

**LOCAL LAW NUMBER No. 3 OF 2021**

**A LOCAL LAW OF THE TOWN OF CAROLINE  
RELATING TO SOLAR ENERGY SYSTEMS  
PROPOSED TO BE SITED IN THE TOWN OF CAROLINE, NEW YORK**

The Town Board of The Town of Caroline, New York, pursuant to Resolution dated May 19, 2021, does hereby adopt and pass this Local Law Number No. 3 of 2021, and therefore, be it so enacted as follows:

**SHORT TITLE:** – This local law shall be known as the “Solar Energy Siting Law” or, herein, as “this local law.”

**SECTION 1 – AUTHORITY:** This Local Law is adopted pursuant to the authority granted by §§ 130, 261, and 263 of the Town Law of the State of New York, and Municipal Home Rule Law § 10, which authorize the Town of Caroline to adopt zoning provisions and local laws that advance and protect the health, safety and welfare of the community, and individual provisions rely upon authorizations relating to the protection of public health and the environment as reflected in, variously but not exclusively, the Environmental Conservation Law, the Executive Law, the General Municipal Law, the Municipal Home Rule Law, the Parks, Recreation and Historic Preservation Law, the Statute of Local Governments, the Town Law, and the Vehicle and Traffic Law, as well as their associated regulations, including the regulations of the Department of State, Office of Renewable Energy Siting.

**SECTION 2 – PURPOSE:** The purpose of this local law is to facilitate and regulate the development and operation of certain renewable energy systems based upon the use of sunlight; to increase employment and business development in the Town of Caroline, to the extent reasonably Practicable, by furthering the installation of Solar Energy Systems; to mitigate the impacts of such systems upon environmental resources, such as important agricultural lands, forests, wildlife and other protected resources; and to provide a regulatory scheme for the designation of properties most suitable for the location, construction and operation of such systems. It is in the public interest to allow for and encourage renewable energy systems in accordance with the Town of Caroline Comprehensive Plan.

**SECTION 3 – APPLICABILITY:** The requirements of this law apply to all Solar Energy Systems proposed, modified, or installed after the effective date of this local law. This law does not apply to such systems that are lawfully in existence as of the date this local law becomes effective, except for modifications of existing uses or structures as specified in Section 5. Any use which would otherwise be subject to this law, which has been discontinued for a period of one (1) year or more, shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered to be in existence provided the same has been substantially commenced as of the effective date of this local law and fully constructed and completed within one (1) year from the effective date of this local law. This local law does not invalidate or override provisions or requirements of any other federal, state, or local law or regulations applicable to the subject matter hereof, and where this local law is in conflict with

any other such law or regulation, the more restrictive requirements shall apply unless preempted or doing so would invalidate or make a part of this Chapter void or unenforceable.

#### **SECTION 4 – DEFINITIONS:**

**Agricultural Monitor**—An individual hired to monitor and assess implementation of agricultural protection measures, measures designed to mitigate damage to agricultural lands, and measures designed to restore agricultural lands.

**Agricultural Land**—Land area under perennial crops, under permanent pastures, under annual crops, meadows for mowing or for pasture, and land temporarily fallow.

**Agriculturally Important Area**—Agricultural Land, Prime Farmland, Prime Farmland if Drained, or Farmland of Statewide Importance.

**Applicant**—A property owner, an entity or individual holding an option or contract to purchase a property, or any other affiliate or operator authorized in writing to act for such persons, who submits an application under the provisions of this Code.

**Building-Mounted**—A system or facility whose components are attached to the building envelope of any legally permitted building or structure, such as vertical facades, skylights, roofing materials and shading over windows.

**Chapter**—This Local Law.

**Code**—The general and specific regulations and policies of the Town of Caroline embodied in its local laws, ordinances, policies, Comprehensive Plan, and the requirements of processes, rules, and procedures attending each of the same.

**Code Officer**—The Town of Caroline Code Enforcement Officer, as well as any hereafter appointed zoning officer, or other person appointed for this purpose by resolution of the Town Board.

**Commissioning**—A systematic process that provides documented confirmation that a system functions according to the intended design criteria and complies with applicable code requirements.

**Common Birds in Steep Decline**—Those species of birds occurring in the Town that are identified by Partners in Flight as of concern because their numbers are declining rapidly.

**Critical Environmental Area**—Area which has been designated by the Town or by a state agency to recognize a specific geographical area and to alert Applicants that special resources or dangers in the area require careful attention.

**Decommissioning**—A systematic process for removing a Solar Energy System and restoring the land.

**Decommissioning and Site Restoration Plan**—A written plan that specifies how a Solar Energy System will be withdrawn from service and disposed of and how the site occupied by the system will be restored.

**Endangered Species**—Any plant or animal species so designated by the State of New York.

**Environmentally Sensitive Area**—Critical Environmental Area, Unique Natural Area, federally-designated wetland, or NYS-regulated wetland, water body or stream.

**Environmental Monitor**—An individual hired to monitor and assess implementation of environmental protection and environmental damage mitigation measures.

**Facility**—Small, Medium or Large Solar Energy Facility, as appropriate for the section.

**Farmland of Statewide Importance**—Land designated as such by the State of New York; such land may be included in National Resources Conservation Service (NRCS) maps and databases.

**Grid-Tied**—An electrical generation or energy storage system connected to the main electric utility grid. Grid-Tied systems may be designed to disconnect from the main electric utility grid (typically during a power outage) but are intended to primarily operate while connected to the main utility electric grid.

**Ground-Mounted**—A system or facility whose components are attached to a mounting system anchored to the ground (including by static weighting) and detached from any other structure.

**Important Views**—Distinctive Views and Noteworthy Views as enumerated in the Tompkins County Scenic Resources Inventory and Town of Caroline Scenic Resources Inventory.

**Large Solar Energy Facility**—A Solar Energy System with a Nameplate Capacity greater than 25kW and whose components cover an area of 2.5 acres or more.

**Medium Solar Energy Facility**—A Solar Energy System with a Nameplate Capacity greater than 25kW and whose components cover an area of less than 2.5 acres.

**Nameplate Capacity**—Manufacturer's output power rating of the system under industry standard test conditions, typically given in kW or MW.

**Non-Participating Property**—Any property where the owner of such property has not agreed in writing with the owner or operator of a Solar Energy System to allow certain uses to be sited adjacent to or in proximity to such Non-Participating Property.

**Non-Participating Residence**—Any residence, building or structure expected or intended for human occupation or use, including as a workplace, where the owner of such residence, building, or structure has not agreed in writing with the owner or operator of a Solar Energy System to allow certain uses to be sited adjacent to or in proximity to such Non-Participating structure.

