**Town of Harford, Cortland County, New York**

**Local Law No. 1 of the Year 2022**

**A LOCAL LAW AMENDING THE TOWN OF HARFORD LAND ORDINANCE TO ADD A NEW SECTION 24 ENTITLED, “SOLAR ENERGY SYSTEMS”**

**BE IT ENACTED** by the Town Board of the Town of Harford, as follows:

**§ 1. TITLE.**

This Local Law shall be referred to as Local Law No. 1-2022, entitled “Solar Energy Systems Local Law”

**§ 2. AUTHORITY.**

This Local Law is adopted pursuant to Section 20 of the Municipal Home Rule Law of the State of New York, which authorizes the Town of Harford to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Town Law of New York State, “to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.”

**§ 3. AMENDMENT.**

The Town of Harford Land Ordinance (December 1973) is hereby amended to add a new section 24, entitled “Solar Energy Systems”, as follows:

**SECTION 24: SOLAR ENERGY SYSTEMS**

**24.1. Statement of Purpose.**

This section 24 of the Town of Harford Land Ordinance is adopted to advance and protect the public health, safety, and welfare of the Town of Harford by creating regulations for the installation and use of solar energy generating systems and equipment with the following objectives:

A. Taking advantage of a safe, abundant, renewable, and nonpolluting energy resource;

B. Reducing the consumption of energy by the owners of commercial and residential properties, including single-family homes;

C. Increasing employment and business development in the region by furthering the installation of solar energy systems; and

D. Fulfilling the New York State Clean Energy mandate.

**24.2. Word Usage and Definitions.** For the purposes of this section 24, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations and their derivations shall have the meaning given in this Article. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number. The word shall is always mandatory and not merely directory.

ACCESSORY STRUCTURE - A building or structure, the use of which is customarily incidental and subordinate to that of a principal building and located on the same lot therewith.

APPLICANT - Any person, firm or corporation submitting an application to the Town of

Harford for a site plan review for a solar energy production facility.

BUILDING – Any structure covered by a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or chattel.

BUILDING INTEGRATED SOLAR ENERGY 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.

CERTIFICATE OF COMPLIANCE – A certificate stating that materials and products meet specified standards or that work was done in compliance with approved construction documents.

COMMERCIAL SOLAR ENERGY SYSTEM – A solar energy system that primarily produces energy that is fed directly into the grid primarily for off-site sale or consumption, or any solar energy system with a nameplate generating capacity of 200 kilowatts or more. Commercial solar energy systems include building-integrated, roof-mounted and ground-mounted solar energy systems that meet or exceed the above-stated nameplate generating capacity.

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 statewide 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 SOLAR ENERGY SYSTEM - A solar energy system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity.

LAND ORDINANCE – The Town of Harford Land Ordinance (December 1973), as may be amended from time to time.

NET METERING - A billing arrangement whereby the solar energy producer receives credit for excess electricity generated and delivered to the power grid, paying only for the power used.

NON-COMMERCIAL SOLAR ENERGY SYSTEM - A solar energy system with a nameplate generating capacity of less than 200 kilowatts that is incidental and subordinate to another use on the same parcel and which primarily produces energy for on-site consumption. Non-commercial solar energy systems include building-integrated, roof-mounted and ground-mounted solar energy systems that do not meet or exceed the above-stated nameplate generating capacity.

NON-PARTICIPATING PROPERTY: A parcel of land not subject to any type of agreement with the Applicant.

PARTICIPATING PROPERTY: A parcel of land subject to a lease, good neighbor agreement or other contract with the Applicant, in which the property owner receives consideration in exchange for authorizing or consenting to solar energy system development by the Applicant on or in the vicinity of the parcel.

PHOTOVOLTAIC SYSTEMS - A solar energy production system that produces electricity by the use of semiconductor devices, i.e. photovoltaic cells that generate electricity when light strikes them.

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.

ROOF-MOUNTED SOLAR ENERGY SYSTEM - A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

SOLAR ACCESSORY FACILITY OR STRUCTURE - An accessory facility or structure serving or being used in conjunction with a solar energy system and located on the same property or lot as a solar energy system, including, but not limited to, utility or transmission equipment, storage sheds or cabinets.

