

LOCAL LAW FILING

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County
City
Town of Richmond
Village

Local Law No. _____ of the year **2018**

A Local Law to Amend the Zoning Law of the Town of Richmond to Adopt Regulations Pertaining to Solar Energy Systems

(Insert Title)

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

County
City
Town of Richmond as follows:
Village

Section 1: Legislative Intent.

The Town Board of the Town of Richmond finds that it is in the public interest to provide for and encourage renewable energy systems based on sunlight and at the same time to protect the significant natural, visual, historic, economic, cultural and agricultural resources of the Town and to minimize adverse impacts by protecting residential areas and other land uses from impacts associated with such solar energy systems.

Section 2: Authority

This Local Law is adopted pursuant to §§261-263 of the New York State Town Law, which authorizes the Town of Richmond to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefore.

Section 3: Subsection (3) of Paragraph C. of § 200-12 (Permitted accessory uses in the A Residential/Agricultural District) of the Zoning Law of the Town of Richmond is hereby deleted and a new Subsection (3) is inserted in its place to read as follows:

- (3) Earth stations, windmills, ground-mounted, freestanding solar energy systems and rooftop or building-mounted solar systems. See § 200-50 for additional regulations.

Section 4: Paragraph D. of § 200-12 (Special permit uses in the A Residential/Agricultural District) of the Zoning Law of the Town of Richmond is hereby amended with the insertion of a new Subsection (9) to read as follows:

- (9) Large-scale solar energy systems.

Section 5: Subsection (8) of Paragraph C. of § 200-13 (Permitted accessory uses in the B Residential District) of the Zoning Law of the Town of Richmond is hereby deleted and a new Subsection (8) is inserted in its place to read as follows:

- (8) Earth stations and rooftop or building-mounted solar systems. See § 200-50 for additional regulations.

Section 6: Subsection (4) of Paragraph C. of § 200-14 (Permitted accessory uses in the C Residential/Recreational District) of the Zoning Law of the Town of Richmond is hereby deleted and a new Subsection (4) is inserted in its place to read as follows:

- (4) Earth stations, windmills, ground-mounted, freestanding solar energy systems and rooftop or building-mounted solar systems. See § 200-50 for additional regulations.

Section 7: Subsection (6) of Paragraph C. of § 200-15 (Permitted accessory uses in the D Residential/Lakeside District) of the Zoning Law of the Town of Richmond is hereby deleted and a new Subsection (6) is inserted in its place to read as follows:

- (6) Earth stations and rooftop or building-mounted solar systems. See § 200-50 for additional regulations.

Section 8: Subsection (5) of Paragraph C. of § 200-16 (Permitted accessory uses in the E Business District) of the Zoning Law of the Town of Richmond is hereby deleted and a new Subsection (5) is inserted in its place to read as follows:

- (5) Earth stations and rooftop or building-mounted solar systems. See § 200-50 for additional regulations.

Section 9: Subsection (5) of Paragraph C. of § 200-17 (Permitted accessory uses in the F Industrial District) of the Zoning Law of the Town of Richmond is hereby deleted and a new Subsection (5) is inserted in its place to read as follows:

- (5) Earth stations, windmills, ground-mounted, freestanding solar energy systems and rooftop or building-mounted solar systems. See § 200-50 for additional regulations.

Section 10: Paragraph D. of § 200-17 (Special permit uses in the F Industrial District) of the Zoning Law of the Town of Richmond is hereby amended with the insertion of a new Subsection (12) to read as follows:

- (12) Large-scale solar energy systems.

Section 11: Subsection (5) of Paragraph C. of § 200-18 (Permitted accessory uses in the G Commercial/Light Industrial District) of the Zoning Law of the Town of Richmond is hereby deleted and a new Subsection (5) is inserted in its place to read as follows:

- (5) Earth stations, windmills, ground-mounted, freestanding solar energy systems and rooftop or building-mounted solar systems. See § 200-50 for additional regulations.