**NYS**—New York State

**NYSAGM**—New York State Department of Agriculture and Markets

**NYSDEC**—New York State Department of Environmental Conservation

**Participating Residence**—Any residence or building or structure expected or intended for human occupation or use, including as a workplace, where the owner of such residence, building, or structure has agreed in writing with the owner or operator of a Solar Energy System to allow certain uses to be sited adjacent to or in proximity to such participating structure. Such an agreement (which may be a lease, license, or easement) may grant access to wind, light or air; or waive any noise, setback, or zoning requirements.

**Permit**—Specifically, this term means any building permit approval, any Unified Solar Permit Approval, and any site planning approval for solar facilities or improvements. Generally, this term includes the above matters, along and together with all other approvals and permits issued in relation to the same, including but not limited to land or subdivision approvals, land disturbance permits or approvals, aquifer or wellhead permits and approvals, road use construction and maintenance permits and approvals (including any road use agreements), flood plain permits, and local and state stormwater approvals and permits, including SPDES general permits.

**Permittee**—An Applicant who has been granted a uniform solar permit under the provisions of this law, or a site planning approval under this law.

**Permit Fee**—The building permit fees, the unified solar permit fees, site plan review fees (including as based upon the size and classification of the project), which fees may include other review fees and related chargeable costs as set forth in this law.

**Practicable**—Capable of satisfying the overall project purposes, after taking into consideration cost, time, technology and logistics.

**Prime Farmland**—Land designated as such by the United States Department of Agriculture/National Resources Conservation Service (NRCS) in NRCS maps and databases.

**Prime Farmland if Drained**—Land designated as such by the United States Department of Agriculture/National Resources Conservation Service (NRCS) in NRCS maps and databases.

**Review Board**—The Town of Caroline Review Board.

**Right-Of-Way**—The total width of any land reserved or dedicated as a thoroughfare, alley, pedestrian or bicycle way, railway, waterway, or utility line.

**Screen Planting Plan**—A plan describing and illustrating the locations and species to be planted. The intent of screen plantings is to improve the visual appearance of a Solar Energy System by screening all or part of the system from view.

**SEQR**—State Environmental Quality Review, established under Article 8 of the New York Environmental Conservation Law.

**Site Plan Review Law**—The Town of Caroline Site Plan Review Local Law of 2018 or successors to that law, as appropriate.

**Small Solar Energy Facility**—A Solar Energy System with a Nameplate Capacity of 25kW or less.

**Solar Panel**—A photovoltaic device capable of collecting and converting solar energy into electrical energy.

**Solar Energy System**—An energy system (such as a photovoltaic system, solar thermal power system, or based on any other technology) that converts solar energy into electrical energy. The system includes the solar energy collection devices, related balance of system equipment, and other associated infrastructure.

**Solar Photovoltaic System or Solar PV System**—An energy system that consists of one or more photovoltaic collection devices, solar energy related balance of system equipment, and other associated infrastructure with the primary intention of generating electricity, storing electricity, or otherwise converting solar energy to a different form of energy.

**Solar Thermal Power System**—An energy system that consists of one or more reflectors, receivers, and related balance of system equipment to collect and concentrate sunlight to produce high temperature heat which is then used to generate electricity.

**Species of Special Concern**—Any plant or animal species so designated by the State of New York.

**Stand-Alone**—An electrical generation or energy storage system that is not Grid-Tied.

**TEQR**—The Town of Caroline “mini-SEQR”, also known as the “Town Environmental Quality Review” local law and procedures, intended to augment New York State’s SEQR Act and implementing regulations relative to specific issues in and affecting the Town of Caroline, ranging from classifying actions to local procedures complementary to SEQR, as may now or hereafter exist, including as amended or recodified in the future.

**Threatened Species**—Any plant or animal species so designated by the State of New York.

**Unique Natural Area**—Area so designated by the Tompkins County Environmental Management Council. Unique Natural Areas have outstanding geological or environmental qualities.

**Visual Impact Assessment**—A report prepared by a registered Landscape Architect or other qualified professional that includes a Visual Assessment Form pursuant to SEQR and TEQR, and visually illustrates and evaluates the relationship of proposed new structures or alterations to nearby natural landscapes and to pre-existing structures in terms of visual character and intensity/scale of use (e.g., scale, materials, color, door and window size and locations, setbacks, roof and cornice lines, and other major design elements). Such an assessment also includes an analysis of the visual impacts on neighboring properties from the proposed development and alterations, and of the location and configuration of proposed structures, parking areas, open space, and gradient changes. Photo-simulations or balloon tests may be required as part of the Visual Impact Assessment.

## **SECTION 5 – SOLAR ENERGY SYSTEMS, IN GENERAL:**

- 5.1** The Town Board shall by resolution periodically set a fee schedule for a Permit Fee for the review and processing of Site Plan applications for Solar Energy Systems and a Monitoring Fee for the inspection of such systems during construction and until Commissioning of the system.
- 5.2** The requirements of this law apply to all Solar Energy Systems proposed, modified, or installed upon any lands or structures, excluding routine or minor general maintenance and repair. However, “routine or minor general maintenance and repair” shall not in any one situation or case involve the replacement or repair of 50% or more of the area or square footage of land occupancy of the use, or 50% of the value of the facility. The determination as to whether a given action or application qualifies as “routine or minor general maintenance and repair” shall be determined in each case and for all lands, parcels, and uses, by the Code Officer by written opinion, duly filed.
- 5.3** If a modification or expansion of an existing Solar Energy System is such that it would cause a change in class from a smaller to a larger class facility as defined in Section 4, the modification or expansion requires Site Plan review and approval by the Review Board as set forth below for the applicable new size class.
- 5.4** If a modification or expansion of an existing Medium Solar Energy Facility is such that the originally-approved area occupied by the Facility is increased by 15% or more, the modification or expansion requires Site Plan review and approval by the Review Board. If a modification or expansion of an existing Large Solar Energy Facility is such that the originally-approved area occupied by the Facility is increased by one (1) acre or more, the modification or expansion requires Site Plan review and approval by the Review Board.
- 5.5** In no case may a project be divided up or segmented for the purpose of avoiding review of the project as a whole. Separate simultaneous applications from the same applicant will only be allowed if the applications are for significantly discontinuous regions of the Town. The Review Board shall use its discretion in determining “significantly discontinuous.”

