

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village

(Select one.)

of Somerset

FILED
STATE RECORDS

DEC 30 2016

DEPARTMENT OF STATE

Local Law No. 5 of the year 2016

A local law entitled "Solar Energy Systems"
(Insert Title)

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

County City Town Village

(Select one.)

of Somerset

as follows:

See attached.

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

(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. 5 of 2016 of the ~~(County)(City)(Town)(Village)~~ of Somerset was duly passed by the Town Board on December 21 2016, 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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 20____, in accordance with the applicable provisions of law.

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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(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) *(Name of Legislative Body)* (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.

* 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.

Tracy L. Carner
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 12/21/16



TOWN OF SOMERSET
LOCAL LAW NO. 5 OF THE YEAR, 2016

A Local Law Entitled "Solar Energy Systems"

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

The Zoning Ordinance of the Town of Somerset, Niagara County, New York, as contained in Chapter 205 of the Code of the Town of Somerset, is hereby amended as follows:

Article XXII entitled "Small Scale Solar Energy Systems" is hereby repealed in its entirety and replaced with a new Article XXII, entitled "Solar Energy Systems", as follows:

§ 205- 104 Findings.

The Town Board of the Town of Somerset makes the following findings:

- A. The Town Board of the Town of Somerset recognizes that solar energy is a clean, readily available and renewable energy source and the Town of Somerset intends to accommodate the use of solar energy systems.
- B. However, the Town Board finds a growing need to properly site all types of solar energy systems within the boundaries of the Town of Somerset to protect residential, business areas and other land uses, to preserve the overall beauty, nature and character of the Town of Somerset, to promote the effective and efficient use of solar energy resources, and to protect the health, safety and general welfare of the citizens of the Town of Somerset.
- C. Prior to the adoption of this article, the Town's laws only addressed the siting of small scale solar energy systems. Since technology has changed and newer and larger systems are being considered, the Town Board finds that the promulgation of this Article is necessary to direct the location and construction of all types of solar energy systems.
- D. Solar energy systems need to be regulated from permitting through construction and ultimately for their removal when no longer utilized.

§ 205-105. Definitions.

The following definitions shall apply to this Chapter:

APPLICANT – The person or entity filing an application and seeking an approval under this Article; the owner of a solar energy system or a proposed solar energy system project; the

operator of solar energy system or a proposed solar energy system project; any person acting on behalf of an applicant, solar energy system or proposed solar energy system. Whenever the term "applicant" or "owner" or "operator" are used in this Section, said term shall include any person acting as an applicant, owner or operator.

BUILDING-INTEGRATED SOLAR/PHOTOVOLTAIC (BPIV) SYSTEM- A solar energy system incorporated into and becoming part of the overall architecture and design of a building or structure in a manner that the solar energy system is a permanent and integral part of the building envelope or structure.

BUILDING-MOUNTED SOLAR ENERGY SYSTEMS – A solar energy system that is affixed to the side(s) of a building or other structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building. Said system is designed and intended to generate electricity solely for use on said lot, potentially for multiple tenants, through a distribution system that is not available to the general public.

GROUND-MOUNTED SOLAR ENERGY SYSTEM – A solar energy system that is affixed to the ground either directly or by support structures or other mounting devices. Said system is an accessory structure, designed and intended to generate electricity solely for use on said lot, potentially for multiple tenants, through a distribution system that is not available to the general public.

ROOFTOP-MOUNTED SOLAR ENERGY SYSTEM – Any solar energy system that is affixed to the roof of a building and wholly contained within the limits of the roof surface. Said system is designed and intended to generate electricity solely for use on said lot, potentially for multiple tenants, through a distribution system that is not available to the general public.

UTILITY-SCALE SOLAR ENERGY SYSTEM – Any solar energy system that cumulatively on a lot is designed and intended to supply energy solely into a utility grid for sale to the general public and consists of an overall footprint of greater than five (5) acres and less than one hundred (100) acres. Ground mounted solar energy system not meeting the definition as outlined in this law will be treated as Utility-Scale Solar Energy systems and the requirements of such.