Section 12: Paragraph D. of § 200-18 (Special permit uses in the G Commercial/Light Industrial District) of the Zoning Law of the Town of Richmond is hereby amended with the insertion of a new Subsection (10) to read as follows:

- (10) Large-scale solar energy systems.

Section 13: The title of § 200-50 of the Zoning Law of the Town of Richmond is hereby changed to “Antennas, towers, windmills and solar energy systems.” and the title of Paragraph D of § 200-50 of the Zoning Law of the Town of Richmond is hereby changed to “Windmills.”.

Section 14: The references to “Subsection E” in § 200-50 of the Zoning Law of the Town of Richmond shall be changed to “Paragraph F” in each of the following:

- Paragraph A. (2) (a);
- Paragraph C. (2) (c);
- Paragraph D. (1) (a); and
- Paragraph D. (1) (c).

Section 15: Subparagraph (a) of subsection (1) of Paragraph D. of § 200-50 of the Zoning Law of the Town of Richmond is hereby deleted and a new subparagraph (a) is inserted in its place to read as follows:

- (a) Permitted uses. Windmills are permitted uses in applicable districts, subject to receipt of a building/zoning permit and special use permit in accordance with Subsection D (1) (b) and area restrictions of Subsection D (2) below and Paragraph F.

Section 16: Subsection (2) of Paragraph D. of § 200-50 of the Zoning Law of the Town of Richmond is hereby deleted and a new subparagraph (a) is inserted in its place to read as follows:

- (2) Area restrictions.
 - (a) No more than one windmill shall be located on any lot.

- (b) No freestanding windmill shall be erected, constructed or maintained except as an accessory structure to an existing building.
- (c) All freestanding windmills shall be located in the rear yard at least 10 feet from the rear and side lot lines, or at a distance equal to the structure height plus six feet, whichever is greater.

Section 17: Paragraph E. of § 200-50 of the Zoning Law of the Town of Richmond is hereby relettered to be Paragraph F. and a new Paragraph E is inserted in its place to read as follows:

E. Solar Energy Systems.

(1) Statement of Purpose.

This Solar Energy Law is adopted to advance and protect the public health, safety, and welfare of the Town of Richmond, including, but not limited to:

- (a) Taking advantage of a safe, abundant, renewable, and non-polluting energy resource;
- (b) Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses;
- (c) Increasing employment and business development in the region by furthering the installation of solar energy systems.
- (d) To make the community more resilient during storm events;
- (e) To aid in the energy independence of the community as well as the country;
- (f) To diversify energy resources to decrease dependence on the grid; and
- (g) To encourage investment in public infrastructure supportive of solar, such as generation facilities, grid-scale transmission infrastructure, and energy storage sites.

(2) Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AGRICULTURAL LANDS - All that real property within the boundaries of the Town of Richmond currently used for agricultural farm operations or upon which agricultural practices are being utilized or upon which agricultural farm operations or agricultural practices may in the future be established or utilized.

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

FARMLAND OF STATEWIDE IMPORTANCE - Land, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of state wide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

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

GROUND-MOUNTED, FREESTANDING SOLAR ENERGY SYSTEM - A solar energy system that is anchored to the ground and attached to a frame, pole or other mounting system, detached from any other structure for the purpose of producing electricity for onsite or off site consumption.

KILOWATT (kW) - A unit of electrical power equal to 1,000 watts, which constitutes the basic unit of electrical demand. A watt is a metric measurement of power (not energy) and is the rate (not the duration) at which electricity is used; 1,000 kW is equal to one megawatt (MW).

LARGE-SCALE SOLAR ENERGY SYSTEM – A Solar Energy System that is ground-mounted and produces a rated power of more than twenty-five (25) kilowatts (kW) or greater per hour of energy primarily for the purpose of offsite sale and/or consumption.