- 5.6** All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code (“Uniform Code”), the New York State Energy Conservation Construction Code (“Energy Code”), and Town of Caroline Codes.
- 5.7** In addition to the requirements of Section 5.6, Large Solar Energy Facilities shall be designed by a NYS licensed architect or licensed engineer and installed in conformance with the applicable International Building Code, International Fire Code, and National Fire Protection Association (NFPA) 70 Standards. All solar collectors must be located in compliance with NYSDEC and federal flood plain regulations and specifications as they pertain to waterways, water bodies, and designated wetlands. If one acre or more of land is to be disturbed, the applicant shall also submit a Stormwater Pollution Prevention Plan consistent with NYSDEC requirements. Blueprints signed by a Professional Engineer or Registered Architect showing the layout of the Facility shall be required. Plans shall show the proposed layout of the entire Facility along with a description of all components, whether on site or off site, including existing vegetation, existing or proposed access, gates, parking areas, mounting systems, inverters, panels, fencing, proposed clearing and grading of all sites involved, as well as proposed buffering and screening. These requirements complement, but do not replace, requirements listed in the Site Plan Review Law.
- 5.8** The installation of any Solar Energy System does not carry with it any right to a clear line of sight to the sun. It is understood that an Applicant, installer, or developer has the responsibility to make sure that the Solar Energy System(s) are positioned in such a way that they will achieve the optimal energy production Practicable. It is the responsibility of the Applicant, installer, or developer to obtain any and all rights, easements, or agreements as are or may be necessary to acquire and maintain a line of sight to the sun, if necessary.
- 5.9** No Solar Energy System or required screening shall be located in a manner that will unreasonably reduce or impede the amount of sunlight available to any adjacent lot.
- 5.10** No Solar Energy System shall be located in a manner as to reduce or impede the function of any other pre-existing Solar Energy System or any radio or microwave communication device.
- 5.11** No Grid-Tied Solar Energy System shall be installed until the Applicant has submitted evidence that the utility company has been informed of the customer’s intent to install such a system, including the receipt of documentation from said utility that it will connect the system.
- 5.12** All Building-Mounted Solar Energy Systems require a Building Permit (whether or not they are exempted in Section 6 from other provisions of this law).
- 5.13** The Code Officer is authorized to issue Stop Work orders during the construction of Solar Energy Systems.

## **SECTION 6 – SMALL SOLAR ENERGY FACILITIES**

- 6.1** A Solar Photovoltaic System that is a Small Solar Energy Facility should submit a Unified Solar Permit Application to the Code Officer. If the Code Officer determines that the system qualifies for a Unified Solar Permit, the Code Officer will review the Permit application. If the Code Officer determines that the system does not qualify for a Unified Solar Permit, the system requires review by the Review Board. The Review Board will base its review on the information in the Unified Solar Permit Application plus any additional materials the Review Board deems necessary.
- 6.2** Small Solar Energy Facilities that are not Solar Photovoltaic Systems require review by the Review Board. The Applicant should submit information equivalent to that in the Unified Solar Permit (modified as appropriate for the technology in question) plus any additional materials the Review Board deems necessary.

## **SECTION 7 – MEDIUM SOLAR ENERGY FACILITIES**

**7.1 Site Plan Review.** All Medium Solar Energy Facilities require Site Plan review and approval by the Review Board. Site Plan review will follow the procedures and requirements of the Site Plan Review Law, augmented as described in this section.

### **7.2 Application Requirements.**

- (a) **Sketch Plan.** The Sketch Plan shall include the requirements set forth in the Site Plan Review Law plus any additional materials deemed necessary by the Review Board.
- (b) **Preliminary Site Plan Review.** The Permit Fee is due at the time materials are submitted for a preliminary Site Plan Review. Materials for the preliminary Site Plan Review shall include those set forth in the Site Plan Review Law, any additional materials deemed necessary by the Review Board, and the following:
- (i) A State Environmental Quality Review Act (“SEQRA”) environmental assessment form (Short form or Full form, as appropriate), with supplemental information as may be required under TEQR, with accompanying data, schedules and mappings, each as reasonably requested by the Town.
  - (ii) If the property of the proposed project is to be leased, copies of the legal consent between all parties, including easements and other agreements, specifying the use(s) of the land for the life of the project. The life of the project herein means from the beginning of construction until the end of decommissioning and site restoration.
  - (iii) An emergency response plan.
  - (iv) Site drawings showing any potential shading of and from nearby structures or vegetation.
  - (v) Documentation of solar collector type including but not limited to equipment specification sheets for all Solar Panels and collection lines, significant components, mounting systems, and inverters that are to be installed, and a calculation of the Nameplate Capacity.
  - (vi) In addition to features specified in the Site Plan Review Law, maps of Environmentally Sensitive Areas and Important Views as defined in this local law.



- (vii) If construction will occur in an Environmentally Sensitive Area, a document explaining why construction in that area could not be avoided. The document should reference the best practices that will be followed and the mitigation measures that will be implemented.
  - (viii) An operation and maintenance plan, including description of continuing Solar Energy System maintenance and property upkeep, safe access to the installation, as well as general procedures for operational inspections and maintenance of the installation.
  - (ix) A Decommissioning and Site Restoration Plan.
- (c) **Final Site Plan Review.** Any Monitoring Fee and securitization for the Decommissioning and Site Restoration Plan (as further set forth in Section 7.6 and Section 9) are due at the time materials are submitted for the final Site Plan Review.

### 7.3 Design Guidelines for Medium Solar Energy Facilities

- (a) **Fencing.** Fences not exceeding eight (8) feet in height, including open-weave and solid fences, shall be permitted for the purpose of screening or enclosing the Solar Energy System. If utilized, fences should draw on the agricultural aesthetic of the Town, for example by using livestock-type fencing and wooden posts. Chain link, barbed, razor, and concertina wires, electrically charged wire, railroad ties, concrete masonry units, scrap metal, tarped, and cloth fences and accessory parts are strongly discouraged. Temporary interior electric fences for the purpose of managing grazing animals are acceptable. Any gates or other locked or secured or publicly inaccessible areas require a key box for emergency and fire access as required by the Uniform Code.
- (b) **Signage.** If the system is fenced, signs with the installer's or Facility operator's identification, emergency contact information, and appropriate warning signage shall be posted at any access point to the system. If the system is not fenced, signs with the installer's or Facility operator's identification, emergency contact information, and appropriate warning signage shall be posted at the site in a manner that makes the signs clearly visible. Solar equipment shall not be used for displaying any advertising. All signs, flags, streamers, or similar items, both temporary and permanent, are prohibited on solar equipment except: (i) manufacturer's or installer's identification; (ii) appropriate warning signs and placards; (iii) signs that may be required by a federal agency; and (iv) signs that provide a 24-hour emergency contact phone number and warn of any danger.
- (c) **Height.** If the Medium Solar Energy System is Ground-Mounted, no components shall exceed 20 feet above finished grade when the system is oriented at maximum tilt from horizontal.
- (d) **Lighting.** Motion-activated or staff-activated security lighting may be installed in the Solar Energy System, provided that such lighting conforms to the "Five Principles for Responsible Outdoor Lighting" developed by the International Dark-Sky Association (IDA) and Illuminating Engineering Society of North America (IES), 2020 version or an updated version. Lighting must use IDA-approved fixtures or equivalent and fixtures should have a backlight, uplight and glare rating calculated based on the Joint IDA-IES TM-15-11 ("Luminaire Classification System for Outdoor Luminaires"). Lighting levels should be in keeping with the rural character and small residential

