

# Town of Stafford

## Solar Law

## Stafford, New York

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June 10, 2019

Board Meeting

## STAFFORD NEWYORK SOLAR LAW PRELIMINARY OBSERVATIONS

1: New York (like almost every other state) has laws directing local legislators to “protect the health, safety and well-being” of their community. That is the fundamental premise that this entire law is based on. Every aspect of this law is examined under that light. [Note: we are aware of no Town of Stafford law obligating legislators to promote the interests of business entrepreneurs, solar or otherwise.]

2: The “Findings” (Section 5) are particularly important, as they set the stage for the subsequent rules and regulations. The Findings here make it clear that there are potential downsides to industrial solar energy. These need to be carefully considered before an accurate determination of community net benefits can be made.

3: After considerable research it has been determined that an effective regulatory industrial solar law addresses four key protections: a) property value, b) environmental, c) escrow account, and d) decommissioning.

4: Although it is a rarity in other solar laws we’ve seen, we strongly believe that a net economic assessment is an important, and justifiable requirement.

5: In most solar laws the developer is allowed to hire experts to conduct various environmental tests. If the developer contracts an ally, the resultant tests are likely

useless. This law provides a simple solution: give the money that the developer was going to spend on experts, to the Town of Stafford. The Town of Stafford then hires independent experts. The cost is the same to the developer, so they have no legitimate complaint against this arrangement — but the results will likely be radically better.

## PROPOSED SOLAR LAW OBJECTIVES

The objective in writing this law was to produce a high quality solar law — i.e. a law with rules and regulations that:

- a) reasonably and effectively protect the health, safety and well-being of local citizens and visitors,
- b) reasonably and effectively protect the property rights of local residents,
- c) reasonably and effectively safeguard the local economy,
- d) reasonably and effectively conserve the environment and preserve local ecosystems,
- e) are understandable to legislators and citizens
- f) will result in objective and meaningful tests and reports,
- g) are relatively easy to implement,
- h) will not be any expense to taxpayers,
- i) are scientifically sound, including health and safety consideration
- j) can likely withstand a legal challenge

## Solar Law Stafford, New York, June 10, 2019

Be it enacted by the Stafford Town Board of Stafford, New York as follows:

### Section 1. Local Law

Local Law No. \_\_\_ of the year 2019.

### Section 2. Title

This Local Law may be cited as the "Solar Energy Facilities" law Stafford, New York.

### Section 3. Purpose

The Stafford Town Board of Stafford, New York adopt this Local Law to regulate the placement of industrial Solar Energy Facilities (SEFs) to protect the public health, safety and welfare of its citizens and visitors; to minimize the adverse impacts on the Town of Stafford character and economy; to minimize negative impacts on the unique scenic resources including, but not limited to adjacent lands and waterways; to minimize the adverse impacts on property values of nearby citizens; to minimize the adverse impacts on the town's farming communities; and to minimize the adverse impacts on the Town's environment and ecosystems.

This law is not addressing residential solar use, or a small solar array that is on a farm or other business, exclusively for onsite energy usage. This law is not intended to abridge safety, health or environmental requirements contained in other applicable codes, standards, or laws. The provisions of this law shall not be deemed to nullify any provisions of any state or federal law.

#### Section 4. Authority and References

The Stafford Town Board, Stafford, New York enacts this law establishing comprehensive regulations for Solar Energy Facilities for the Town of Stafford, New York providing for the administration, enforcement, and amendment thereof, in accordance with the provisions of law.