SOLAR COLLECTOR/SOLAR PANEL - A photovoltaic cell, panel or array, capable of collecting and converting solar energy into electricity.

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

SOLAR ENERGY SYSTEM - All components and subsystems required to convert solar energy into electric energy suitable for use. This term includes, but is not limited to, solar panels and solar energy equipment. The area of a solar energy system includes all the land and/or structures inside the perimeter of the solar energy system, which extends to any interconnection equipment.

STRUCTURE – Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

TOWN BOARD – The Town Board of the Town of Harford, New York.

**24.3. Applicability.** The requirements of this section 24 shall apply to all solar energy systems installed or modified after its effective date, excluding general maintenance and repair and building-integrated photovoltaic systems.

**24.4. Non-Commercial Solar Energy Systems**

1. Non-commercial solar energy systems may be permitted as a customary accessory use in all zoning districts, subject to the Local Laws of the Town of Harford, the Town of Harford Land Ordinance and Uniform Code requirements applicable to accessory uses, to the extent not inconsistent with this section 24.4, and subject to the following:
	1. A non-commercial solar energy system as an accessory use shall be limited to one or more roof-, wall- and/or ground-mounted solar collector devices and solar-related equipment.
	2. Solar carports shall be permitted over existing and proposed parking facilities. For the purposes of this Article, solar carports shall not be considered a structure as defined by the Town’s Land Ordinance.
	3. Roof-Mounted Non-Commercial Solar Energy Systems: Such systems mounted on a roof shall not exceed the maximum height restrictions of the zoning district within which they are located. Panels facing the front yard must be mounted at an angle that is no greater than 20 degrees greater than the angle of the roof’s surface with a maximum distance of 24 inches between the roof and the highest edge of the system.
	4. Ground-Mounted Non-Commercial Solar Energy Systems: Such systems mounted on the ground shall adhere to the height and setback requirements of the underlying zoning district. Systems are limited to 20% lot coverage. All such systems installed in residential districts shall be installed in the side or rear yards.
2. Installations shall be compliant with all New York State requirements, including but not limited to, those set forth in Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code.