communities of Caroline; examples include the LZ0 (no ambient lighting) and LZ1 (low ambient lighting) levels as described in the IDA Model Lighting Ordinance. If the system is fenced, such lighting should only be activated when the area within the fenced perimeter has been entered; if not fenced, when the area that might reasonably have been fenced has been entered.

- (e) **Noise.** The Solar Energy System shall be designed to meet the following maximum noise limits:
  - (i) Forty-five (45) dBA Leq (8-hour) at the outside of any existing Non-Participating Residence
  - (ii) Fifty-five (55) dBA Leq (8-hour) at the outside of any existing Participating Residence
  - (iii) Fifty-five (55) dBA Leq (8-hour) across any portion of a Non-Participating Property
- (f) **Utilities.** Practicable efforts, as determined by the Review Board, shall be made to place all utility connections for the Facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. When aboveground cables and transmission lines must cross agricultural fields, utility poles that provide longer spanning distances should be located on field edges to the greatest extent Practicable to avoid poles being situated in agricultural lands. Electrical transformers for utility interconnections may be aboveground if required by the utility provider.
- (g) **Revegetation and Vegetation Maintenance.** Land underneath Solar Panels within Agriculturally Important Areas should be maintained as vegetative cover. The Town encourages the use of non-invasive, native ground cover under and between the rows of Solar Panels. Vegetative cover shall be low-maintenance, drought-resistant, non-fertilizer-dependent and, to the extent Practicable, shall be pollinator-friendly to provide habitat for bees. Species used for vegetative cover should be non-toxic to animals that might likely be used for site maintenance via grazing (for example, fescue species with endosymbionts should not be used as they are toxic to sheep). Preferred vegetation maintenance methods are, in order of preference, (1) grazing and (2) mowing or other mechanical means. General use of herbicides or other chemical methods of vegetation control is strongly discouraged; spot application for controlling the establishment of harmful invasive species is acceptable.
- (h) **Stormwater Management.** The Solar Energy Facility shall be designed with a ground cover pervious to the maximum extent Practicable so that stormwater moves as sheet flow (i.e. not channelized) across the system and infiltrates the soil. The following criteria should be met in order to establish a pervious cover: (i) panels must be positioned to allow water to run off their surfaces; (ii) soil with adequate vegetative cover must be maintained under and around the panels; (iii) the area around each panel must be adequate to ensure proper, sufficient and effective vegetative growth under and between the panels.
- (i) **Building-Mounted Systems.** If the Medium Solar Energy Facility is Building-Mounted the system must:
  - (i) Be mounted or integral to a lawfully-permitted building or structure.
  - (ii) To the maximum extent Practicable, not obscure architectural details or features.

#### **7.4 Construction Requirements for Medium Solar Energy Facilities**

- (a) Prior to the Permittee's commencement of construction, the Permittee shall stake or flag the boundaries of any Environmentally Sensitive Areas in or close to the construction area.
- (b) The Permittee will handle and store all hazardous materials in accordance with industry best practices.

#### **7.5 Operation Requirements for Medium Solar Energy Facilities**

- (a) The Permittee will inform the Code Officer when the Facility is completed and submit a signed commissioning report to the town.
- (b) Permittee shall notify the Code Officer if for any reason there has been a lack of production for six (6) months. Notification shall occur within two (2) weeks of passing the six-month mark.
- (c) Upon Commissioning and periodically thereafter, noise and light levels should be measured to ensure compliance with the limits listed in Sections 7.3(d) and 7.3(e) or the Site Plan Review Law, whichever applies. Remedial action shall be taken to attain compliance if the measured levels exceed the allowed levels.
- (d) Equipment and vehicles not used in direct support, renovations, additions or repair of the Facility must not be stored or parked on the Facility site.

**7.6 Abandonment and Decommissioning.** A Decommissioning and Site Restoration Plan shall be submitted with each application in accordance with Section 9. The Decommissioning and Site Restoration Plan must meet the approval of the Review Board.

### **SECTION 8 – LARGE SOLAR ENERGY FACILITIES**

**8.1 Site Plan Review.** All Large Solar Energy Facilities require Site Plan review and approval by the Review Board. Site Plan review will follow the procedures and requirements of the Site Plan Review Law, augmented as described in this section.

**8.2 Community Meeting.** No less than thirty (30) days before the date on which an Applicant files materials for a preliminary Site Plan review, the Applicant shall conduct at least one meeting for community members who may be adversely impacted by the siting of the Facility. The purpose of the meeting is to educate the public about the proposed project, including the anticipated application date and likely construction timetable. The applicant shall provide notice of the meeting no sooner than twenty-one (21) days and no later than seven (7) days prior to the meeting.

**8.3 Application Requirements.**

- (a) **Sketch Plan.** The Sketch Plan shall include the requirements set forth in the Site Plan Review Law plus any additional materials deemed necessary by the Review Board.
- (b) **Preliminary Site Plan Review.** The Permit Fee is due at the time materials are submitted for a preliminary Site Plan Review. Materials for the preliminary Site Plan Review shall include those set forth in the Site Plan Review Law, any additional materials deemed necessary by the Review Board, and the following:

- (i) A State Environmental Quality Review Act (“SEQRA”) environmental assessment form (Short form or Full form, as appropriate), with supplemental information as may be required under TEQR, with accompanying data, schedules and mappings, each as reasonably requested by the Town.
- (ii) If the property of the proposed project is to be leased, copies of the legal consent between all parties, including easements and other agreements, specifying the use(s) of the land for the life of the project. The life of the project herein means from the beginning of construction until the end of decommissioning and site restoration.
- (iii) An emergency response plan.
- (iv) A description of all on-site equipment and systems to be provided to prevent or handle fire emergencies and hazardous substance incidents in compliance with the fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law.
- (v) Site drawings showing any potential shading of and from nearby structures or vegetation.
- (vi) Documentation of solar collector type including but not limited to equipment specification sheets for all Solar Panels and collection lines, significant components, mounting systems, and inverters that are to be installed, and a calculation of the Nameplate Capacity.
- (vii) In addition to features specified in the Site Plan Review Law, maps of Environmentally Sensitive Areas and Important Views as defined in this local law.
- (viii) If construction will occur in an Environmentally Sensitive Area, a document explaining why construction in that area could not be avoided. The document should reference the best practices that will be followed and the mitigation measures that will be implemented.
- (ix) A survey of the area that will be disturbed during construction to identify any Threatened Species, Endangered Species, Common Birds in Steep Decline, or Species of Special Concern. The survey is to be conducted by a professional or professionals qualified to do such work and may draw on existing public information on species occurrence in addition to field surveys, as required.
- (x) If it is determined that Threatened Species, Endangered Species, Common Birds in Steep Decline, or Species of Special Concern visit or occupy some of the area that will be disturbed by construction, a document explaining why construction in that area could not be avoided. The document should contain a mitigation plan detailing how impacts on the Threatened Species, Endangered Species, Common Birds in Steep Decline, or Species of Special Concern will be minimized. Steps should include but are not limited to stopping or delaying work to avoid important breeding, nesting, spawning and fledging (as appropriate to the affected species) times.
- (xi) A Screen Planting Plan.
- (xii) An operation and maintenance plan, including description of continuing Solar Energy System maintenance and property upkeep, safe access to the installation, as well as general procedures for operational inspections and maintenance of the installation.

(xiii) A Decommissioning and Site Restoration Plan.

- (c) **Final Site Plan Review.** Any Monitoring Fee and securitization for the Decommissioning and Site Restoration Plan (as further set forth in Section 8.8 and Section 9) are due at the time materials are submitted for the final Site Plan review.

**8.4 Community Benefits.** The Permittee shall provide tangible community benefits, such as Payment in Lieu of Taxes (PILOT) agreements, other payments pursuant to an agreement with the Town of Caroline, or support of other project(s) agreed to by the Town of Caroline.

#### **8.5 Design Requirements for Large Solar Energy Facilities**

- (a) **Facility Location.** To the greatest extent Practicable, the Facility should be located on the property or properties in question so as to reduce fragmentation of any remaining grassland and shrubland habitat. The intent is to minimize the Facility's impact on area-sensitive grassland and shrubland species.
- (b) **Hedgerows.** To the greatest extent Practicable, the Facility should avoid disturbance of existing hedgerows and trees lines between fields, pastures and meadows.
- (c) **Setbacks.** Solar facilities shall meet the setback requirements listed below. Compliance with these setbacks shall be shown in the materials submitted for the preliminary Site Plan Review. Fencing, collection lines, access roads and landscaping may occur within the setback.
- (i) Centerline of Public Roads: 50 feet.
  - (ii) Non-Participating Property lines (nonresidential): 50 feet.
  - (iii) Non-Participating Property lines of parcels containing a single or multi-family residence: 200 feet.
  - (iv) Non-Participating Residence (unless permanently abandoned): 250 feet.
  - (v) Participating Property line: 0 feet
  - (vi) Parcel adjacent to a parcel with a similar-scale solar facility: 0 feet.
- (d) **Height.** Solar collection devices shall have no components that exceed 20 feet above finished grade when the system is oriented at maximum tilt from horizontal.
- (e) **Appurtenant structures.** All appurtenant structures of the Facility, including but not limited to equipment structures, storage facilities, transformers, and substations, must be architecturally compatible with each other. Whenever Practicable, structures should be screened from view by vegetation and joined or clustered to avoid or minimize adverse visual impacts.
- (f) **Visual Effect.** The Facility must have the least visual effect reasonably Practicable on the surroundings, as determined by the Review Board. The determination must be based on site specific conditions including topography, adjacent structures, and roadways. The Review Board may request that a Visual Impact Assessment be submitted. Solar panels shall have anti-reflective coatings. An appropriate methodology will be used to ensure that solar glare exposure at any Non-Participating Residence, airport or public roadway will be avoided or minimized, and will not result in complaints, impede traffic movements or create safety hazards.
- (g) **Agriculturally Important Areas.** If any part of the Facility is sited on an Agriculturally Important Area, the maintenance plan of the Facility should be designed

to maintain or improve the quality of the soil in the Agriculturally Important Area. The Permittee may be required to seed up to twenty percent (20%) of the total surface area on the lot between and around the panels with native perennial vegetation designed to attract pollinators.

- (h) **Fencing.** Fences not exceeding eight (8) feet in height, including open-weave and solid fences, shall be permitted for the purpose of screening or enclosing the Facility. If utilized, fences should draw on the agricultural aesthetic of the Town, for example by using livestock fencing and wooden posts. Chain link, barbed, razor, and concertina wires, electrically charged wire, railroad ties, concrete masonry units, scrap metal, tarped, and cloth fences and accessory parts are strongly discouraged. Temporary interior electric fences for the purpose of managing grazing animals are acceptable. Warning signs with the owner's name and emergency contact information must be placed on any access point to the Facility.
- (i) **Signage.** If the system is fenced, signs with the installer's or Facility operator's identification, emergency contact information, and appropriate warning signage shall be posted at any access point to the system. If the system is not fenced, signs with the installer's or Facility operator's identification, emergency contact information, and appropriate warning signage shall be posted at the site in a manner that makes the signs clearly visible. Solar equipment shall not be used for displaying any advertising. All signs, flag, streamers, or similar items, both temporary and permanent, are prohibited on solar equipment except: (a) manufacturer's or installer's identification; (b) appropriate warning signs and placards; (c) signs that may be required by a federal agency; and (d) signs that provide a 24-hour emergency contact phone number and warn of any danger.
- (j) **Lighting.** Motion-activated or staff-activated security lighting may be installed in the Solar Energy System, provided that such lighting conforms to the "Five Principles for Responsible Outdoor Lighting" developed by the International Dark-Sky Association (IDA) and Illuminating Engineering Society of North America (IES), 2020 version or an updated version. Lighting must use IDA-approved fixtures or equivalent and fixtures should have a backlight, uplight and glare rating calculated based on the Joint IDA-IES TM-15-11 ("Luminaire Classification System for Outdoor Luminaires"). Lighting levels should be in keeping with the rural character and small residential communities of Caroline; examples include the LZ0 (no ambient lighting) and LZ1 (low ambient lighting) levels as described in the IDA Model Lighting Ordinance. If the system is fenced, such lighting should only be activated when the area within the fenced perimeter has been entered; if not fenced, when the area that might reasonably have been fenced has been entered.
- (k) **Noise.** The Facility shall be designed to meet the following maximum noise limits:
  - (i) Forty-five (45) dBA Leq (8-hour) at the outside of any existing Non-Participating Residence
  - (ii) Fifty-five (55) dBA Leq (8-hour) at the outside of any existing Participating Residence
  - (iii) Fifty-five (55) dBA Leq (8-hour) across any portion of a Non-Participating Property
- (l) **Screen Plantings.** Native species are preferred. A mix of deciduous and evergreen varieties is preferred.