#### Section 5. Intent:

Based on Stafford Solar Committee Findings

1. The New York General Statute (e.g. 272-a) and repeated in the foundation of the Stafford Comprehensive Plan p.1, gives our local legislators the power to write zoning and regulation laws “for the purpose of promoting power to write zoning and regulation laws “for the purpose of promoting the health, safety, or general welfare” of their community. It states, “While municipalities are given the power to regulate land uses in the community, it is understood that these decisions should be based on sound planning principles, and are not to be arbitrary or capricious.”
2. Stafford’s Comprehensive Plan desires to maintain the pastoral, rural nature of this region. An industrial solar energy facility is in conflict with the culture and character of the community.
3. While solar is a semi-renewable energy resource of electricity generation, and under some circumstances it may reduce the use of nonrenewable energy sources, the possible benefit must be balanced against potential negative impacts to local citizens, local economy, and local ecosystems of Stafford.
4. Regulation of the siting and installation of solar arrays is necessary for protecting the health, safety, and well-being of neighboring property owners, the general public, local agricultural lands and local ecosystems in Stafford.

#### Section 6. Permit Required

Large solar energy facilities shall be permitted within the Town of Stafford only in an Industrial, Industrial Park or Brownfield Sites designated as such. Such facilities shall be subject to the requirements and permitting process of this Local Law, in addition to other applicable local, state and federal laws.

This Local Law shall apply to all areas of the Town of Stafford, NY.

## Section 7. Definitions

As used in this law, the following terms shall have the meanings indicated. Words not defined in this Local Law shall be given their ordinary and common meaning:

**Accessory building:** A building that is located on the Solar Energy Facility (SEF) property.

**Accessory Equipment:** Any equipment serving or being used in conjunction with a SEF. The term includes utility or transmission equipment, power supplies, generators, batteries, equipment sheds, and storage sheds, shelters or similar structures.

**Brownfield:** With certain legal exclusions and additions, the term "brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

**Completed Application:** An application that contains all information and/or data required and requested, to enable an informed decision to be made with respect to that application.

**Conservation Area:** Such areas include natural areas protected by law, such as wetlands that meet the definition in the Clean Water Act 33 USC Sec. 1251 et seq.; shore land areas; water bodies; riparian buffers; populations of endangered or threatened species, or habitat for such species; archaeological sites, cemeteries, and burial grounds; important historic sites; other significant natural features and scenic view sheds; and existing trails or corridors that connect the tract to neighboring areas.

**Escrow Account:** Accounting: Account in which funds are accumulated for specific disbursements.

**Maintenance:** The cleaning, painting, repair, or replacement of defective parts (including plumbing, electrical, or mechanical work that might require a building permit) in a manner that does not alter the basic design or composition of a structure, such as a solar array.

**Modification or Modify:** Any change, addition, removal, swap-out, exchange, and the like that does not qualify as "Repairs and/or Maintenance" as defined herein is a Modification. Also included is any change, addition, swap-out, exchange, and the like that requires or results in changes and/or upgrades to the structural integrity of a solar array.

**Person:** An individual, trustee, executor, receiver, other fiduciary, corporation, firm, partnership, association, organization, club, etc. acting as an entity.

**Repair:** The replacement of existing work with the same kind of material used in the existing work, not including additional work that would

- change the structural safety of the structure
- that would affect or change required existing facilities, a vital element of an elevator, plumbing, gas piping, wiring, or heating installations, that would be in violation of a provision of law or this Local Law.

The term "Repair" or "Repairs" shall not apply to any change in construction.

**Solar Array:** An active solar energy system that converts sunlight into electricity using either Thermal or Photovoltaic methods. Such a system has multiple solar collectors, and might include transformers, generators, batteries, and other additional structures and/or facilities.

**Solar Collector:** A device that converts sunlight into electricity using either Thermal or Photovoltaic methods.

**Solar Energy:** There are two general ways sunlight is converted into useful energy: passive and active. Passive refers to such actions as opening a window shade to let sunlight in to heat a room. Active uses mechanical devices to collect, convert, store and distribute solar energy. The two most common Active conversions of sunlight into electricity are Thermal and Photovoltaic.