MEGAWATT (MW) - A unit of electric capacity or electric load. A MW is equal to 1,000 kilowatts (kW).

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

OFFSITE USE - A solar energy system designed to be used primarily for export of solar energy to be used primarily by parcels other than the parcel it is located on.

ONSITE USE - A solar energy system designed to be used primarily by the building and/or parcel on which it is located.

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

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

QUALIFIED SOLAR INSTALLER – A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSEDA’s or NABCEP’s list of certified installers may still be deemed to be qualified solar installers if the Town of Richmond determines such persons to have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of the exposed parts.

ROOFTOP OR BUILDING-MOUNTED SOLAR SYSTEM – A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

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

SOLAR ENERGY SYSTEM – An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

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

(3) Applicability.

The requirements of this section applicable to Solar Energy Systems shall apply to all Solar Energy Systems installed or modified after this Paragraph E becomes effective, excluding general maintenance and repair and Building-Integrated Photovoltaic Systems. All Solar Energy System installations shall be performed by a qualified solar installer.

(4) Standards for Rooftop or Building-Mounted Solar Systems and for Ground-Mounted, Freestanding Solar Energy Systems.

- (a) Residential. Rooftop or Building-Mounted Solar Systems that use the system's generated energy exclusively for on-site single-family residential purposes are permitted as an accessory use in the Town of Richmond Zoning Districts, when attached to any lawfully permitted building or structure, and shall be exempt from site plan and special use permit reviews. A building permit for the installation of such a system is required.
- (b) Nonresidential. Rooftop or Building-Mounted Solar Systems, for applications other than single family residential, including, but not limited to, system applications for multifamily, office, commercial and industrial that use the Rooftop or Building-Mounted Solar System's generated energy exclusively for on-site purposes are permitted as an accessory use in all Town of Richmond Zoning Districts, when attached to any lawfully permitted building or structure, and shall require site plan review by the Planning Board.
- (c) Rooftop or Building-Mounted Solar Systems shall meet New York's Uniform Fire Prevention and Building Code and National Electrical Code standards.
- (d) Residential. Ground-Mounted, Freestanding Solar Energy Systems that use the system's generated electricity exclusively on-site for residential purposes are permitted as accessory structures in the A Residential/Agricultural District and the C Residential/Recreational District. Ground-Mounted, Freestanding Solar Energy Systems that use the electricity primarily onsite shall be exempt from site plan review under the Zoning Law of the Town of Richmond or other land use regulations. A building permit for the installation of such a system is required.
- (e) Nonresidential. Ground-Mounted, Freestanding Solar Energy Systems that use the system's generated electricity exclusively on-site are permitted as accessory structures in the A Residential/Agricultural District, the C Residential/Recreational District, the F Industrial District, and the G Commercial/Light Industrial District. Ground-Mounted, Freestanding Solar Energy Systems require site plan review by the Planning Board.
- (f) Ground-Mounted, Freestanding Solar Energy Systems are permitted as accessory structures in zoning districts of the Town, subject to the following requirements:
 - [1] The location of the solar systems meets all applicable setback requirements of the zone in which they are located.
 - [2] The height of the solar systems and any mounts shall not exceed shall not exceed fifteen (15) feet when oriented at maximum tilt.

- [3] The total surface area of all solar systems on the lot shall not exceed 1,000 square feet and, when combined with all other buildings and structures on the lot, shall not exceed fifty-percent lot coverage.
 - [4] A building permit has been obtained for the solar collectors.
 - [5] The solar systems are located in a side or rear yard.
 - [6] Solar systems and other facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties and roads.
- (g) Where site plan approval is required elsewhere in the regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of proposed solar collectors.
 - (h) All solar collector installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards, and prior to operation the electrical connections must be inspected by the Town Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.
 - (i) When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Ontario County and other applicable laws and regulations.
 - (j) If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment and facilities from the premises no later than 90 days after the end of the twelve-month period.
- (5) Standards for Large-Scale Solar Energy Systems.
- (a) Large-Scale Solar Energy Systems are permitted through the issuance of a special use permit within the A Residential/Agricultural District, the F Industrial District and the G Commercial/Light Industrial District, subject to the requirements set forth in this Section, including site plan approval. In accordance with standards set forth in § 200-39 of this Chapter, applications for the installation of a Large-Scale Solar Energy System shall be reviewed by the Code Enforcement Officer and referred, with comments, to the Zoning Board of Appeals and Planning Board for its

