

TOWN OF WALES  
LOCAL LAW INTRO 1-2017  
LOCAL LAW 1 -2017

**A Local Law Entitled  
Solar Energy Systems**

A LOCAL LAW, TO AMEND LOCAL LAW 1-1993 “ADOPTION OF CODE” ADOPTED BY THE TOWN BOARD OF THE TOWN OF WALES ON 5/11/1993, BY THE ENACTMENT OF A CHAPTER ENTITLED “SOLAR ENERGY SYSTEMS”.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF WALES OF A CHAPTER ENTITLED “SOLAR ENERGY SYSTEMS” AS FOLLOWS:

SECTION 1. LEGISLATIVE INTENT

This Local Law will amend the Code by an enactment of regulations and provisions for Solar Energy Systems.

SECTION 2. CHAPTER 196

Chapter 196 shall be enacted as part of the Code of the Town of Wales entitled “Solar Energy Systems”:

ARTICLE I  
GENERAL PROVISIONS

Section 196-1. Solar Energy Systems:

- A. The Wales Town Board recognizes that solar energy is a clean, readily available and renewable energy source and that the Town of Wales intends to accommodate the use of solar systems.

- B. However, the Town Board finds a need to properly site solar energy systems in the Town of Wales to protect residential, business areas and other land uses, to preserve the overall beauty, nature and character of the Town of Wales, to promote the effective and efficient use of solar energy, and to protect the health, safety and general welfare of the citizens of Wales.
- C. Prior to the adoption of this article, no specific procedures existed to address the siting of solar energy systems. Accordingly, the Town Board finds that the promulgation of this article is necessary to direct the location and construction of these systems.
- D. Solar energy systems need to be regulated for removal when no longer utilized.
- E. The Town Board finds that because of the limited water supply in the Town of Wales, only solar energy systems which require water solely for the periodic cleaning of solar panels and solar energy systems requiring little or no water consumption shall be allowed in the Town of Wales.

Section 196-2. Definitions:

**ACCESSORY USE SOLAR ENERGY SYSTEM** – generates power solely for onsite use to benefit the principal use of the land. Accessory Use Solar Energy System’s exist on the same lot as the principal use and are subordinate, incidental to, and customarily found in connection with the principal use. Usually this system is a small-scale, roof, building or ground-mounted system designed to supply energy for a principal use on a residential, commercial or mixed-use parcel.

**SECONDARY USE SOLAR ENERGY SYSTEM** – provides energy partially for onsite uses but ships some offsite. A secondary use solar energy system sited on a commercial

or agricultural parcel provides energy for the onsite principal use while shipping a significant amount of energy offsite to generate additional revenues.

**PRINCIPAL USE SOLAR ENERGY SYSTEM** – is a principal use requiring a special use permit issued by the Town Board. This system is allowed by conditioned upon compliance with specific requirements imposed to prevent any negative effects on adjacent properties and/or the community, and consists of an overall footprint of greater than five (5) and less than fifty (50) acres. The requirements for this system may include but are not limited to those listed in this chapter.

**BUILDING OR OTHER ARCHITECTURALLY-INTEGRATED SOLAR ENERGY SYSTEM** – An active solar energy system that is an integral part of a principal or accessory building, rather than a separate device, replacing or substituting for an architectural or structural component of the building. Building integrated systems include, but are not limited to, photovoltaic or thermal solar systems that are contained within roofing materials, windows, skylights and awnings.

**GLARE** – The effect produced by light with an intensity sufficient to cause annoyance, discomfort or loss in visual performance and visibility.

**GRID-INTERTIE** – A solar energy system connected directly to a utility.

**GROUND-MOUNTED PANELS** – Freestanding solar panels mounted to the ground by use of stabilizers or similar apparatus. Ground mounted systems may be systems which are accessory to the principal use of the site and designed to supply energy to the principal use or may be a part of a solar farm operation.

**PHOTOVOLTAIC SYSTEM** – A solar energy system which converts solar energy directly to electricity.

**ROOF OR BUILDING MOUNTED SOLAR ENERGY SYSTEM** – A solar energy system that is mounted to the roof or building using brackets, stand or other similar apparatus. Typically accessory to the land use.

**SOLAR ACCESS** – A view of the sun, from any point on the collector surface that is not obscured by any vegetation, building or object located on parcels of land other than the parcel upon which the solar collector is located, between the hours of 9:00 AM and 3:00 PM Standard time on any day of the year.