**Solar Energy Facility (SEF):** A commercial electricity-generating facility (PV or CSP), whose primary purpose is to supply electricity. This consists of one or more solar arrays and other accessory structures and buildings, including substations, electrical infrastructure, generators, transmission lines, and other additional structures and/or facilities. This is large scale sale and production of energy is for offsite usage. Also referred to as Industrial Solar Energy Facility.

**Solar Farm:** A marketing term for a SEF.

**State:** The State of New York.

**Utility Pole:** A structure owned and/or operated by a public utility, municipality, electric membership corporation, or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

## Section 8. Permit Requirements

**8-1 General:** Before a building permit may be submitted for a SEF, a Solar Energy Permit Application must first be approved by the Town Board.

**8-2 Permit Application:** Throughout the permit process, the Applicant/Owner/Operator shall promptly notify the Town Board of any changes to the information contained in the permit application. Changes that do not materially alter the initial site plan may be administratively accepted. The application for a SEF shall consist of five paper copies and electronic (digital) filing that contains at least the following:

**8-2.1 Summary:** A narrative overview of the SEF, including its generating capacity.

**8-2.2 Inventory:** A tabulation describing the:

A. Number and type of each proposed solar array, including their generating capacity.



B. Dimensions and respective manufacturers.

C. Additional structures and/or facilities.

8-2.3 Vicinity map: Identification of the property on which the proposed SEF will be located.

8-2.4 Site Plan: A plan showing the:

A. Planned location of each solar array.

B. All property lines within 1000 feet of the property lines of the proposed site.

C. Each array's setback distance from the closest SEF boundary.

D. Access road and turnout locations.

E. Substation(s) and ancillary equipment, buildings, and structures.

F. Electrical cabling from the SEF to the substation(s), and from the substation(s) to where the electricity will leave the site, and associated transmission lines.

G. Conservation Areas, including natural areas protected by law, such as wetlands that meet the definition in the Clean Water Act; shore land areas; water bodies; riparian buffers; populations of endangered or threatened species (federal or state), or habitat for such species; flyways; archaeological sites, cemeteries, and burial grounds; important local historic sites; existing healthy, native forests consisting of at least one acre of contiguous area; individual existing healthy trees that are at least 100 years old; other significant natural features and scenic view sheds; existing trails or corridors that connect the tract to neighboring areas.

H. A landscaping plan that shows proposed screening and buffering of all arrays, buildings and other non-array structures on the site or sites.

8-2.5 Misc: The Applicant/Owner/Operator shall provide the following information to the Town Board:

A. Documentation that the Project will meet the all the requirements of the nationally recognized electrical code.

B. A Stand-down Plan for high wind conditions.

C. Signed copies of all original leases/easements and agreements for this SEF.

8-2.6 Economic Impact Study: The Town of Stafford will hire independent experts (paid for from the Escrow Account) who will do a thorough, realistic assessment of the SEF's net economic impact on the community. This will include possible tourism impact, property values, cost to community, health effects, higher cost of electricity, etc. This will be compared to any guaranteed incomes from the SEF.

8-2.7 Maintenance Plan: The Applicant/Owner/Operator shall detail storm and other severe weather event follow-up, and other actions that shall be taken to keep the SEF operating quietly, efficiently, and not polluting land, water, air. Steps should be taken to insure proper operation of inverters, inverter filters and associated electrical equipment. This should include checks for electrical pollution. The Applicant/Owner/Operator shall conduct preventive maintenance inspections at least every six months, and after any wind event defined as severe wind, which would be wind over 40 miles per hour for one hour or wind gust 58 miles per hour or greater. Each inspection shall look for such things as metal fatigue, nut loosening, leakage, and other potential failures that might impact the public health and safety. Such inspection reports shall be provided to the Town of Stafford Zoning or Code Enforcement Officer within thirty (30) days of the inspection. Once a year, the Stafford Building Inspector or designee will inspect for safety of the SEF.