review and action, which can include approval, approval with conditions or denial. The Town shall utilize the New York State unified solar permit, as amended by the Town, in addition to or as an alternative to the existing Town Law in order to accomplish the stated purposes of the Town Board.

(b) Special Use Permit Application Requirements. For a special use permit application, the site plan application is to be used as supplemented by the following provisions:

[1] If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.

[2] Plans showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required.

[3] The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

[4] Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, and upkeep of the visual screening. The Property Operation and Maintenance Plan shall include details about the proposed use or uses of the remaining property not used for the Large-Scale Solar Energy System, as well as ingress and egress to all portions of the property.

[5] Decommissioning Plan. To ensure the proper removal of Large-Scale Solar Energy Systems, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special use permit under this Section:

[i] The Decommissioning Plan must specify that after the Large-Scale Solar Energy System can no longer be used or is abandoned, it shall be removed by the applicant or any subsequent owner.

[ii] The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction.

[iii] The plan shall also include an expected timeline for execution.

- [iv] A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer. Cost estimations shall take into account inflation.
- [v] Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan.
- [vi] If the Large-Scale Solar Energy System is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property. The costs incurred by the Town shall be assessed against the property, shall become a lien and tax upon the property, and enforced and collected with interest by the same officer and in the same manner as other taxes.
- [vii] Prior to the issuance of a special use permit for the Large-Scale Solar Energy System and any associated accessory structures, the applicant, owner or lessee shall post a surety in an amount and form acceptable to the Town for the purposes of construction and maintenance. The amount shall be up to 20% of the construction value. Acceptable forms shall include, in order of preference: letter of credit; or a bond that cannot expire; interest-bearing escrow account; or a combination thereof. Such surety will be used to guarantee compliance with the conditions of the approval for the Large-Scale Solar Energy System. If the applicant, owner or lessee of the site fails to comply with any conditions of the approval during construction or as part of the long-term maintenance of the site, all costs the Town incurs to comply with conditions of the approval shall be paid using the surety provided by the applicant, owner or lessee. Failure to comply with the conditions of the approval or to maintain an acceptable level of surety will result in revocation of any or all special use permits, building permits, certificates of occupancy or certificates of compliance.

(c) Special Use Permit/Site Plan Standards.

- [1] The Zoning Board of Appeals and the Planning Board shall make a determination that the use of the land required by the proposed project shall not cause a loss of valuable agricultural lands to the Town of Richmond.
- [2] Setbacks. The minimum setback for Large-Scale Solar Energy Systems from any property line shall be 40 feet and 100 feet from any public highway.