**SOLAR ARRAY** – A group of solar panels wired together.

**SOLAR COLLECTOR** – A device, structure or part of a device or structure that the principal purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

**SOLAR EASEMENT** – A right, expressed as an easement, restriction, covenant or condition contained in any deed, contract or other written instrument executed by or on behalf of any landowner for the purpose of ensuring adequate access to direct sunlight for solar energy systems.

**SOLAR ENERGY** – Radiant energy (direct, diffused or reflective) received from the sun.

**SOLAR ENERGY SYSTEM (SES)** – A system that collects or stores solar energy and transforms it into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, thermal or chemical means.

**SOLAR FARM** – A utility-scale commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, where the principal purpose of the land is to provide energy to off-site uses or wholesale sales of generated electricity.

**SOLAR HOT WATER SYSTEM** – A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs.

**SOLAR PANEL** – That part or portion of a solar energy system containing one or more receptive cells of modules, the purpose of which is to convert solar energy for use in space heating, water heating or electricity.

**SOLAR THERMAL** – A water-cooled solar thermal energy system which converts water to steam to electricity.

Section 196-3. Zoning Districts Where Allowed:

- A. Roof-top mounted and Building-mounted, Accessory Use and Secondary Use Solar Energy Systems are permitted in all Zoning Districts in the Town of Wales.
- B. Ground-mounted, Accessory Use and Secondary Use Solar Energy Systems are permitted in all Zoning Districts in the Town, subject to site descriptions as stated in this article.
- C. Principal Use Solar Energy Systems are permitted in Agricultural Zoning Districts, subject to the issuance of a Special Use Permit by the Town Board.

ARTICLE II  
GENERAL REGULATIONS

Section 196-4. General Regulations Applicable in All Districts:

- A. A building permit is required for all solar energy systems in the Town of Wales.
- B. Prior to the issuing of a building permit, applicants must acknowledge, in writing, that the issuing of said permit shall not and does not create in the property owner, it's, his or her or their successors and assigns in title to create in the property itself:

- (a) the right to remain free of shadows and/or obstructions to solar energy created by development of adjoining or other property or the growth of any trees or vegetation on such property; or (b) the right to prohibit the development on or growth of any trees or vegetation on adjoining or other property.
- C. Layout, design, installation and ongoing maintenance shall conform to applicable industry standards, Underwriters Laboratories, the New York Uniform Construction Code, the New York State Fire Code and the Town of Wales Zoning Code, as interpreted by the Building Inspector/Zoning Officer of the Town of Wales. The manufacturers' specifications for the key components of the proposed system shall be submitted as part of the application.
- D. Building Permit applications shall document compliance with this section and shall be accompanied by to-scale drawings showing the location of the system on the property or building, including property lines.
- E. All solar energy systems shall adhere to all applicable federal, state, county and Town of Wales' laws, regulations and building, plumbing, electrical and fire codes.
- F. This article shall not apply to any lot owned by a municipality.
- G. Any solar energy system shall be accessible for all emergency services vehicles and personnel.
- H. The design, construction, operation and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads and public parks, in excess of that which already exists.
- I. All solar energy systems must be properly maintained and kept free from all hazards, including but not limited to, faulty wiring, loose fastening, being in an unsafe

condition or detrimental to the public health, safety and general welfare. In the event of the violation of any or the foregoing provisions, the Building Inspector shall give written notice specifying the violation to the owner of the system, to conform or to remove the system.

- J. If the use of an approved solar energy system is discontinued, the owner or operator shall notify the Building Inspector within thirty (30) days of such discontinuance. If the solar energy system is to be retained and re-used, the owner or operator shall further inform the Building Inspector of this in writing at such time and obtain any necessary approvals within one (1) year, otherwise the system shall be deemed abandoned.
- K. The special use permit shall be revoked if the solar system, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the system to not be in conformity with the section. Routine maintenance and like-kind replacements excluded.
- L. All solar energy systems existing on the effective date of this article shall be allowed to continue usage as they presently exist. New construction other than routine maintenance shall comply with this chapter.
- M. Any applications (including variance applications) pending for solar energy systems on the effective date of this article shall be subject to the provisions herein.
- N. This article shall take precedence over any inconsistent provisions of the Zoning Law of the Town of Wales.