8-2.8 Decommissioning Plan: A description of how the structural and array materials will be disposed of, how the site will be restored, as well as:

- A. Anticipated life of the SEF.
- B. Estimated decommissioning costs including contingency costs of at least 20% (in current dollars), as provided by an appropriately experienced licensed engineer.
- C. A verifiable means of determining if the decommissioning plan needs to be activated due to cessation of use, if electricity is not received from any array within the SEF for any thirty (30) consecutive days.
- D. The Applicant/Owner/Operator's plan to dispose of all hazardous waste contained in the SEF.
- E. Method for ensuring that funds will be available for decommissioning and restoration as set forth in a decommission bond.

8-2.9 Ancillary Materials: Other relevant studies, reports, certifications, and approvals as may be reasonably requested by the Town of Stafford to ensure compliance with this Local Law, or to protect the health, safety and well-being of the Town's citizens, or local ecosystems. The inputs of local citizens will be solicited in at least one (1) public hearing on this application.

8-2.10 Town Board Decision: The approval by the Town Board shall be via special use permit. The required SEQR shall include, but is not limited to, information and recommendations developed by the Stafford Citizens Solar Committee. The Town Board is responsible for completion of the SEQR and final approval of the permit required for the solar energy project.

8-3.1 Setbacks: To provide for at least minimal operational safety for persons and property located outside of a SEF, all SEFs shall comply with the following: one thousand (1000) feet from residential property lines\*, two hundred(200) feet from non-residential property lines\*, highway right of way, and maximum height of twenty (20) feet\*\*.

\* Such minimum setback for a SEF shall be measured from its outermost extension that is nearest the SEF property line, public or private right-of-way, and access easement.

\*\* Height is measured from the lowest adjacent grade to the highest point of the structure, including any attachments (such as a lightning protection device).

8-3.2 Power Collection: The electrical connection system from the solar arrays to a substation shall, to the maximum extent possible, be placed underground. The power from that substation may use overhead transmission lines, if approved by the Town Board.

8-3.3 The SEF shall:

A. Not contain any signs or other advertising (including flags, streamers or decorative items or any identification of the array manufacturer,( Applicant/Owner/Operator). This does not include any identification plaques that might be required by the electric utility or a governmental agency.

B. Have a minimum landscape buffer of 25 feet on sides where neighboring homes can see into the SEF. The buffer shall contain evergreen trees or bushes planted no more than 8 feet apart and at least 4 feet tall at time of planting.

8-3.4 Security: The Applicant/Owner/Operator shall submit design plans to verify that the SEF is:

A. Located, fenced, or otherwise secured so as to prevent unauthorized access inside the planted buffer.

B. Installed in such a manner that they are accessible only to persons authorized to operate or service them, and inaccessible to non-authorized individuals.

8-4 SEF Escrow Account: The Applicant/Owner/Operator shall pay to the Town of Stafford a non-refundable Application Fee . The Town Board is required to obtain engineering, economic impact, environmental impact, or other professional services to aid it in the review of any submitted SEF application. These costs (and other expenses incurred by the Town of Stafford) are reimbursable only from the Escrow Account, not the Application Fee. The amount of the escrow account will be determined by consulting with the appropriate professional organizations. There will be a minimum amount of \$150,000 in the account at all times.

8-4.1 The Applicant/Owner/Operator shall reimburse the Town of Stafford for all oversight expenses incurred relating to the SEF, from application through decommissioning.

8-4.2 These SEF-related oversight expenses include (but are not limited to) amounts required for Building Permits, Licensing, Re-Licensing, and Decommissioning — e.g. administration, engineering, expert health and wildlife evaluations, handling complaints, legal, etc. “Legal” includes reasonable attorney fees for the Town of Stafford if the Town of Stafford in the event that an action is commenced by the Town to enforce provisions of this local law. the Applicant/Owner/Operator.

8-4.3 Any Escrow Account interest shall stay with the account and be considered new principle.