- [3] Height. Large-Scale Solar Energy Systems shall not exceed 15 feet in height when oriented at maximum tilt.
- [4] Lot Size. Large-Scale Energy Systems shall be located on lots with a minimum lot size of 1 (1) acre.
- [5] Lot Coverage. A Large-Scale Solar Energy System that is ground-mounted shall not exceed 50% of the lot on which it is installed. The area beneath the large-scale solar energy system shall not be included as impervious surface coverage in calculating whether the lot meets the maximum permitted lot coverage requirements for the applicable zoning district. Footers and other hard surfaces placed underneath racking and mounting systems are considered impervious and count towards impervious surface calculations.
- [6] Drainage. All Large-Scale Solar Energy Systems shall include a drainage and storm water management plan that is acceptable to the Planning Board.
- [7] Easements. All Large-Scale Solar Energy Systems shall provide access, maintenance, and utility easements that are acceptable to the Planning Board. If the Large-Scale Solar Energy System will be operated by any entity other than the property owner, the Planning Board must approve the lease or contractual agreement between the property owner and the system operator.
- [8] The Planning Board must approve the Decommissioning Plan submitted by applicant. The Planning Board shall require that the applicant or property owner post an automatically renewing security bond for construction, maintenance, and removal of solar energy systems.
- [9] The Planning Board must approve the Property Operation and Maintenance Plan submitted by the applicant.
- [10] All access roads and paths required for the project shall be integrated into other uses on the property if possible. Access road siting and grading shall be designed to minimize any negative impacts from storm water drainage.
- [11] Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties and roads.
- [12] All mechanical equipment, including any structure for batteries or storage cells, shall be non-accessible.

- [13] All Large-Scale Solar Energy Systems shall be adequately screened, as determined by the Planning Board, to avoid adverse aesthetic impacts. All Large-Scale Solar Energy Systems are required to submit a screening and landscaping plan, stamped and signed by a New York State licensed landscape architect, showing adequate measures to screen through landscaping, grading or other means so that the solar panels and other equipment's visibility is minimized from roadways and neighboring properties. The screening and landscaping plan shall include the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system.
- [14] No Large-Scale Solar Energy Systems shall be erected within a federal or state designated freshwater wetland or within any protected buffer area thereto, within a federal designated area of special flood hazard, on a site which has been determined to possess important scenic vistas. The freshwater wetland and protected buffer restriction applies to the facility itself (array area) and does not apply to site access roads or the medium voltage lines from the inverter within the array area needed to connect to the point of interconnection as long as the appropriate state and/or federal permits have been obtained.
- [15] Scenic viewsheds. A solar farm shall not be installed in any location that would substantially detract from or block the view(s) of all or a portion of a recognized scenic viewshed, as viewed from any public road, right-of-way or publicly owned land within the Town of Richmond or that extends beyond the border of the Town of Richmond. For purposes of this subsection, consideration shall be given to any relevant portions of the current, amended and/or future Town of Richmond Comprehensive Plan and/or any other prior, current, amended and/or future officially recognized Town planning document or resource.
- [16] Removal of trees and other existing vegetation shall be minimized or offset with planting elsewhere on the property.
- [17] Ground cover. Pollinator-friendly ground cover shall be planted on the ground around and under solar arrays utilizing seed cover crops such as clover or alfalfa instead of using gravel or concrete.
- [18] Pursuant to § 200-69, any application under this Section shall meet any substantive provisions contained in local site plan requirements that, in the judgment of the Town Planning Board, are applicable to the system being proposed. If none of the site plan requirements are applicable, the Planning Board may waive the requirement for site plan review.

[19] Development and operation of a Large 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 Richmond or other federal or state regulatory agencies. The applicant must supply specific information on the project's potential impacts to migrating birds. Habitat loss, habitat fragmentation, and wildlife corridors shall be reviewed for potential impacts on a case-by-case basis.

[20] Security. All Large Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs, not to exceed 8 square feet, with the name, address, and phone number of the system installer, the owner and/or operator of the Large-Scale Solar Energy System, as well as all the property owners, shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Planning Board. The fencing shall be a minimum of 8 feet. The large-scale solar energy system shall also be further screened by landscaping and/or earth berms to avoid adverse aesthetic impacts from any street frontage or neighboring property.

[21] The Zoning Board of Appeals and the Planning Board may impose conditions on its approval of any special use permit and site plan under this Section in order to enforce the standards referred to in this Section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

[22] Site and storm water management plan for Large Scale Solar Energy Systems shall be reviewed by the Ontario County Soil and Water District prior to final site plan approval.

[23] Signs. A sign not to exceed 8 square feet shall be displayed on or near the main access point and shall list the facility name, owner, phone number and address. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

(d) Additional standards for projects located on agricultural lands.

