97-63 and 97-64 of this Chapter. Any other information required by the Building Inspector to determine compliance with the provisions of this law shall be provided for the permit.

(1) The Building Inspector shall consult with the Town Landscape Architect and/or Planner regarding the adequacy of the proposed landscape screening.

(2) An escrow account shall be established by the applicant with the Town of Goshen

to pay for the time expended by the Town's consultants.

(b) All accessory ground-mounted or freestanding solar energy systems on a residential lot not in compliance with § 97-55(C)(2)(b)(1) of this chapter, and all accessory ground-mounted or freestanding solar energy systems on a nonresidential lot not in compliance with § 97-55(C)(2)(b)(2) of this law and/or with a total aggregate surface area of 2,500 square feet or greater, shall be considered a "large" facility and shall require minor site plan approval in accordance with Section 97-77 of this Chapter, and § 97-69 of this Chapter with any required variance relief. In addition to site plan approval by the Planning Board and whether or not these uses are shown on the use table, the applicant shall apply for a special permit for review and approval by a special permit issued by the Town Board, in accordance with in Article IX. Upon receipt of a complete application, the Town Board shall refer such a special permit application to the Planning Board for its recommendation. If the Planning Board does not respond within 30 days of the referral, the Town Board may proceed to make its decision without such recommendations.

3. For Small Wind Energy Systems As Accessory Uses/Structures.

All small wind energy systems as an accessory use/structure shall require minor site plan approval in accordance with § 97-77 of this Chapter. All site plan applications shall be accompanied by a plot plan survey which shall include the following information in addition to any other information required for a minor or major site plan application pursuant to this Chapter:

(a) Project description and narrative of intended use of the proposed wind energy production facility for solar device, including any anticipated changes in the existing topography and natural features of the parcel to accommodate the changes. Include the name and address of the applicant and any professional advisors. If the applicant is not the owner of the property, provide authorization of owner for the application.

(b) Property lines and physical dimensions of the property, as shown on a current survey;

(c) Location, dimension, and types of existing structures and easements on the property;

(d) Location, dimensions and type of the proposed wind, solar or photovoltaic energy system, including manufacturer's specifications and operation requirements, the model of all components, panel height and width, ground elevation and height of the system, and setbacks from property lines and buildings;

(e) Orientation of the wind, solar or photovoltaic energy system;

(f) The right-of-way line of any public or private road contiguous with the property;

(g) The location of any above ground or overhead utility lines, existing surface features and water or sewer systems;

(h) Existing and proposed landscaping and fencing for ground-mounted systems, including photographs of the area proposed for the energy system;

(i) If applicable, a statement that the proposed energy system is either within an historic site or district or within 200 feet thereof;

(j) For wind energy systems, verification from a qualified design professional that the proposed location and proposed tower elevation has sufficient wind speeds for operation of the wind energy system;

(k) For wind energy systems, tower and tower foundation drawings prepared and sealed by a licensed engineer in the State of New York; and

(l) For wind energy systems, noise levels of the proposed wind energy system at all property lines.

(m) For any major site plan, a visual sight distance analysis must be submitted, including photos of the subject property that graphically simulate the appearance of any proposed energy system from at least five (5) locations around and within one (1) mile of the proposed tower(s) or solar array.

(n) A legible electrical diagram using unique line characteristics and standard symbols to clearly describe the wind energy system or solar device, as it will be installed. The diagram must show all major system components from the wind turbine or solar device to the utility meter.

(o) The plan must include measures for containing drainage onsite and erosion and sediment control. Additionally, all grading shall be in accordance with Town Code Chapter 53.

4. Upon completion of any wind or solar energy system, a certified letter from a professional engineer will be required to be submitted by the applicant to the Building Department stating that the structure was constructed in accordance with the approved drawings.

5. For large wind or solar energy installations, an agreement with a utility for interconnection of the completed facility must be established and clearly documented within the site plan and special permit review.

6. A decommissioning plan must be submitted by the wind or solar developer as part of the site plan and special permit applications. Although the agreement between the property owner (Owner) and the company (Company) installing and operating the system may assign the decommissioning responsibilities to the Company, the responsible party for the

purposes of this Code (see § 97-55(F)(16)) shall be the property owner unless specifically stated otherwise. The decommissioning plan shall identify the anticipated life of the project, method and process for removing all components of the solar energy system and returning the site to its preexisting condition. It shall include an estimate of decommissioning costs. The decommissioning plan shall be initiated within the time frames provided in § 97-55(F)(13) of this code unless a petition is filed with the Town Board prior to the expiration of the periods defined in § 97-55(F)(13) for an extension. Such a request shall demonstrate specific and unique conditions related to the installation to the Town Board who shall have the authority to extend the time for initiating the decommissioning for up to two additional 6 month periods within their sole discretion (see § 97-55(F)(13)).

7. Waivers. The Planning Board may waive any of the provisions of this Section if it is demonstrated by the applicant that under the facts and circumstances the submission of such documentation would cause unnecessary and undue hardship and the modification could be accomplished without significant environmental harm. Where the modification is from a numerical standard (i.e., height of 10 feet, setback of 75 feet, 20 acre lot, etc.) the planning board may grant relief up to a 20% increase based on the criteria noted above from the standards specified herein. Further relief will require action by the ZBA.

8. Review Fees. Escrow deposits (see § 97-68) shall be required in connection with any application, action, review or other action related to this chapter for the costs of review by staff and consultants.

SECTION 3. SUPERSEDING PROVISION.

To the extent that any State or local laws fail to provide specific authority for this Local Law or the procedures necessary for its adoption, or otherwise appear to be in conflict with this Local Law or the procedures followed for its adoption, then such laws, including, but not limited to Article 16 of the New York State Town Law, are hereby superseded by this Local Law pursuant to New York Municipal Home Rule Law and the common law.

SECTION 4. SEVERABILITY.

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

SECTION 5. EFFECTIVE DATE.

This law shall take effect upon the filing of this Local Law with the New York Secretary of State in the manner provided for in the Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)
I hereby certify that the local law annexed hereto, designated as local law No. 4 of 20 16 of the (County)(City)(Town)(Village) of Goshen was duly passed by the Town Board on September 6, 20 16, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20[ ][ ], in accordance w ith the applicable provisions of law.
(Name of Legislative Body) *(Elective Chief Executive Officer*)*

3. (Final adoption by referendum.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative Body) *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body) *(Elective Chief Executive Officer*)*

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* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Priscilla Hensbeck
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: September 7-2016