- (m) **Revegetation and Vegetation Maintenance.** Land underneath Solar Panels within Agriculturally Important Areas should be maintained as vegetative cover. The Town encourages the use of non-invasive, native ground cover under and between the rows of Solar Panels. Vegetative cover shall be low-maintenance, drought-resistant, non-fertilizer-dependent and, to the extent Practicable, shall be pollinator-friendly to provide habitat for bees. Species used for vegetative cover should be non-toxic to animals that might likely be used for site maintenance via grazing (for example, fescue species with endosymbionts should not be used as they are toxic to sheep). Preferred vegetation maintenance methods are, in order of preference, (1) grazing and (2) mowing or other mechanical means. General use of herbicides or other chemical methods of vegetation control is strongly discouraged; spot application for controlling the establishment of harmful invasive species is acceptable.
- (n) **Stormwater Management.** The solar energy facility shall be designed with a ground cover pervious to the maximum extent Practicable so that stormwater moves as sheet flow (i.e. not channelized) across the system and infiltrates the soil. The following criteria should be met in order to establish a pervious cover: (i) panels must be positioned to allow water to run off their surfaces; (ii) soil with adequate vegetative cover must be maintained under and around the panels; (iii) the area around each panel must be adequate to ensure proper, sufficient and effective vegetative growth under and between the panels.
- (o) **Utilities.** Practicable efforts, as determined by the Review Board, shall be made to place all utility connections for the Facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. When aboveground cables and transmission lines must cross agricultural fields, utility poles that provide longer spanning distances should be located on field edges to the greatest extent Practicable to avoid poles being situated in agricultural lands. Electrical transformers for utility interconnections may be aboveground if required by the utility provider.
- (p) **Ingress and Egress.** Any new on-site vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction; they should not be more than sixteen (16) feet in width and should be constructed at grade. If a locked gate at the intersection of the access way and a public road is required to obstruct entry by unauthorized vehicles, such gate must be located entirely upon the lot and not on the public Right-of-Way. Any gates or other locked or secured or publicly inaccessible areas require a key box for emergency and fire access as required by the Uniform Code.

## 8.6 Construction Requirements for Large-Scale Solar Energy Systems

- (a) **Notice.** At least fourteen (14) business days prior to the Permittee's commencement of construction date, the Permittee shall notify the public of the intended construction as follows:
  - (i) Provide notice by mail in plain language reasonably understandable to the average person to host landowners and landowners within one (1) mile;
  - (ii) Provide notice in plain language reasonably understandable to the average person, to local Town and County officials and to emergency personnel.
- (b) **Construction Hours.** Construction and routine maintenance activities on the facility shall be limited to 7 a.m. to 8 p.m. Monday through Saturday and 8 a.m. to 8 p.m. on

Sunday and national holidays, with the exception of construction and delivery activities, which may occur during extended hours beyond this schedule on an as-needed basis. If, due to safety or continuous operation requirements, construction activities are required to occur beyond the allowable work hours, the Permittee shall notify the affected landowners and the Code Officer. Such notice shall be given at least twenty-four (24) hours in advance, unless such construction activities are required to address emergency situations threatening personal injury, property, or severe adverse environmental impact that arise less than twenty-four (24) hours in advance. In such cases, as much advance notice as is practical shall be provided.

- (c) **Flagging.** At least two (2) weeks before tree clearing or ground disturbing activities, the Permittee shall stake or flag the planned limits of disturbance (LOD), the boundaries of any Environmentally Sensitive Areas and known archeological sites in the LOD, the edges of all access roads whether on or off the ROW, limits of areas to be cleared and other areas needed for construction, including, but not limited to, solar array work areas, proposed infiltration areas for post-construction stormwater management, and laydown and storage areas. In addition, archeological sites shall be surrounded with construction fencing and a sign stating restricted access.
- (d) **Preservation of Vegetation.** Tree and vegetation clearing shall be limited to the minimum necessary for facility construction and operation. All Practicable efforts must be made to preserve natural vegetation during the construction process, unless vegetation removal is required to minimize the shading of solar collectors.
- (e) **Dig Safely.** Prior to the commencement of construction, the Permittee shall become a member of Dig Safely New York. The Permittee shall require all contractors, excavators, and operators associated with its facilities to comply with best practices for protecting underground facilities.
- (f) **Air Emissions.** To minimize air emissions during construction, the Permittee shall:
  - (i) Prohibit contractors from leaving generators idling when electricity is not needed and from leaving diesel engines idling when equipment is not actively being used.
  - (ii) Implement dust control procedures to minimize the amount of dust generated by construction activities.
  - (iii) Use construction equipment powered by electric motors where feasible, or by ultra-low sulfur diesel fuel.
  - (iv) Dispose or reuse cleared vegetation in such a way that that minimizes greenhouse gas emissions (e.g., lumber production or composting).
- (g) **Construction Debris.** Any debris or excess construction materials shall be removed to a facility duly authorized to receive such material. No burying of construction debris or excess construction materials is allowed.
- (h) **Environmentally Sensitive Areas.** The mitigation plan required by Section 8.3(b)(viii) shall be implemented. If the Code Officer determines that the mitigation plan is not being adequately followed, an Environmental Monitor, paid for by the Permittee, will be hired to ensure future compliance. If deemed necessary by the Code Officer, a Stop Work order will be issued until an Environmental Monitor is in place.
- (i) **Threatened Species, Endangered Species, Common Birds in Steep Decline and Species of Special Concern.** The mitigation plan required by Section 8.3(b)(x) shall be implemented. If the Code Officer determines that the mitigation plan is not being adequately followed, an Environmental Monitor, paid for by the Permittee, will be hired



to ensure future compliance. If deemed necessary by the Code Officer, a Stop Work order will be issued until an Environmental Monitor is in place.