§ 205-106. Use districts where allowed. Subject to the provisions of this Article, solar energy systems shall be allowed as follows:

- A. Rooftop-mounted, building-mounted, and Building-Integrated (BPIV) solar energy systems are permitted in all zoning districts in the Town through a building permit application process (BPIV systems may be permitted under an overall building permit for a structure).
- B. Ground-mounted solar energy systems are permitted as accessory structures (with Planning Board site plan approval) in the following districts (unless restricted in any Zoning Overlay District): Agricultural District (A), Business District (B), Planned Unit

Development (PUD), all Industrial Districts (I and GI), Single- Family Residential District (R-1), Single- and Two-Family Residential District (R-2) or Lake Shore Residential (RLS).

- C. Utility-scale solar energy systems are only permitted by special permit in an Agricultural District (A) or all Industrial districts (I and GI).
- D. Any inconsistent provisions of the Zoning Law which purport to or may be interpreted to allow solar energy systems in other districts are hereby superseded.

§ 205-107. General regulations. The placement, construction, and major modification of all solar energy systems within the boundaries of the Town of Somerset shall be permitted only as follows:

- A. Rooftop-mounted, Building-Integrated and building-mounted solar energy systems upon issuance of building permit.
- B. Ground-mounted solar energy systems after SEQRA review and upon concurrent site plan approval issued by the Town of Somerset Planning Board, and upon issuance of a building permit, and shall be subject to all provisions of this Article, in the Agricultural District (A), Business District (B), Planned Unit Development (PUD), all Industrial Districts (I and GI), Single- Family Residential District (R-1), Single- and Two-Family Residential District (R-2) or Lake Shore Residential (RLS).
- C. Utility-scale solar energy systems shall be permitted only by Special Permit by the Town of Somerset Planning Board in use districts where allowed in accordance with the criteria established in this article, after SEQRA review with the Town of Somerset Planning Board, upon concurrent site plan approval issued by the Town of Somerset Planning Board, and upon issuance of a building permit, and shall be subject to all provisions of this Article.
- D. All solar energy systems existing on the effective date of this Article shall be allowed to continue usage as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance shall comply with the requirements of this chapter.
- E. No solar energy system shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.
- F. Any applications (including variance applications) pending for solar energy systems on the effective date of this article shall be subject to the provisions of this article.
- G. This article shall take precedence over any inconsistent provisions of the Zoning Law of the Town of Somerset.
- H. This article shall not apply to any lot owned by a municipality.
- I. This article shall not apply to any lot located within the Village of Barker.

§ 205- 108. General criteria.

- A. Rooftop-mounted and building-mounted solar energy systems shall not be more than three feet higher than the finished roof to which it is mounted and in no instance shall any part of the system extend beyond three (3) feet before the edge of the roof. All rooftop-mounted or building-mounted solar energy systems shall meet all Building permit requirements including the NYS Uniform Fire Prevention and Building Code standards (which includes fire department access areas), and be installed by a qualified solar installer.
- B. Ground-mounted solar energy systems shall be subject to the following requirements:
- (1) The location of said solar energy system shall be placed no closer than three (3) times the height of the solar energy system, but not less than 25 feet from any property line; and
 - (2) The location of said solar energy system shall be only located in the side or rear yard;
 - (3) The orientation of said solar energy system shall not be pointed at any adjoining dwelling, where feasible; and
 - (4) The height of said solar energy system shall not exceed ten (10) feet when oriented at maximum tilt on a lot situated in a Single-Family Residential District (R-1), Single- and Two-Family Residential District (R-2) or Lake Shore Residential (RLS); and
 - (5) The height of said solar energy system shall not exceed fifteen (15) feet when oriented at maximum tilt on a lot situated in an Agricultural District (A), Business District (B), Planned Unit Development (PUD), or all Industrial Districts (I and GI).
 - (6) The total surface area of said solar energy system on a lot shall not exceed the allowed accessory structures or combinations of accessory structures where permitted in a Single-Family Residential District (R-1), Single- and Two-Family Residential District (R-2) or Lake Shore Residential (RLS); and
 - (7) The total surface area of said solar system on a lot which is two (2) acres or less situated in an Agricultural District (A), Business District (B), Planned Unit Development (PUD), or all Industrial Districts (I and GI) shall not exceed one thousand square feet; and
 - (8) The total surface area of said solar energy system on a lot which is greater than two (2) acres and but less than five (5) acres situated in an Agricultural District (A), Business District (B), Planned Unit Development (PUD), or all Industrial Districts (I and GI) shall not exceed five (5) percent of the total square footage of the entire lot; and
 - (9) The total surface area of said solar energy system on a lot which is greater than five (5) acres or more situated in an Agricultural District (A), Business District (B), Planned Unit Development (PUD), or all Industrial Districts (I and GI) shall not exceed ten (10) percent of the total square footage of the entire lot.