8-4.4 This Escrow Account will be setup by the Applicant/Owner/Operator at the time of the SEF permit Application. This Escrow Account will be at a financial institution approved Town of Stafford, solely in the name of the Town of Stafford, to be managed by the Town of Stafford (or designee appointed by the Stafford Town Board)).

The Applicant/Owner/Operator will make an initial deposit of \$150,000 determined by the Stafford Town Board . A SEF Permit Application will not be processed until the Applicant/Owner/Operator has provided proof of deposit. A SEF Permit Application determination will not be made until all costs incurred to date have been reimbursed by the Applicant/Owner/Operator.

8-4.5 If the SEF Application is denied, all Escrow Account funds will be returned to the Applicant/Owner/Operator, less related expenses incurred by the Town of Stafford. The money will be returned, along with a statement as to these costs, within 30 days of the Application being formally denied, or receipt of a Letter of Withdrawal. Permit Fees are non-refundable.

8-4.6 This Escrow Account will be funded during the life of the SEF by the Applicant/Owner/Operator. The Applicant/Owner/Operator will replenish any Escrow funds used by the Town of Stafford within 30 calendar days of being sent written notification (and explanation) of said withdrawals. Failure to maintain the Escrow Account at a minimum balance set by the Town of Stafford Town Board (within 30 days of being given notice) shall be cause for revocation (or denial of renewal) of the SEF Permit.

8-4.7 Once the SEF Applicant/Owner/Operator believes that they have satisfactorily complied with the decommissioning conditions specified herein, they will send the Town of Stafford written notification. The Town of Stafford then has ninety (90) days to verify to their satisfaction that all decommissioning conditions have been complied with. If there is material non-compliance, the Town of Stafford will so notify the SEF Applicant/Owner/Operator and the process starts over. Otherwise the Town of Stafford will return all Escrow Account funds to the SEF Applicant/Owner/Operator, less related expenses incurred by the Town of Stafford, along with an explanatory statement.

8-5 SEF Real Property Value Protection Plan:

The SEF Applicant/Owner/Operator shall assure the Town of Stafford that there will be no loss in real property value for any property within 2500 feet of the SEF. To legally support this claim, the Applicant/Owner/Operator shall consent in writing to a Real Property Value Protection Agreement as a condition of approval for the SEF. This Agreement shall provide assurance to non-participating real property owners (i.e. those with no solar facilities on their property) near the SEF, that they have some

protection from SEF-related real property values losses. A study must be made based on information for the Town of Stafford.

A. If a property owner wants to exercise this option, they must do so within 10 years of the SEF receiving final approval from the Town of Stafford.

B. A property owner may elect to exercise this option only once.

C. The Applicant/Owner/Operator and the property owner may accept mutually agreeable modifications of this Agreement, although the Applicant/Owner/Operator is not allowed to put other conditions on a financial settlement (e.g. confidentiality). If the property owner accepts some payment for property value loss based on an alternative method, that that acceptance and payment shall be considered an exercise of this option.

D. This Agreement applies to the property owner of record as of the date of the SEF approval, and is not transferrable to subsequent owners.

E. The property owner of record as of the date of the SEF approval must reasonably maintain the property from that time, until they choose to elect this option.

F. The property owner must permit full access to the property by the appraisers, as needed to perform the appraisals.

G. The property owner must inform the appraisers of all known defects of the property as may be required by law, as well as all consequential modifications or changes to the property subsequent to the date of the SEF application.

H. This Agreement will be guaranteed by the Applicant/Owner/Operator (and all its successors and assigns), for 10 years following the SEF receiving final approval from the Town of Stafford, by providing a bond (or other surety) to the Town of Stafford, in an amount determined to be acceptable by the Town of Stafford. This surety account will ensure execution of all aspects of this Agreement (including compensation of eligible property owners in the case of default by Applicant/Owner/Operator). Failure to maintain this surety account shall be cause for revocation (or denial of renewal) of the SEF Permit. The amount of affected property should be determined during the permitting process.