- (j) **Agriculturally Important Areas.** If construction of the Facility temporarily or permanently affects an Agriculturally Important Area, the Facility shall be constructed consistent with the NYSAGM “Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands,” revision dated 10/18/2019. If the Code Officer determines that the NYSAGM guidelines are not being adequately followed, an Agricultural Monitor, paid for by the Permittee, will be hired to ensure future compliance. If deemed necessary by the Code Officer, a Stop Work order will be issued until an Agricultural Monitor is in place.
- (k) **Environmental Monitor and Agricultural Monitor.** The Environmental Monitor and the Agricultural Monitor are each authorized to issue Stop Work orders. If both an Environmental Monitor and an Agricultural Monitor are needed, the same individual may do both jobs if he or she is qualified to do both kinds of monitoring.
- (l) **Hazardous Materials.** The Permittee will handle and store all hazardous materials in accordance with industry best practices.
- (m) **Contact Information.** Prior to the completion of construction, the Permittee shall provide the Code Officer with the contact name, telephone number, email and mailing address of the facility operations manager.
- (n) **Restoration Requirements.** If the Facility is located in an Agriculturally Important Area, prior to commissioning post-construction site restoration shall take place as described in the NYSAGM “Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands”, revision dated 10/18/2019.

## **8.7 Operation Requirements of Large Solar Energy Facilities**

- (a) The Permittee will inform the Code Officer when the Facility is completed and submit a signed commissioning report to the town.
- (b) Permittee shall notify the Code Officer if for any reason there has been a lack of production for six (6) months. Notification shall occur within two (2) weeks of passing the six-month mark.
- (c) In the event of any catastrophic incident involving the Facility and its associated equipment, the Permittee shall notify the Code Officer no later than twelve (12) hours following such an event.
- (d) Noise levels and light levels should be monitored periodically to ensure compliance with the limits listed in Sections 8.5(j) and 8.5(k) or the Site Plan Review Law, whichever applies. Remedial action shall be taken to attain compliance if the measured levels exceed the allowed levels.
- (e) The Permittee shall retain a qualified landscape architect, arborist, or ecologist to inspect the screen plantings for two (2) years following installation to identify and replace any plant material that did not survive, appears unhealthy, and/or otherwise needs to be replaced.
- (f) Equipment and vehicles not used in direct support, renovations, additions or repair of the Facility must not be stored or parked on the Facility site.

**8.8 Abandonment and Decommissioning.** A Decommissioning and Site Restoration Plan shall be submitted with each application in accordance with Section 9. The Decommissioning and Site Restoration Plan must meet the approval of the Review Board.

## **SECTION 9 – ABANDONMENT AND DECOMMISSIONING OF SOLAR ENERGY FACILITIES**

**9.1** A Decommissioning and Site Restoration Plan is for Facility decommissioning and site restoration in the event the Facility cannot be completed, is considered abandoned, is no longer operating, or after the end of the useful life of the Facility.

**9.2** A Decommissioning and Site Restoration Plan shall, at a minimum, contain the following elements and should describe how the following requirements will be met:

- (a) Specify when and what constitutes an event requiring decommissioning, including abandonment of the facility. In all cases the violation of any Permit or site plan conditions, the lack of a current Permit or site plan approval, a violation or lack of maintenance of any required decommissioning bond or security, shall be an event requiring decommissioning. In the absence of a maintenance plan approved by the Review Board allowing for an extended outage, the lack of production for one year shall be an event requiring decommissioning.
- (b) Specify the form and type of notice required to the Town in the event of any abandonment, decommissioning, sale, transfer, partial transfer, assignment, or occurrence of any event which may result in an act or partial order requiring partial or complete decommissioning of the site.
- (c) All components of the Facility are to be removed (to a depth of four (4) feet below grade in agricultural land and three (3) feet below grade in non-agricultural land) and the site restored, as near as Practicable, to a state the average person would consider at least as good as pre-Facility conditions. Access roads shall be removed and the road area restored, unless a separate agreement is reached with the Town and/or landowner, as appropriate. The Review Board may allow the owner or operator to leave landscaping, designated below-grade foundations, enclosures other than container structures, or concrete pads in place to minimize erosion and disruption to vegetation on a case-by-case basis.
- (d) The Town of Caroline strongly encourages that all reusable and recyclable components be sold for reuse or recycled to the greatest extent Practicable. The Decommissioning and Site Restoration Plan should discuss recycling and reuse opportunities; if something is reusable or recyclable but the Applicant decides not to reuse or recycle it, the Decommissioning and Site Restoration Plan should provide a valid rationale for that choice. It is understood that reuse and recycling options will change over time and hence it is expected that the reuse and recycling plan will need to be updated at the time of decommissioning.
- (e) All non-reusable and non-recyclable solid and hazardous waste shall be disposed of in accordance with local, state, and federal waste disposal regulations, including the removal of any damaged or contaminated soils. No designation of any facilities by a 'beneficial use declaration' shall be permitted to vary this clean-up and

remediation/disposal rule unless approved by the Review Board at the time of the application.

- (f) Agriculturally Important Areas shall be restored in accordance with the NYSAGM “Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands”, revision dated 10/18/2019. If, at the time of Decommissioning, NYSAGM has further revised its guidelines, the Review Board may, at its discretion, require compliance with the further revised guidelines.
- (g) Soil and vegetation shall be remediated to return the parcel to its original condition prior to construction, including an adequate layer of topsoil where existing topsoil has been removed or eroded. Restoration may require decompacting and regrading soil, repair of drainage structures, and mitigation of any topsoil deficiency, as necessary to restore the site after decommissioning.
- (h) An expected timeline for execution of the Decommissioning and Site Restoration Plan shall be described, together with a cost estimate detailing the projected cost of executing the plan, duly prepared and sealed by a Professional Engineer. Cost estimations must take inflation into account over the expected life of the project, and have a mechanism to ensure the periodic updating and securitization of decommissioning and restoration costs.

**9.3** Removal of Solar Energy Facilities must be completed in accordance with the Decommissioning and Site Restoration Plan to the satisfaction of the Code Officer. If the Facility is not fully decommissioned after being considered abandoned, the municipality may remove the Facility and restore the property using the security required by Section 9.4 and impose a lien on the property to cover any remaining costs to the municipality to complete the Decommissioning and Site Restoration Plan.

**9.4** An Applicant required to submit a Decommissioning and Site Restoration Plan shall provide a form of surety, either through escrow agreement, bond, letter or credit, or like form approved by the Review Board, to cover all costs of decommissioning and removal calculated at a minimum of 125% of the approved estimated cost of decommissioning and restoration. The estimate of costs shall be prepared by a licensed engineer and be sealed accordingly, and the annual cost shall take into account New York State prevailing wage rules and any inflationary rise in surety amounts covered, contain an evergreen clause, or otherwise account for increases in the cost of decommissioning and restoration in a manner as approved by the Review Board. At a minimum, at least once every 3 years after any approval or Permit is issued by the Town, the Applicant or then future or successor owner or operator of the facility shall provide an updated certified cost estimate for decommissioning, removal, and restoration, and if the resulting 125% cost requirement shows that the existing security or bond is monetarily insufficient, then the owner shall update such bond or undertaking, or see to its replacement or supplementation in an amount to equal such updated minimum 125% of cost number.