- O. Any solar energy system to be used strictly for agricultural use purposes in accordance with NYS Agriculture and Markets Law may have some of the requirements of this chapter waived by the Building Inspector or the Town of Wales.
- P. Solar storage batteries. When solar storage batteries are included as part of any solar energy system, they shall be placed in a secure container or enclosure meeting the requirements of the New York State Building Code.

Section 196-5. Rooftop or Building-mounted Accessory:

- A. Rooftop-mounted solar energy systems shall not be more than three (3) feet higher than the finished roof to which they are mounted and in no instance shall any part of the system extend beyond three (3) feet before the edge of the roof. There shall be at least three (3) foot center walkway for safety access purposes.
- B. For rooftop or wall-mounted solar energy systems, the applicant shall provide evidence that the plan complies with the uniform construction code and the adopted building code of the Town of Wales, that the roof or wall involved is capable of holding the load imposed on the structure.
- C. A roof-mounted solar energy system may be located on a front-facing roof as viewed from any adjacent street only when approved as a conditional use and if the applicant can demonstrate that glare or other effects will not negatively impact others and that, due to solar access limitations, no location exists other than the street-facing roof, where the solar energy system can perform effectively.
- D. A roof or wall-mounted solar energy system may be located on a principal or accessor building and shall be subject to the maximum height regulations specified for such buildings in the relative sections of this code book.

- E. Any electrical controls associated with a building mounted solar energy system shall be located on an exterior wall, common with and not more than ten (10) feet from the electrical utility meter for said building.

Section 196-6. Ground-mounted Accessory Use:

- A. The location of said solar energy system shall be placed no closer than standard setback requirements for an accessory structure of the use district in which it is located.
- B. The location of said solar energy system shall only be located in the side or rear yard.
- C. The orientation of said solar energy system shall not be directed at any adjoining building, public roads or public parks where such would create a negative impact due to glare or other results.
- D. The height of said solar system shall not exceed fifteen (15) feet when oriented at a maximum tilt when situated on a lot in R. or B. zoning districts.
- E. Ground-mounted solar energy systems may not be located in required front yard unless authorized by the Building Inspector and where no location exists on the property other than the front yard where the solar panel can perform effectively.
- F. Ground-mounted solar energy systems do not count as an accessory structure for the purpose of meeting limits on the total square footage or number of accessory structures allowed.
- G. The total surface area of said solar energy system shall not exceed the allowed accessory structures or combinations of accessory structures where permitted.

Section 196-7. Principal Use of Solar Energy Systems:

- A. All Principal Use Solar Energy Systems constructed with the Town of Wales, shall utilize only silicon-based panels and/or panels similarly based using non-toxic materials, and must pass the TCLP test and be classified as non-toxic.
- B. Principal Use Solar Energy System owners/operators shall, prior to the operation of these systems and at their expense, provide appropriate training sessions for the local Fire/Emergency Services personnel, to ensure their full capability in dealing with solar energy systems related emergencies.
- C. A Principal Use Solar Energy system is an area of land or other area used for solar collection system used to capture solar energy, convert it to electrical energy or thermal power and supply electrical energy or thermal power primarily or totally for off-site use. A Principal Use Solar Energy System consists of one (1) or more free standing solar collector devices, solar-related equipment and other accessory structures and/or buildings including light reflectors, concentrators and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.
- D. The owner of a Principal Use Solar Energy System shall provide the Town of Wales written confirmation that the public utility company to which the system will be connected has been informed of the customer's intent to install a grid connected system and has approved of such connection. Off-grid and primarily off-grid systems are exempt from this requirement.
- E. The Principal Use Solar Energy System owner and/or operator shall maintain a phone number and identify a person responsible for the public to contact with inquires or

complaints throughout the life of the project, and provide said name and number to the Town of Wales. The system owner/operator shall make reasonable efforts to respond in a timely fashion to the public's inquiries and complaints.

- F. A noise study shall be performed by an independent noise study expert, paid for by the applicant, and showing that noise from a Principal Use Solar Energy System.
  - 1. Does not exceed 45 DBA as measured at the property line, or
  - 2. Shall not have any adverse effect on the surroundings, evidence of which is conclusive in the opinion of the Wales Town Board.
  
- G. The total surface area (footprint) of a Principal Use Solar Energy System, as defined as the surface area actually covered by the system-related equipment, shall not exceed ten (10) acres or 20% of the parcel on which is located and shall be screened from any adjacent property that is residentially zoned and used for residential purposes. The screen may consist of plant materials which provide a visual screen or a decorative fence meeting the requirements of the appropriate Zoning ordinance listed elsewhere in this code. The site area footprint size shall be computed by determination of the Building Inspector.
  