- (10) All Building permit requirements including the NYS Uniform Fire Prevention and Building Code standards shall be met, and shall be installed by a qualified solar installer.
- C. Site plan Requirements for a ground-mounted solar energy system. If site plan approval is required by this article for a ground-mounted solar energy system or a site plan is requested by the Building Inspector for any ground-mounted solar energy system, the applicant shall be required to submit a site plan drawn in sufficient detail as follows:
- (1) Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposal layout of the solar energy system along with a description of all components, existing vegetation, any proposed clearing and grading of the lot involved, any storm water or erosion disturbances, and utility lines, both above and below ground, on the site and adjacent to the site; and
 - (2) Property lot lines and the location and dimensions of all existing structures and uses on site within five hundred (500) feet of the solar panels; and
 - (3) Any proposed fencing and/or screening for said project; and
 - (4) Any such additional information as may be required by the Town's professional engineer or consultant, Town of Somerset Planning Board, Town Attorney, Building Inspector or other Town entity; and
 - (5) A public hearing on said site plan shall be held by the Planning Board.
- D. Solar storage batteries. When solar batteries are included as part of any solar energy system, they shall be placed in secure container or enclosure meeting the requirements of the New York State Building Code.
- E. All solar energy systems, regardless if they tie into the grid or not, shall adhere to all applicable federal, state, county and Town of Somerset laws, regulations and building, plumbing, electrical, and fire codes and the applicant shall provide the Building Inspector with all certifications of proper placement and installation, including electrical, as State Code or the Building Inspector deems necessary.
- F. Any solar energy system and any related access road shall be accessible for all emergency service vehicles and personnel.
- G. All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color.
- H. The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists.
- I. The Development and operation of a solar energy system shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats identified by the Town of Somerset or other federal or state regulatory agencies.

- J. Artificial lighting of any solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
- K. If the use of an approved solar energy system is discontinued, the owner or operator shall notify the Building Inspector within thirty (30) days of such discontinuance. If a solar energy system is to be retained and reused, the owner or operator shall further inform the Building Inspector of this in writing at such time and obtain any necessary approvals within one year, otherwise it shall be automatically deemed abandoned.
- L. Any solar energy system to be used strictly for Agricultural use purposes in accordance with NYS Agriculture and Markets Law may have some of the requirements of this article waived by the Building Inspector or Planning Board.
- M. An applicant shall be responsible for the disposal of any solar energy system components in compliance with all federal, state and local laws and regulations for disposal of said solar energy system existing at such time as the disposal takes place.

§ 205-109. Special permit requirements.

Applications under this article shall be made in accordance with Article XX Special Use Permits and as follows: Applicants for a special permit to place, construct, and make a major modification to a utility-scale solar energy systems within the boundaries of the Town of Somerset shall submit twelve (12) sets of the following information to the Building Inspector, who shall first present it to a professional engineer or consultant for an initial review and then onto the Planning Board for its review and recommendation. The Planning Board may make such additional referrals as it deems appropriate. No such application shall be deemed filed until any required application fee has been paid. The following information shall be contained in the application:

- A. A completed State Environmental Quality Review Act (SEQRA) short form environmental assessment form (EAF), unless a Full form is required by the Town's professional engineer or consultant or the Town of Somerset Planning Board. B.