**24.5. Commercial Solar Energy Systems: Site Restrictions and Requirements.**

1. Commercial solar energy systems are permitted as a primary use in the Agricultural Zoning District by Special Use Permit issued by the Town Board. Such systems shall require site plan approval prior to the granting of a Special Use Permit, and shall be subject to the following restrictions and requirements:
	1. Commercial ground-mounted solar energy systems are not permitted as an accessory use. Roof-mounted and building-integrated commercial solar energy systems may be permitted as an accessory use.
	2. Commercial ground-mounted solar energy systems must be located on sites with at least 5 acres open for development. Other types of commercial solar energy systems shall comply with applicable lot size requirements as set forth in this Land Ordinance.
	3. The height of the solar collectors and any mounts within a commercial ground-mounted solar energy system shall not exceed 20 feet from finished grade when oriented at maximum tilt. Other types of commercial solar energy systems shall comply with applicable maximum height requirements as set forth in this Land Ordinance.
	4. Solar energy equipment shall be located in a manner to (i) minimize visual impacts and view blockage for surrounding properties, and (ii) shading of property to the north, while still providing adequate solar access for collectors.
	5. Solar collectors shall be installed so as to minimize glare onto neighboring properties and roadways. All solar collectors shall be treated with anti-reflective coating(s).
	6. No solar collector shall be closer than 100 feet from any non-participating residential property line.
	7. No solar collector shall be closer than 250 feet from non-participating, habitable residential structures.
	8. No solar collector shall be closer than 50 feet from non-participating, non-residential property lines.
	9. No solar collector shall be closer than 50 feet from the boundary line of any public street or roadway.
	10. No solar collector shall be erected ahead of the front line of any existing building.
	11. All commercial ground-mounted solar energy systems and associated solar accessory structures/facilities shall be completely enclosed by a minimum eight-foot-high anchored mini-mesh chain-link fence with two-foot tip out and a self-locking gate. Said fence shall contain five-inch-high by sixteen-inch-wide grade-level cutouts every 75 feet to permit small animals to move freely into and out of the site.
	12. All commercial ground-mounted solar energy systems must additionally include a visual buffer between the system, public roads and non-participating properties. The buffer shall consist of appropriate plantings with a mixture of evergreen and deciduous trees and shrubs a height so as to provide a visual screen of the ground-mounted system. The species, type, location and planted height of such landscaping and fencing shall be subject to the approval of the Town Board.
	13. All proposed commercial solar energy systems shall demonstrate that the facility will be sited so as to have the least adverse visual effect on the environment and its character, on existing vegetation, and on any nearby residential dwellings. Any glare produced by the solar array shall not impair or render unsafe the use of contiguous structures, any vehicles in the vicinity, any airplanes, etc.
	14. Lot Coverage Requirements. Commercial solar energy systems shall adhere to the maximum lot coverage requirement for principal uses within the zoning district in which they are located.
	15. Siting Considerations. No commercial ground-mounted solar energy system shall be installed in a floodplain, aquifer or other environmentally sensitive area without the following:
		* 1. Approval of an engineering plan;
			2. Approval and acceptance of documentation showing proper installation including a maximum tilt with the entire panel(s) at least two feet above the flood elevation;
			3. Approval and acceptance of plans for battery storage;
			4. Approval and acceptance of plans for utility connections;
			5. Approval and acceptance of safety measures.
	16. If property is subdivided to accommodate commercial ground-mounted solar energy systems as a primary use, the property containing the commercial ground-mounted solar energy system must have road frontage in compliance with this Land Ordinance.
	17. All utilities serving the site of a commercial solar energy system shall be installed underground and in compliance with all laws, rules and regulations of the Town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code, where appropriate. If the applicant seeks to install aboveground utilities or transmission lines, the Applicant must provide sufficient proof of infeasibility of underground installation. The Town Board may waive or vary the requirements of underground installation of utilities whenever, in the opinion of the Town Board, the Applicant’s proof establishes that such variance or waiver shall not be detrimental to the health, safety, general welfare and environment, including the visual and scenic characteristics of the area.
	18. At a commercial ground-mounted solar energy systems site, at least one access road and adequate parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion. This subsection shall apply to other types of commercial solar energy systems if, at the discretion of the Town Board, the circumstances of the project so dictate.
	19. Fire access roads and access for fire apparatus equipment shall be provided, as approved by the chief of the Town of Harford Volunteer Fire Company, Inc., and the Town Board. Any gates to the site shall be equipped with Knox Company locks to allow fire department access.
	20. Commercial ground-mounted solar energy system owners shall develop, implement, and maintain Native Perennial 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 landowners and/or solar energy system owners shall use native plant species and seed mixes.
	21. Applications for the installation of a commercial solar energy system shall be reviewed by Code Enforcement and referred, with comments, to the Town Board for its review and action, which can include approval, approval with conditions, or denial. Refer to the schedule of zoning regulations for area and zoning restrictions.
		1. **Additional Site Restrictions and Requirements for Commercial Ground-Mounted Solar Energy Systems located on Certain Agricultural Lands.**
2. Any commercial ground-mounted solar energy system located on areas that consist of Prime Farmland and/or Farmland of Statewide Importance shall not exceed 50% of the area of Prime Farmland and/or Farmland of Statewide Importance on the parcel.
3. Commercial solar energy systems located on Prime Farmland and/or Farmland of Statewide Importance shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.