[1] Any Large-Scale Solar Energy System to be located on a lot or parcel that includes any amount of Prime Farmland or Farmland of Statewide Importance shall not exceed 50 % of the area of Prime Farmland or Farmland of Statewide Importance on the parcel.

[2] To the maximum extent practicable, Large-Scale Solar Energy Systems located on Prime Farmland shall be constructed in

accordance with the construction requirements of the New York State Department of Agriculture and Markets.

[3] Large-Scale Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and seed mixes.

[4] Large-Scale Solar Energy Systems located upon farmlands with soils classified as Class 1 through 4, as documented upon the Soil Group Worksheets prepared by the Ontario County Soil and Water Conservation District, require the project sponsor to hire an environmental monitor (EM) to oversee the construction, restoration and follow-up monitoring in agricultural fields. The EM is to be on site whenever construction or restoration work is occurring on the Class 1 through 4 soils and is to be coordinated with the Ontario County Soil and Water Conservation District and/or the New York State Department of Agriculture and Markets to develop an appropriate schedule for inspections to assure these lands are being protected to the greatest extent possible.

(e) Exemptions. Large-scale solar energy systems that do not exceed 110% of a farm operation for usage and consumption which otherwise meets the requirements of the New York State Agriculture and Markets Law shall be exempt from the requirements of this section.

(6) Abandonment and Decommissioning

(a) Large-Scale Solar Energy Systems are considered abandoned after 6 months without electrical energy generation and must be removed from the property within 90 days of written notice from the Code Enforcement Officer. In order to confirm continual operation, the property owner shall submit annually, on the anniversary of the Certificate of Occupancy, documentation from the Utility Company showing electricity produced by the Large-Scale Solar Energy System. Failure to submit the proper documentation shall constitute evidence of abandonment of the Large-Scale Solar Energy System. Applications for time-extensions for technical reasons are reviewed by the Code Enforcement Officer for a period of 3 months.

(b) Any special permit issued as part of this law shall expire 2 years from the date of approval if the applicable solar energy system is not constructed within the 2-year period.

- (c) Large-Scale Solar Energy Systems, including any accessory structures, buildings and/or equipment of any abandoned Large-Scale Solar Energy Systems shall be dismantled and removed from the site. As a condition of the special use permit or certificate of compliance, the applicant, owner or lessee shall post a surety in an amount and form acceptable to the Town for the purposes of removal. The amount shall be up to 20% of the construction cost. Acceptable forms shall include, in order of preference: letter of credit; a bond that cannot expire; interest-bearing escrow account; or a combination thereof. Such surety will be used to guarantee removal of the Large-Scale Solar Energy System should the system be abandoned. When it appears a commercial solar array has been abandoned, the Code Enforcement Officer shall provide written notice to the owner, applicant or lessee that posted the bond to remove the Large-Scale Solar Energy System, and the person or entity so notified shall have two years from the date of the written notice to remove the commercial solar array panels, together with any associated accessory structures, buildings and/or equipment, and restore the site to a condition approved by the Planning Board. If the owner, applicant or lessee fails to remove any solar array panels, buildings, associated-structures or equipment, or fails to restore the site to the condition approved by the Planning Board, all costs the Town incurs in order to do so shall be paid using the surety provided by the applicant.

Section 18: Severability

If any clause, sentence, paragraph, section or part of this local law or the application thereof to any person, firm or corporation, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this local law or in its application to the person, individual, firm or corporation or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

Section 19: Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

(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. ____ of 2018 of the **Town of Richmond** was duly passed by the Richmond Town Board on _____, 2018, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer¹.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____, 20__ in accordance 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)(repassed after disapproval) by the _____ on _____, 20__. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____, 20__, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____, 20__. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, 20__, in accordance with the applicable provisions of law.

¹ 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 _____ 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.

Town Clerk

(Seal)

Date: _____