Necessary Permit Information:

- (1) Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include the name, address, and telephone number of the applicant and a letter or other written permission signed by the property owner authorizing the applicant to represent the property owner; and
- (2) Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc; and
- (3) Documentation of the clearing, grading, storm water and erosion control plans; and
- (4) Utility interconnection data and a copy of written notification to the utility of the proposed interconnection; and

- (5) One or three-line electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices; and
- (6) A property owner who has installed or intends to install a utility-scale solar energy system may choose to negotiate with other property owners in the vicinity for any necessary solar skyspace easements. The issuance of a special use permit does not constitute solar skyspace rights, and the Town shall not be responsible for ensuring impermissible obstruction to the solar skyspace as a result of uses or development performed in accordance with Town Code. In the event that solar easements are negotiated by an applicant or property owner for a utility-scale solar energy system, a copy or documentation of any solar skyspace easements shall be provided, properly recorded as such, negotiated with neighboring property owners that shall, at a minimum, include:
 - (a) The restrictions placed upon buildings, structures, vegetation and other objects or uses that would potentially obstruct the solar skyspace of the solar energy system; and
 - (b) A description of the dimensions of the easement expressed in measurable terms, such as the maximum height of buildings and structures, vertical or horizontal angles measured in degrees, or the hours of the day on specified dates during which direct sunlight to a specified surface of a solar collector may not be obstructed, or a combination of these descriptions; and
 - (c) The amount, if any, of permissible obstruction of the solar skyspace through the easement, expressed in measurable terms, such as a specific percentage of the solar skyspace that may be obstructed or hours during the day; and
 - (d) Provision for trimming vegetation that would impermissibly obstruct solar skyspace, including any compensation for trimming expenses; and
 - (e) Provisions for compensation of the owner/operator benefitting from the easement in the event of impermissible obstruction of the solar skyspace that would be in violation of the easement; and
 - (f) The terms or conditions, if any, under which the easement may be revised or terminated.

D. A site plan drawn in sufficient detail as follows:

- (1) Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposal layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved, and utility lines, both above and below ground, on the site and adjacent to the site; and
- (2) Property lot lines and the location and dimensions of all existing structures and uses on site within five hundred (500) feet of the solar panels; and
- (3) Proposed fencing and/or screening for said project.

- E. For all Utility-Scale Solar Energy Systems, the applicant shall submit a decommissioning plan for review and approval as part of the special use permit application. The decommissioning plan shall identify the anticipated life of the project, method and process of removing all components of the solar energy system and returning the site to its pre-existing condition and estimated decommissioning costs, including any salvage value.
- F. Any such additional information as may be required by the Town's professional engineer or consultant, Town of Somerset Planning Board, Town Attorney, Building Inspector or other Town entity.

§ 205-110. Special permit criteria.

Special Permits issued for a utility-scale solar energy systems shall meet the following conditions:

- A. Minimum lot area: The minimum lot area shall be five (5) acres.
- B. Maximum lot area: The maximum lot area shall be one hundred (100) acres.
- C. Setbacks: Any utility-scale solar energy system shall adhere to the following setbacks:
 - (1) From any Agricultural District (A), Residential District (R-1, R-2 or RLS), Business District, or Planned Unit Development (PUD) use district: A minimum two hundred feet (200) feet from all property lot lines bordering these use districts.
 - (2) From any Industrial (I, GI) use district: A minimum of (100) feet from all property lines bordering an industrial (I, GI) use district.
 - (3) From any property lot lines: A minimum of one hundred (100) feet from any property lot line.
 - (4) From buildings or structures:
 - (a) A minimum of two hundred and fifty (250) feet from any building or structure, except if said building or structure is used for the actual operation of the utility-scale solar energy system; and,
 - (b) A minimum of five hundred (500) feet from any dwelling on adjoining lots.
 - (5) From public roads and railroads:
 - (a) A minimum of two hundred (200) feet from any public road or railroad (measured from the road right-of-way or property line); and,
 - (b) Where the lot line abuts a public right-of-way, the setbacks specified above shall be measured from such right-of-way line.
 - (6) From schools, public parks: A minimum of five hundred (500) feet from all property lot lines bordering a school or public park.
 - (7) Notwithstanding the setback provisions set forth in this section, such setbacks from property lines do not apply if the application is accompanied by a legally enforceable agreement that runs with the property for a period of twenty-five (25) years or the life

of the Special Permit, whichever is longer, that the adjacent landowner(s) agrees to the elimination of the required setbacks. These setback requirements in this section can only be varied through this agreement process with adjoining landowners and not through a variance with the Zoning Board of Appeals. Any agreement to the elimination of such property line setbacks shall not constitute the reduction or elimination of required setbacks from structures, as previously identified, and such setbacks from structures, for safety reasons, shall not be reduced or eliminated.