**24.6. Commercial Solar Energy Systems: Special Use Permit Required.**

1. The Town Board is hereby designated and authorized to review, analyze, evaluate and make decisions with respect to all Special Use Permit applications for commercial solar energy systems. In so doing, the Board may approve, approve with conditions, disapprove, recertify, not recertify or revoke any such Special Use Permit. The Town Board may, at its discretion, delegate or designate other officials of the Town to accept, review, analyze, evaluate and make recommendations to the Town Board with respect to granting or not granting, recertifying or not recertifying, or revoking site plan and/or Special Use Permit approval of commercial solar energy production facilities.
2. No commercial solar energy system shall be installed or constructed until the site plan is reviewed and approved by the Town Board and a Special Use Permit has been issued.
3. A pre-application meeting is required with the Applicant, Town Engineer, Code Enforcement Officer and Town Supervisor prior to submitting a formal Special Use Permit application.
4. Incomplete applications not meeting the requirements stated herein, or which are otherwise incomplete may be rejected by the Town Board.
5. The Special Use Permit application shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. If the landowner(s) of the project location is not the Applicant, the Applicant shall additionally provide one of the following:
6. A signed writing from each landowner consenting to the filing of the Application by the Applicant; or
7. A copy of the agreement(s) between the Applicant and each landowner authorizing the Applicant to use the landowner’s property as proposed in the Application.
8. The Special Use Permit application shall include a statement in writing:
	1. That the Applicant's proposed commercial solar energy system shall be maintained in a safe manner and in compliance with all conditions of the site plan approval, without exception, unless specifically granted relief by the Town Board in writing, as well as all applicable and permissible local codes, ordinances and regulations, including any and all applicable county, state and federal laws, rules, and regulations.
	2. That the construction of the proposed commercial solar energy system is legally permissible, including but not limited to the fact that the Applicant is authorized to do business in New York State.
9. At the discretion of the Board, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.
10. Upon a majority vote of thereof, the Town Board may hold a public hearing on the Special Use Permit application if one is not otherwise required.

**24.7. Special Use Permit Application Requirements for Commercial Solar Energy Systems**

All Special Use Permit applications for proposed commercial solar energy systems shall show and include a site plan with maps, drawings and any/all necessary supplemental reports and documentation that show and include the following:

1. Names, mailing addresses, email addresses and telephone numbers of:
	1. The Applicant and, if the application is made on behalf of a business entity, the entity’s authorized agent(s) responsible for the application; and, if different from the Applicant
	2. The owner(s) of the proposed project site
	3. The developer of the proposed project
	4. The operator of the proposed project
2. Name of project, Tax Map parcel numbers and boundary lines of parcel(s) on which the project will be located, zoning district(s) in which the said parcels are situated, a location map showing proposed site’s location, north arrow, and scale of the plan.
3. Application fee of $750.00 (non-refundable).
4. Stamped drawings to scale signed by a New York State Licensed Professional Engineer or Registered Architect showing:
	1. The layout of the proposed solar energy system,
	2. A survey of the property or properties
	3. The location of all lot lines, easements and rights of way
	4. The location of all current and proposed utility connections, transmission lines and solar accessory facilities/structures
	5. Existing and proposed topography and five-foot contour intervals
	6. Location of all proposed landscaping and screening per the landscaping and screening plan required by subsection F of this section.
	7. Proposed road and emergency access to the project site, including provisions for paving, if any.
5. A map or maps showing:
	1. Location and distance of the solar energy system and associated solar accessory facilities/structures to the nearest non-participating residential property line.
	2. Location and distance of the solar energy system and associated solar accessory facilities/structures to the nearest non-participating, occupied residential structure.
	3. Location and distance of the solar energy system and associated solar accessory facilities/structures to the nearest non-participating, non-residential property line.
	4. Location of nearest habitable structure.
	5. Location, size and height of all existing structures on the property or properties that are the subject of the application.
	6. Location, size, and height of all proposed solar collection and accessory structures.
	7. The names, addresses and Tax Map parcel numbers of all owners of record of abutting parcels and those within fifteen hundred (1,500) feet of the property lines of the parcel(s) where development is proposed. Each such owner shall be designated as “participating” or “non-participating” as those terms are defined in this section 24 of the Land Ordinance.
6. A landscaping and screening plan showing:
	1. All existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material and erosion control measures.
	2. Appropriate fencing around the entirety of a ground-mounted solar energy system in accordance with the requirements of section 24.5., above. The fencing shall have self-locking gates, and shall bear warning signs with the owner's name and emergency contact information on any access point to the system and perimeter of the fencing. The fencing and the system shall be further screened by any landscaping needed to avoid adverse aesthetic impacts.
7. A report or series of reports containing the information hereinafter set forth. Where this section calls for certification, such certification shall be by a qualified New York State Licensed Professional Engineer and/or architect acceptable to the Town, unless otherwise noted.
	1. The proposed solar energy production capacity design level proposed for the facility and the basis for the calculations of the solar energy system’s capacity.
	2. The make, model and manufacturer of the solar production component parts and schematic drawings of same.
	3. A description of the proposed commercial solar energy system and all related fixtures, structures, appurtenances and apparatus, including height above preexisting grade, materials, color and lighting.
	4. Applicant's proposed commercial solar energy system maintenance/inspection procedures and related system of records. This report shall further include a list of contacts for the property, notification procedures for the transfer of ownership and plans for continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
	5. Certification from all relevant County, State and/or Federal authorities that the proposed commercial solar energy system will not cause interference with air traffic.
	6. Certification that a topographic and geomorphologic study/analysis has been conducted, taking into account subsurface features and a proposed drainage plan pursuant to a Storm Water Pollution Prevention Plan (SWPPP), such that the proposed site is deemed adequate to assure the stability of the proposed commercial ground-mounted solar energy system.
	7. Plans to prevent the erosion of soil both during and after construction, excessive runoff, and flooding of other properties, as applicable. There should be pre-construction and post-construction drainage calculations for the site completed by a licensed engineer. From this the engineer must show how there will be no increase in runoff from site. A SWPPP will be required if disturbance of the land exceeds one acre.
	8. A decommissioning plan completed in conformance with section 24.15 of this Land Ordinance.
	9. The Applicant shall furnish a visual impact assessment, in a manner approved by the Town Board, to demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the proposed commercial solar energy system and all related structures which shall, at minimum, include:
		1. A zone of visibility map, which shall be provided in order to determine locations where the commercial ground-mounted solar energy systems may be seen.
		2. Pictorial representations of before and after views from key viewpoints both inside and outside of the Town, including, but not limited to, state highways and other major roads; airports; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. The Town Engineer and/or Code Enforcement Officer, acting in consultation with the Town’s consultants or experts, will provide guidance concerning the appropriate key sites at the pre-application meeting. An assessment of the visual impact of the commercial solar energy system and accessory buildings from abutting and adjacent properties and streets.
	10. The Applicant shall furnish a visual impacts minimization and mitigation plan that responds to any concerns raised as a result of the visual impact assessment. Said plan shall include proposed minimization and mitigation alternatives based on an assessment of mitigation strategies, including screening (landscaping), architectural design, visual offsets, relocation or rearranging facility components, reduction of facility component profiles, alternative technologies, facility color and design, lighting options for work areas and safety requirements, and lighting options for FAA aviation hazard lighting.
8. A Completed State Environmental Quality Review Act (“SEQRA”) Full Environmental Assessment Form (“FEAF”).
9. The Town shall refer all Special Use Permit applications and materials submitted in support thereof to the Cortland County Planning Board as required by New York General Municipal Law § 239-m.
10. The Town Board may, in its discretion, modify or waive any of the requirements described in this section to the extent that such conditions are inapplicable to a given application. The Town Board may also require that the Applicant submit additional information not listed herein that it deems necessary in order to inform and complete its review of the Applicant’s Special Use Permit application.

**24.8. Retention of Expert Assistance; Reimbursement by Applicant.**

1. The Applicant for a Special Use Permit for a commercial solar energy system shall be responsible for the cost of the engineering review by the Town Designated Engineer (TDE), as well as any additional consultants and/or experts the Town may hire to assist in the review and evaluation of the Application and any request for recertification of a previously issued special use permit. The Town Board may hire any consultant and/or expert necessary to assist the Board in reviewing and evaluating the application and any requests for recertification
2. An Applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of TDE, consultant and expert evaluation and consultation to the Board in connection with the review of any application. The initial deposit shall be no less than $15,000.00. These funds shall accompany the filing of an application, and the Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall bill or invoice the Town no more frequently than monthly for their services in reviewing the application and performing their duties. If at any time during the review process this escrow account has a balance less than 50% of the initially deposited amount, the Applicant shall immediately, upon notification by the Town, replenish said escrow account so that the balance of said account equals the amount of the initial deposit. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the Town is more than the amount of the actual billing or invoicing at the conclusion of the review process, the difference shall be promptly refunded to the Applicant.