- H. At a minimum, twelve (12) foot wide cartway shall be provided between the solar arrays to allow access for maintenance vehicles and emergency management vehicles including fire apparatus, as well as water-runoff mitigation. Cartway width is the distance between the bottom edge of a solar panel to the top edge of the solar panel directly across from it.

- I. All solar panel materials shall be contained in a solid matrix, in soluble and non-volatile at ambient conditions and enclosed to prevent ground leaching and volatilization to the air.
- J. The owner or operator of a Principal Use Solar Energy System shall contain all unenclosed electrical conductors and equipment located above ground within structure(s) that control access.
- K. Appropriate safety/warning signage concerning voltage or other hazards shall be placed at ground mounted electrical and/or other devices, equipment and structures. All electrical control devices and/or other hazardous devices associated with the solar energy system shall be locked away to prevent any unauthorized access, contact or entry.
- L. Any changes or alterations post construction to a Principal Use Solar Energy System shall be done only by amendment on the Special Permit and/or sit plan (if required) subject to all requirements of this Code.

ARTICLE III  
SPECIAL PERMIT REQUIREMENTS

Section 196-8. Special Permit Requirements:

- A. All solar energy systems under this chapter shall require a special use permit. Applicants for a special use permit to place, construct and make modifications to a Principal Use Solar Energy System within the boundaries of the Town of Wales shall submit twelve (12) sets of the following information to the Town Board. Of the twelve (12) sets, the following to the Town Clerk who shall then forward to the Town Building Inspector. The Building Inspector will review the contents for completeness

and notify the applicant to submit the appropriate fee to the Town Clerk. In the event the application is not complete, the Building Inspector shall notify the applicant of what is required in order to properly complete the application. The Town will then determine whether it chooses to present the application to a professional engineer or consultant for an initial review. The Town Board may make referrals as it deems appropriate. No such application shall be deemed filed until any required application fee has been paid. The requirements of a special use permit contained in Chapter 200 Zoning shall be applicable where so determined by the Town Board together with the required information as set forth herein.

1. A completed State Environmental Quality Review Act (SEQRA) short form environmental assessment form (EAF), if required, or unless a long form is required by the Town's professional engineer or consultant or the Town of Wales Town Board, with the Town of Wales Town Board designated as lead agency for the SEQRA process.
2. Information required in the special use permit application:
  - (a) Name, address and telephone number of the property owner. If the property owner is not the applicant, the application shall include the name, address and telephone number of the applicant and a letter or other written permission signed by the property owner authorizing the applicant to represent the property owner; and
  - (b) Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc.; and

- (c) Documentation of the clearing, grading, storm water and erosion control plans; and
- (d) Utility interconnection data and a copy of written notification to the utility of the proposed interconnection; and
- (e) One or three-lined electrical diagram detailing the solar energy system installation, associated components and electrical interconnection methods, with all disconnects and over-current devices; and
- (f) A property owner who has installed or intends to install a principal use solar energy system may choose to negotiate with other property owners in the vicinity for any necessary solar skyspace easements. The issuance of a special use permit does not constitute solar skyspace rights, and the Town shall not be responsible for ensuring impermissible obstruction to the solar skyspace as a result of uses or development performed in accordance with Town Code. In the event that solar easements are negotiated by an applicant or property owner for a principal use solar energy system, a copy or documentation of any solar skyspace easements shall be provided, properly recorded as such, negotiated with neighboring property owners that shall, at a minimum, include:
  - (1) The restrictions placed upon buildings, structures, vegetation and other objects or uses that would potentially obstruct the solar skyspace of the solar energy system; and
  - (2) A description of the dimensions of the easement expressed in measurable terms, such as the maximum height of buildings and

structures, vertical or horizontal angles measures in degrees, or the hour of the day on specified dates during which direct sunlight to a specified surface of a solar collector may not be obstructed, or a combination of these descriptions; and