**SECTION 10—TRANSFERS OF PERMITS AND APPROVALS, OR CHANGES IN FACILITY OWNERSHIP:**

- 10.1** Approvals and Permits are issued to specific users for specific operations, and approvals and Permits shall not be assigned, transferred or sold to a new owner, new user, different premises, or to a new or changed operation or operator, except in accordance with the provisions of this section. A Permit Fee may apply to the review of any assignment or transfer by the Code Officer or Review Board. In the sole discretion of the Code Officer, any review may be transferred to the Review Board when unique issues or concerns are presented.
- 10.2** General building and Unified Solar Permits may be transferred to new owners, along with any certificates of occupancy or compliance, at the time of transfer of land titles when recorded in the Tompkins County Clerk's Office. No special language is required and the transfer of title to the solar fixtures and improvements shall be deemed merged with the transfer of fee title.
- 10.3** A Small Solar Energy Facility Permit or approval may be transferred to a new owner of the land or facilities after the new owner or operator has agreed in writing to be bound and abide by all requirements of such Permit or approval, in such form as may be reasonably required by the Code Officer.
- 10.4** A Medium Solar Energy Facility Permit or approval may only be transferred if there is no material violation of, or non-compliance with, all Permit and approval conditions, and the new owner applies for approval of the transfer of such Permit(s) or approval(s) by the Review Board, specifying, in each case, how compliance with the Permit or approvals will be maintained, including but not limited to how the new owner or operator, including as a proposed new Permittee, plans to document or verify: (i) the lawful assumption of all liabilities and all obligations for the site, including its operation and maintenance, general site management, and compliance with industry, utility, and Town Permit and approval conditions; (ii) assumption or replacement of the Operation and Maintenance Plan for each site; (iii) assumption or replacement of Decommissioning and Site Restoration Plan; and (iv) replacement of any required deposits or sureties for the Decommissioning and Site Restoration Plan.
- 10.5** A Large Solar Energy Facility Permit or approval may only be transferred if there is no material violation of, or non-compliance with, all Permit and approval conditions, and the new owner applies for approval of the transfer of such Permit(s) or approval(s) by the Review Board, specifying, in each case, how compliance with the Permit or approvals will be maintained, including but not limited to how the new owner or operator, including as a proposed new Permittee, plans to document or verify: (i) the lawful assumption of all liabilities and all obligations for the site, including its operation and maintenance, general site management, and compliance with industry, utility, and Town Permit and approval conditions; (ii) assumption or replacement of the Operation and Maintenance Plan for each site; (iii) assumption or replacement of Decommissioning and Site Restoration Plan; (iv) replacement of any required deposits or sureties for the Decommissioning and Site Restoration Plan, including any Restoration Requirements; (v) assumption or replacement of contracts or agreements with any Environmental Monitors or Agricultural Monitors

including, as or when applicable, the identification of new monitors, together with their qualifications and other information reasonably requested by the Review Board.

- 10.6** When undertaking any review, the Code Officer and Review Board shall act in their discretion relative to any reviews or approvals of assignments or transfers of Permits or approvals and, in all cases, such officers may request additional relevant materials, verify that the proposed transfer, assignment, or other conveyance is to a fiscally solvent individual or organization that has the personnel or capability to operate and manage the site in accordance with legal requirements and all Permit or approval requirements. The Code Officer or Review Board may require the transferor or transferee to certify that transferee meets this requirement, together with documentation as to why such certification is accurate and not speculative.
- 10.7** Any transfer, conveyance, or assignment of any Facility or any Permit or approval that is not undertaken and approved (when so required) by these provisions shall be a violation of this law, and no such transfer, conveyance or assignment shall relieve the Permittee from its liabilities or obligations under this law. Despite such violation, acceptance of any transfer, conveyance, or assignment of any Facility or any Permit or approval constitutes for all purposes the acceptance by such new owner of all of the obligations, terms, limitations and conditions agreed to by the original owner, as fully and effectually as if such transferee-new owner were a Permittee or the original Permittee.
- 10.8** Any transfer, conveyance or assignment of any Facility, Permit, or approval that has been revoked or has expired shall require a review of such Permit renewal and transfer, conveyance, and assignment as if the same were a new application.

**SECTION 11—ENFORCEMENT:** Any violation of this local law shall be enforced in accordance with this Chapter, the Code, or applicable law. All provisions of New York State law generally applicable to misdemeanors shall apply to any criminal proceeding brought under this Chapter, and any misdemeanor shall be deemed an unclassified misdemeanor. For purposes of this Chapter, the Town's Justice Court is hereby vested and imbued with jurisdiction to issue administrative and other warrants in compliance with the New York Criminal Procedure Law and administrative codes of the State of New York, as well as to hear and adjudicate claims and allegations relating to the criminal or civil violation of this Chapter and thereafter, if appropriate, impose any fine, penalty, or sanction.

- 11.1** Any person or entity that violates any of the provisions of this Chapter shall be guilty of a criminal violation and subject to a fine of not more than \$2,500, or subject to a civil penalty of not more than \$5,000 to be recovered by the Town in a civil action. Each week that any noncompliance or violation continues is and may be charged as a separate violation.
- 11.2** The application or pursuit of any civil or criminal fine, sanction, or penalty shall not preclude the pursuit of any other remedy by the Town, or be deemed an election of remedies, including but not limited to the right to seek equitable relief. The rights and remedies provided by this Chapter shall not be in lieu of, and shall be in addition to, any

other right or remedy available to the Town, whether sounding in enforcement or otherwise.

**11.3** Whenever the Town shall believe from evidence satisfactory to it that there is a violation of this Chapter, the Town may bring an action to enjoin and restrain the continuation of such violation, or to compel compliance with this Chapter and with law. In such action preliminary and final relief may be granted under Article 63 of the Civil Practice Law and Rules and, in connection therewith, the Town shall not be required to: (i) post any bond or undertaking; (ii) prove that there is, or will likely be, irreparable harm; or (iii) demonstrate that the Town has no adequate remedy at law. In such action, the court may also award any damages or other relief requested, including declaring the rights and interests of any parties and imposing any civil penalties.

**SECTION 12—SEVERABILITY:** The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional must not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which must remain in full force and effect.

**SECTION 13—EFFECTIVE DATE:** This local law shall take effect immediately.