**24.9. Related Permits and Fees.**

1. A holder of a Special Use Permit granted under this section 24 shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the Applicant.
2. A holder of a Special Use Permit granted under this section 24 shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted solar energy production facility in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, County, State and/or United States, including, but not limited to, the most recent editions of the New York State Uniform Fire Prevention and Building Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.

**24.10. Right to Inspect.**

1. In order to verify that the Applicant and any and all lessees, renters and/or licensees of commercial solar energy systems place and construct approved solar energy systems, including solar collectors and solar inverters, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other applicable requirements, the Town, its authorized officers, agents and/or designees may inspect all facets of said Special Use Permit holders’, renters’, lessees’ or licensees’ placement, construction, modification and maintenance of such facilities.
2. The costs of all inspections conducted pursuant to this Section shall be borne by the Applicant.
3. Upon request of the Town, its authorized officers, agents and/or designees, the owner of the commercial solar energy system shall provide the Town Building Inspector a report showing the rated capacity of the system, and the amount of electricity that was generated in the most recent twelve-month period. The report shall be submitted no later than 45 days after a written request for the same. Failure to submit a report as required herein shall be considered a violation subject to the penalties and remedies set forth in this section 24.

**24.11. Liability insurance.**

1. Prior to the commencement of construction of a commercial solar energy system, the owner/operator thereof shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage for the duration of the useful life of the commercial solar energy system. Insurance policy amounts shall be determined by the Board in consultation with Town’s insurer to cover damage or injury that may result from the failure of a commercial solar energy system or any other part(s) of the generation or transmission facility. However, at minimum, the owner/operator shall carry the following insurances in the following amounts:
2. Commercial general liability covering personal injuries, death and property damage: $1,000,000 per occurrence/$2,000,000 aggregate.
3. Automobile coverage: $1,000,000 per occurrence/$2,000,000 aggregate.
4. Workers’ compensation and disability: statutory amounts.
5. The commercial general liability insurance policy shall specifically include the Town of Harford as additional named insured.
6. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best’s rating of at least "A."
7. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least 30 days prior written notice in advance of the cancellation of the insurance.
8. Renewal or replacement policies or certificates shall be delivered to the Town at least 15 days before the expiration of the insurance policies currently in place.
9. Before construction of a permitted commercial solar energy system is initiated, but no later than 15 days after the grant of the Town Board approval, the Special Use Permit holder shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

**24.12. Penalties for Violations.**

A. A violation of this section 24 is hereby declared to be an offense, punishable by a fine not exceeding $250 or imprisonment for a period not to exceed fifteen (15) days, or both. Each week's continued violation shall constitute a separate additional violation.

B. Notwithstanding anything in this section 24, the owner/operator of a commercial solar energy system may not use the payment of fines, liquidated damages or other penalties to evade or avoid compliance with this section. An attempt to do so may subject the owner/operator of a commercial solar energy system to the termination and revocation of any or all previously granted certificates, permits or approvals for the commercial solar energy system pursuant to the procedures described in section 24.13 (B), below. The Town may also seek injunctive relief to prevent the continued violation of this section, without limiting other remedies available to the Town.

**24.13. Default and/or Revocation.**

1. If a commercial solar energy system is repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this section 24, the Code Enforcement Officer shall notify the owner/operator of the commercial solar energy system in writing of such violation. Such notice shall specify the nature of the violation or noncompliance and state that the violations must be corrected within thirty (30) days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this section 24, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Code Enforcement Officer or his/her authorized designee may, at his/her sole discretion, order the violation remedied within 24 hours.
2. If, within the period set forth in subsection A above, the commercial solar energy system is not brought into compliance with the provisions of this section 24 or substantial steps are not taken in order to bring the same into compliance, the Code Enforcement Officer may revoke any or all certificates, permits or approvals issued by him/her and shall notify the owner/operator of the same within 48 hours of such action. The Code Enforcement Officer shall, in addition to the foregoing, inform the Town Board of the owner/operator’s failure to comply with subsection A above. The Town Board may thereafter, in its discretion, and after providing the owner/operator with notice and an opportunity to be heard, revoke any previously granted Special Use Permit for the commercial solar energy system in question.