- (3) The amount, if any, of permissible obstruction of the solar skyspace through the easement, expressed in measurable terms, such as a specific percentage of solar skyspace that may be obstructed or hours during the day; and
  - (4) Provision for trimming vegetation that would impermissibly obstruct solar skyspace, including any compensation for trimming expenses; and
  - (5) Provisions for compensation of the owner/operator benefiting from the easement in the event of impermissible obstruction of the solar skyspace that would be in violation of the easement; and
  - (6) The terms or conditions, if any, under which the easement may be revised or terminated.
- (g) A site plan in accordance with New York Town Law §274-a as required by Chapter 200 of the Town Codes including, but not limited to, the following:
1. Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposal layout of the entire solar energy system along with a description of all components, whether on site or off site, existing

vegetation and proposed clearing and grading of all sites involved, and utility lines, both above and below ground, on the site and adjacent to the site; and

2. Property lot lines and the location and dimensions of all existing structures and uses on site within five hundred (500) feet of solar panels; and
  3. Proposed fencing and/or screening for said project; and
  4. Such additional information as may be required by the professional engineer or consultant of the Town, the Town of Wales Town Board, Town Attorney, Building Inspector or other Town entity.
- (h) Prior to the issuance of a building permit, the applicant shall document that all applicable federal, state, county and local permits have been obtained.
- (i) The Town Board shall conduct a public hearing with notice of said hearing to be printed in the newspaper of general circulation in the Town at least five (5) days prior to the date thereof.
- (j) The Town Board may:
- (k) For principal use solar energy systems, grant a Special Permit, deny a Special Permit, or grant a Special Permit with written stated conditions.
1. Denial of a Special Permit shall be by written decision based upon substantial evidence considered by the Board. Upon issuance of a Special Permit, the applicant shall obtain a building permit for the Principal Use Solar Energy System.

2. Minimum lot area: The minimum lot area shall be fifteen (15) acres.
3. Setbacks: Any Principal Use Solar Energy System shall adhere to the following:
  - (1) From any residential ® or (B) zoning district boundary or manufactured home park, a minimum of five hundred (500) feet.
  - (2) From any manufacturing (M) district boundary, a minimum of two hundred fifty (250) feet.
  - (3) From buildings or structures not on the lot proposed for the solar energy system:
    - (a) A minimum of two hundred fifty (250) feet from any building or structure other than a dwelling, on any adjacent land.
    - (b) A minimum of five hundred (500) feet from any dwelling on adjacent land.
4. From buildings or structures on the lot proposed for the solar system: A minimum of one hundred (100) feet from any building, structure or dwelling.
  - (a) Two hundred (200) feet from any public road (measured from the center line of the road).
  - (b) From schools, public parks: A minimum of one thousand (1,000) feet from all property lot lines bordering a school or public park.

5. Notwithstanding the setback provisions set forth in this section, such setbacks from property lines do not apply if the application is accompanied by a legally enforceable agreement that runs with the property for a period of twenty (20) years or the life of the Special Permit, whichever is longer, that the adjacent landowner(s) agrees to the elimination of the required setbacks. These setback requirements in this section can only be varied through this agreement process with adjoining landowners and not through a variance with the Zoning Board of Appeals. Any agreement to the elimination of such property line setbacks shall not constitute the reduction or elimination of required setbacks from structures, as previously identified, and such setbacks from structures, for safety reasons, shall not be reduced or eliminated.
6. Maximum overall height. The height of a principal use solar energy system shall not exceed twenty (20) feet when oriented at maximum tilt.
7. There shall only be allowed one principal use solar energy system per lot.
8. A principal use solar energy system shall adhere to all applicable federal, state, county and Town of Wales' laws, regulations, building, plumbing, electrical and fire codes.

ARTICLE IV  
SUPPLEMENTARY REGULATIONS

Section 196-9. Supplementary Regulations:

1. Development and operation of a principal use 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 Wales or other federal or state regulatory agencies.
2. The design, construction, operation and maintenance of a principal use solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads and public parks, in excess of that which already exists from other sources.
3. Historic and/or archeological map(s) shall be utilized where available to identify any cultural or historical significance existent on the site which impact the project.
4. All structure and devices used to support solar collections shall be non-reflective and/or painted a subtle or earth tone color. All transmission lines and wiring associated with a principal use solar energy system shall be buried, to the extent reasonably possible and include necessary encasements in accordance with the National electric code and town requirements. The applicant is required to show the locations of all proposed overhead and underground electrical utility lines, including substations and junction boxes and other electrical components for the project on the site plan.
5. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.