- D. Maximum overall height. The height of a utility-scale solar energy system shall not exceed twenty (20) feet when oriented at maximum tilt.
- E. Number of utility-scale solar energy systems allowed per lot. There shall only be allowed one utility-scale solar energy system per lot.
- F. A utility-scale solar energy system shall only be located in a rear yard if there is a principal structure or dwelling on said lot.
- G. A utility-scale solar energy system shall adhere to all applicable federal, state, county and Town of Somerset laws, regulations, building, plumbing, electrical, and fire codes.
- H. Development and operation of a utility-scale solar energy system shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats identified by the Town of Somerset or other federal or state regulatory agencies. The applicant must supply specific information on the project's potential impacts to migrating birds.
- I. The design, construction, operation, and maintenance of a utility-scale solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists.
- J. All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color.
- K. All transmission lines and wiring associated with a utility-scale solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and Town requirements. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan.
- L. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.
- M. Artificial lighting of utility-scale solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
- N. Any signage used to advertise the solar energy facility shall be in accordance with the Town's signage regulations.
- O. Any site containing a utility-scale solar energy system shall contain fencing or other device acceptable to the Town enclosing all solar energy system components that prevent safety hazards.

- P. A berm, landscape screen, or other opaque enclosure, or any combination thereof acceptable to the Town capable of screening the site may be required along any property line that abuts an existing residence.
- Q. After completion of a utility-scale solar energy system, the applicant shall provide a postconstruction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans.
- R. Compliance with regulatory agencies: The applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county, and local agencies having jurisdiction and approval related to the completion of a utility-scale solar energy system.
- S. A bond or other appropriate form of security acceptable to the Planning Board shall be provided to cover the cost of the removal and site restoration. Said bond or security shall be filed prior to construction. Said bond shall not be revocable and shall extend for a period of not less than:
 - (1) The actual removal and restoration without limit as duration.
 - (2) Shall transfer to cover any subsequent owner or operator of the system.
- T. Clearing, grading, storm water and erosion control:
 - (1) Before the Town of Somerset shall issue a clearing, grading, storm water or building permit for a utility-scale solar energy system, the applicant shall submit a storm water and Erosion Control Plan to the Town Engineer for its review and approval; and
 - (2) The Plan shall minimize the potential adverse impacts on wetlands and Class I and II streams and the banks and vegetation along those streams and wetlands and minimize erosion or sedimentation.
- U. Shall meet all Building permit requirements including the NYS Uniform Fire Prevention and Building Code standards, and be installed by a qualified solar installer.

§ 205-111. Maintenance, procedures, and fees.

- A. Time limit on completion. After the granting of a special permit of a utility-scale solar energy system with concurrent site plan approval or site plan approval of a groundmounted solar energy system by the Planning Board, the building permit shall be obtained within six months and the project shall be completed within twelve months. A six month extension of either the building permit or completion time can be issued by the Planning Board. If not constructed, the special permit and/or site plan approval shall automatically lapse within twelve months after the date of approval by the Town of Somerset Planning Board, unless an extension is applied for and approved.
- B. Inspections. Upon reasonable notice, the Town of Somerset Building Inspector or his or her designee may enter a lot on which a solar energy system has been approved for the purpose of compliance with any requirements or conditions. Twenty-four (24) hours advance notice by telephone to the owner/operator or designated contact person shall be

deemed reasonable notice. Furthermore, a utility-scale solar energy system shall be inspected annually by a New York State licensed professional engineer that has been approved by the Town or at any other time, upon a determination by the Town's Building Inspector that damage may have occurred, and a copy of the inspection report shall be submitted to the Town Building Inspector. Any fee or expense associated with this inspection shall be borne entirely by the permit holder.