**24.14. Permit Time Frame.**

The Special Use Permit authorizing construction of a commercial solar energy system shall be valid for a period of eighteen (18) months from the date of issuance, conditional upon the subsequent issuance of building permit authorizing the commencement of construction. In the event construction is not completed in accordance with the approved site plan within eighteen (18) months after Special Use Permit approval, the Applicant may apply to the Town Board to extend the time to complete construction for 180 days, which extension shall not be unreasonably withheld or delayed. If the owner and/or operator fails to perform substantial construction after twenty-four (24) months, all previously granted approvals shall expire.

**24.15. Abandonment of Use and Decommissioning.**

1. The decommissioning plan required by this section 24.15 shall include, at minimum, the following:
2. The removal of all aboveground solar panels/collectors, solar energy equipment and accessory facilities/structures.
3. The removal of all footings, foundations or similar installations to a depth of four (4.0) feet below grade. Belowground solar accessory facilities or structures, such as collection lines, are not required to be removed, unless otherwise required by applicable law. In addition, access roads may be left in place if written consent is received by the Town from the landowner. However, all solar energy equipment and accessory facilities or structures installed underground must be fully removed and the land reclaimed where such equipment or materials will:
	1. interfere with or prevent continued compliance by the landowner with any Environmental Laws,
	2. give rise to any liability to the Town or the landowner under any Environmental Laws, or
	3. form the basis of any claim, action, suit, proceeding, hearing or investigation under any Environmental Laws. “Environmental Laws” shall mean any applicable law (including common law), statute, regulation, ordinance, order, code, guidance standard recognized by regulatory authorities, or other legal requirement relating to protection of the environment, Hazardous Material(s) and/or worker health and safety adopted by any applicable federal, state, or local governmental authority. “Hazardous Material” means any pollutant, contaminant, hazardous or toxic substance, waste, and any other material (a) subject to regulation or governed by any Environmental Law; and (b) the presence, or discharge of, or exposure to which could result in liability as a result of its impact or potential impact on human health or the environment; and including asbestos and asbestos containing material; petroleum, petroleum products and waste oil; any flammable explosives, radioactive materials, or toxic mold.
4. Restoration of the surface grade and soil after removal of all aboveground solar panels, solar energy equipment and accessory facilities or structures.
5. Revegetation of restored soil areas with native seed mixes that exclude any invasive species.
6. A reasonable timeframe for the completion all decommissioning and site restoration activities.
7. The implementation of the decommissioning plan shall commence and proceed in accordance with subsections C, D and E of this section 24.15., as applicable, upon the occurrence of any of the following:
8. The Applicant abandons or otherwise ceases operation of the commercial ground-mounted solar energy system for a cumulative period of 180 days in any 365-day period;
9. The Applicant or subsequent owner begins but does not complete construction of the project within 18 months, or 24 months upon the granting of an extension by the Town Board as described in subsection A above, after receiving Special Use Permit approval; or
10. The Special Use Permit for the commercial solar energy system is revoked, terminated, or expires and is not renewed.
11. When a permitted commercial solar energy system falls into such a state of disrepair that it creates a health or safety hazard.
12. When commercial solar energy systems are located, constructed or modified without first obtaining, or in a manner not authorized by, the required site plan review approval, Special Use Permit, or any other necessary authorization.
13. In the event that construction of an approved solar energy system and/or solar accessory facilities or structures has been started but is not completed and functioning within 18 months of the issuance of the final site plan approval and Special Use Permit, the Town may notify the Applicant to complete construction and installation of the facility within 90 days. If the Applicant fails to perform, or to apply for and receive a Special Use Permit extension in accordance with this section 24, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of such notification by the Town.
14. Upon revocation, termination or non-renewal of an expired Special Use Permit, the Applicant, owner and/or operator must fully complete the decommissioning plan within 180 days of the date of revocation, termination or non-renewal.
15. Upon the occurrence of any event listed in subsection B above, to which the requirements of subsections C and/or D of this section 24.15 do not apply, the Town shall notify the owner and/or operator of the commercial solar energy system to implement the decommissioning plan. Within 90 days of the service of said notice, the owner and/or operator shall either restore operation equal to 50% of approved capacity, or commence implementation of the decommissioning plan, which plan must be fully completed within 180 days after implementation thereof.
16. If the owner and/or operator fails to fully complete the decommissioning plan within the 180 day time period and restore the site as required, the Town may, at its own expense, provide for the restoration of the site in accordance with the decommissioning plan and may, in accordance with the law, recover all expenses incurred for such activities from the irrevocable letter or letters of credit posted by the owner and/or operator in accordance with subsection G of this section 24.15, and from the defaulted owner and/or operator directly, if necessary. Any decommissioning costs incurred by the Town which have not been fully paid by the owner and/or operator shall be assessed against the property, shall (in addition to any other available remedies) become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes. The decommissioning plan shall provide for the ability of the Town, or its assignee or designee, to access the property owners’ land in order to complete decommissioning if necessary.
17. Prior to the issuance of a building permit, the owner or operator of an approved commercial solar energy system shall post an irrevocable letter or letters of credit in a face amount of not less than 120% of the estimated cost of complete decommissioning and removal to ensure proper, safe removal of the solar energy system and accessory facilities/structures in accordance with the decommissioning plan required by this section 24.15. Each said letter of credit shall state on its face that it is held by and for the sole benefit of the Town. The owner and/or operator shall not encumber or create any security interest(s) in the letter(s) of credit in favor of any third party. The amount of the financial guarantee shall be reviewed by the Applicant and the Town Board every five years and may be changed based upon majority vote of the Board. The form of the guarantee must be reviewed and approved by the Attorney for the Town, and the guarantee must remain in effect until the system is fully removed and final inspection is completed by the Code Enforcement Officer.
18. Ownership Changes – If the ownership of a commercial solar energy system that has been granted a Special Use Permit changes, the Special Use Permit shall remain in force and all conditions of the Permit will continue to be obligations of succeeding owners. The Town Clerk shall be notified and the ownership change registered with the Town. At the time of the notification of the ownership change the new owner(s) must provide an irrevocable letter or letters of credit to the Town Clerk in accordance with the provisions of subsection G above. All signs required shall be updated accordingly.