6. Artificial lighting of utility-scale solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
7. The display of advertising is prohibited except for reasonable identification of the manufacturer of the equipment and shall be in accordance with the Town's signage regulations.
8. A berm, landscape screen or other opaque enclosure or any combination thereof acceptable to the Town capable of screening the site may be required along any property line that abuts an existing residence.
9. After completion of a principal use solar energy system, the applicant shall provide a post-construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating to the design plans.
10. Compliance with regulatory agencies: The applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval related to the completion of a principal use solar energy system.
11. Clearing, grading, storm water and erosion control:
  - A. Before the Town of Wales shall issue a clearing, grading, storm water or building permit for a principal use solar energy system, the applicant shall submit a storm water and Erosion Control Plan to the engineering department for its review and approval; and
  - B. The plan shall minimize the potential adverse impacts on wetlands and Class I

and II streams and the banks and vegetation along those streams and wetlands and minimize erosion or sedimentation.

ARTICLE V  
CONSTRUCTION, USE AND TERMINATION

Section 196-10. Construction, Use and Termination:

- A. Time limit on construction. After the granting of a special permit of a principal use solar energy system with concurrent site plan approval by the Town Board, the building permit shall be obtained within six (6) months and the project shall be completed within twelve (12) months. If not constructed, the special permit and/or site plan approval shall automatically lapse with twelve (12) months after the date of approval by the Town of Wales Board.
  
- B. Inspections. Upon reasonable notice, the Town of Wales Building Inspector or his or her designee may enter a lot on which a solar energy system has been approved for the purpose of compliance with any requirements or conditions. Twenty-four (24) hours advance notice by telephone or e-mail to the owner or designated contact person shall be deemed reasonable notice. Furthermore, a principal use solar energy system shall be inspected annually by a New York State licensed professional engineer that has been approved by the Town or at any time, upon a determination by the Town's Building Inspector that damage may have occurred, and a copy of the inspection report shall be submitted to the Town Building Inspector. Any fee or expense associated with this inspection shall be borne entirely by the permit holder.

C. Decommission Plan. A decommission plan will be submitted with the application to ensure that the owner or operator properly removes the equipment and facilities upon the end of the project life or after its useful life. The owner or operator shall decommission the solar panels and equipment in the event they are not in use for twelve (12) consecutive months. The plan shall include provisions for the removal of all structures and foundations, the removal of all electrical transmission components, the restoration of soil vegetation where appropriate and a soundly based plan ensuring financial resources will be available to fully decommission the site. The disposal of structures and/or foundations shall meet the requirements of the NYS waste disposal statutes. The owner/operator shall provide a current-day decommissioning cost estimate and shall post a bond, letter of credit or establish an escrow account including an inflation escalator, in an amount determined by the Town Board, to ensure proper decommissioning.

If the owner or operator fails to dismantle and remove said solar energy system as required, the Town Board may, after a hearing at which the owner or operator shall be given the opportunity to be heard and present evidence, dismantle and remove said facility and place the cost of removal as a tax lien on said parcel.

D. Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a solar energy system shall be made by the Town Building Inspector, who shall provide the owner with written notice by personal service or certified mail. Any appeal by the owner of the Building Inspector's determination of abandonment or inoperability shall be filed with the Town of Wales Zoning Board of Appeals within thirty (30) days of the Building Inspector cause

personal service or mailing certified mail his written determination and the Board shall hold a hearing on same. The filing of an appeal does not stay the following time frame unless the Zoning Board of Appeals or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of the three hundred and sixty-six (366) days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals for the solar energy system shall automatically expire.

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

## ARTICLE VI ADDITIONAL PROVISIONS

### Section 196-11. Variances and Waivers:

Where the Town Board finds that, due to special circumstances of a particular proposed solar energy system, the provisions of certain required provisions is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy, it may have such requirements subject to appropriate conditions.

### Section 196-12. Interpretation; conflict with other law:

In their interpretation and application, the provisions of this article shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general

welfare. It is not intended to interfere with, abrogate or annul other rules, regulations or laws, provided that whenever the requirements of this article are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards, shall govern.

Section 196-13. Severability:

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

ARTICLE VII  
VIOLATIONS

Section 196-14. Penalty for Offenses:

- A. Any person or persons, association or corporation committing an offense against this chapter or any section or provision thereof is guilty of a violation punishable by a fine not exceeding \$250 or imprisonment for a period not exceeding 15 days for each such offense, or by both such fine and imprisonment.
- B. This chapter may also be enforced by civil action or by proceedings by the Town of Wales.
- C. Each week that a violation is permitted to exist shall constitute a separate offense.

SECTION 3. EFFECTIVE DATE

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