- C. General complaint process. During construction, the Town Building Inspector can issue a stop order at any time for any violations of a special permit or building permit. After construction is complete, the permit holder of a utility-scale solar energy system shall establish a contact person, including name and phone number, for receipt of any complaint concerning any permit requirements.
- D. Continued Operation. A solar energy system shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all approval requirements and conditions. Further, the Building Inspector shall also have the right to request documentation from the owner for a solar energy system regarding the system's usage at any time.
- E. Removal. All solar energy systems shall be dismantled and removed immediately from a lot when the special permit or approval has been revoked by the Town of Somerset Planning Board or the solar energy system has been deemed inoperative or abandoned by the Building Inspector for a period of more than three hundred and sixty-five (365) days at the cost of the owner. If the owner does not dismantle and remove said solar energy system as required, the Town Board may, after a hearing at which the owner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and place the cost of removal as a tax lien on said parcel.
- F. Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a solar energy system shall be made by the Town Building Inspector, who shall provide the Owner with written notice by personal service or certified mail. Any appeal by the owner of the Building Inspector's determination of abandonment or inoperability shall be filed with the Town of Somerset Zoning Board of Appeals within thirty days of the Building Inspector causing personal service or mailing certified mail his written determination and the Board shall hold a hearing on same. The filing of an appeal does not stay the following time frame unless the Zoning Board of Appeals or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of the three hundred and sixty-six (366) days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals for the solar energy system shall automatically expire. G. Application and annual fees.

- (1) Utility-scale solar energy system. An applicant shall pay an initial application fee of Two Thousand Five (\$2500) Dollars, or such other amount as the Town Board may, from time to time, determine by resolution, upon filing its special permit and site plan application to cover the cost of processing and reviewing the application. If

approved, the Owner shall pay an annual fee of One Thousand (\$1000) Dollars, or such other amount as the Town Board may, from time to time, determine by resolution, to cover the cost of processing and reviewing the annual inspection report and for administration, inspections and enforcement.

(2) Site plan Application for a ground-mounted solar energy systems. An applicant shall pay the standard site plan review fee as determined from time to time by the Town Board, by resolution.

(3) The Town of Somerset reserves the right to, by local law, provide that no exemption pursuant to the provision of the New York State Real Property Tax Law (RPTL) § 487 shall be applicable within its jurisdiction.

H. Prior to the issuance of a building permit, the applicant shall document that all applicable federal, state, county, and local permits have been obtained.

I. Special permits for a utility-scale solar energy system granted under this article shall be issued only following a public hearing held as required by the Town Zoning Law. J. The Planning Board may:

(1) For utility-scale solar energy systems, grant a Special Permit, deny a Special Permit, or grant a Special Permit with written stated conditions. The Planning Board in making this decision shall make Findings in accordance this Article and with Section 205-83 of Article XX. Denial of a Special Permit shall be by written decision based upon substantial evidence considered by the Board. Upon issuance of a Special Permit, the applicant shall obtain a building permit for the utility-scale solar energy system.

(2) For utility-scale or ground-mounted solar energy systems when site plan review is required by the Board pursuant to this article, grant site plan approval, deny site plan approval or grant site plan approval with written stated conditions. Denial of site plan approval shall be by written decision based upon substantial evidence considered by the Board. Upon issuance of a site plan approval; the applicant shall obtain a building permit for the ground-mounted solar energy system.

K. Any changes or alterations post construction to a utility-scale or ground-mounted solar energy system shall be done only by amendment to the Special Permit and/or site plan (if required) subject to all requirements of this Code.

L. Special permits for utility-scale solar energy systems shall be assignable or transferrable so long as they are in full compliance with this article and all the conditions, and the Building Inspector is notified in writing at least fifteen (15) days prior thereto.

M. In addition to the requirements of this Article, the special permit application shall be subject to any other site plan approval requirements set forth in the Zoning Law.

§ 205-112. Revocation.

If the applicant violates any of the conditions of its special permit, site plan approval or violates any other local, state or federal laws, rules or regulations, this shall be grounds for revocation of the special permit or site plan approval. Revocation may occur after the applicant is notified in writing of the violations and the Town of Somerset Planning Board holds a hearing on same.

§ 205- 113. Interpretation; conflict with other law.

In their interpretation and application, the provisions of this article shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. It is not intended to interfere with, abrogate, or annul other rules, regulations or laws, provided that whenever the requirements of this article are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards, shall govern.

§ 205-114. Severability

If any section, subsection, phrase, sentence, or other portion of this article is for any reason held invalid, void, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

This Local Law shall take effect immediately upon filing with the Secretary of State of New York.