**24.16. Relief From Requirements of this Section 24.**

Any Applicant desiring relief or exemption from any aspect or requirement of this section 24 of the Land Ordinance may request such from the Town Board at a pre-application meeting, provided that the relief or exemption is contained in the original application for site plan review or, in the case of an existing or previously granted site plan approval, a request for modification of its facilities. Such relief may be temporary or permanent, partial or complete, at the sole discretion of the Town Board. The Applicant shall bear the burden of proving the need for the requested relief or exemption to the satisfaction of the Town Board. The Applicant shall further bear all costs of the Town Board or the Town in considering the request, and the relief shall not be transferable to a new or different owner/operator for commercial ground-mounted solar energy systems without the specific written permission of the Town Board. No such relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted, the relief or exemption will have no significant effect on the surrounding environment, or on the health, safety and welfare of the Town, its residents and other service providers, including, but not limited to, law enforcement agencies and emergency services providers.

**24.17. Adherence to State and/or Federal Rules and Regulations.**

To the extent that applicable State or Federal laws, rules, regulations, standards or provisions of same are modified during the operation of a commercial solar energy system, the owner/operator thereof shall conform the permitted commercial solar energy system to the applicable changed and/or modified law, rule, regulation, standard or provision thereof within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard or provision thereof, or sooner, if required by a State or Federal agency responsible for the administration of the changed law, rule, regulation, standard or provision thereof.

**§ 4. SEVERABILITY**

If any provision, clause, sentence, subsection, word or part of this Local Law is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which this Local Law or part thereof is held inapplicable, had been specifically exempt therefrom.

**§ 5. REPEALER.**

All ordinances, local laws, and parts thereof inconsistent with this Local Law are hereby repealed.

**§ 6. CONFLICT WITH OTHER LAWS.**

Where this Local Law differs or conflicts with other laws, rules and regulations the more restrictive applicable law, rule or regulation shall apply. This section shall be inapplicable where County, State or Federal Law preempts the application of a more restrictive law, rule or regulation, include the provisions contained in this Local Law.

**§7. EFFECTIVE DATE.**

This Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.