I. Payment by the Applicant/Owner/Operator not made within sixty (60) days will accrue an interest penalty. This will be twelve percent (12%) annually, from the date of the written election from property owner.

J. For any litigation regarding this Agreement, all reasonable legal fees and court costs will be paid by the Applicant/Owner/Operator.

#### 8-6 SEF Surety for Removal, when Decommissioned:

The Applicant/Owner/Operator shall place with the Town of Stafford an acceptable letter-of-credit, bond, or other form of security that is sufficient to cover the cost of removal at the end of each SEF array's useful life, as detailed in the decommissioning plan. Such surety shall be determined based on best practices and research for each acre of a solar array. The Town Board may approve a reduced surety amount that is not less than 150% of a cost estimate that is certified by an Engineer, salvage company, or other expert acceptable to the Town Board. This calculation will not take into account any estimated salvage values.

The Town of Stafford shall use this surety to assure the faithful performance of the decommissioning terms and conditions of the Applicant/Owner/Operator's plan and this law. The full amount of the bond or security shall remain in full force and effect until all necessary site restoration is completed to return the site to a condition comparable to what it was prior to the SEF, as determined by the Town Board. The Applicant/Owner/Operator will be responsible for assuring that any subsequent Assigns of the SEF, will provide acceptable surety to the Town of Stafford, prior to any transfer of ownership.

#### 8-7 SEF Liability Insurance:

8-7.1 The holder of a permit for a SEF shall agree to secure and maintain for the duration of the permit public liability insurance, as follows:

A. Commercial general liability covering personal injuries, death and property damage: \$5,000,000 per occurrence (\$10,000,000 aggregate), which shall specifically include the Town of Stafford and its officers, councils, employees, committee members, attorneys, agents and consultants as additional named insured.

B. Umbrella coverage: \$10,000,000.

8-7.2 The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with at least a Best's rating of "A".

8-7.3 The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town of Stafford with at least 30 days prior written notice in advance of a cancellation.

8-7.4 Renewal or replacement policies shall be delivered to the Town of Stafford at least 15 days before the expiration of the insurance that such policies are to renew or replace.

8-7.5 No more than 15 days after the grant of the permit and before construction is initiated, the permit holder shall deliver to the Town of Stafford a copy of each of the policies or certificates representing the insurance in the required amounts.

8-7.6 A certificate of insurance that states that it is for informational purposes only and does not confer sufficient rights upon the Town of Stafford, shall not be deemed to comply with this Law.

#### 8-8 SEF Indemnification:

Any application for a SEF within the Town of Stafford shall contain an indemnification provision. The provision shall require the Applicant/Owner/Operator to at all times defend, indemnify, protect, save, hold harmless, and exempt the Town of Stafford, and its officers, councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising there from, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said SEF, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town of Stafford, or its employees or agents. With respect to the penalties, damages, or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town of Stafford.

8-9 SEF Permit Fees. The non-refundable Permit Application Fee shall be set annually by the Town Board.

8-10 Standards for Town Board's SEF Permit Application Decision: The Town Board may disapprove a SEF Permit Application for a variety of legal reasons, including but not limited to, the following:

- A. Conflict with safety and safety-related codes and requirements.
- B. The use or construction of a SEF that is contrary to an already-stated purpose of a specific zoning or land use designation.
- C. The operation of a SEF would be a net economic liability to the community.
- D. The operation of a SEF would create unacceptable health risks to the public.
- E. The placement and operation of a SEF that would create unacceptable risks to wildlife and/or regional ecosystems.
- F. The placement and location of a SEF would result in a conflict with, or compromise or change in, the nature or character of the surrounding area.
- G. The operation of a SEF would create unacceptable interference with any type of military or aviation operations.
- H. Conflicts with any provisions of this Local Law.

## Section 9. SEF Post-Permit Approval Requirements

### 9-1 SEF Construction Related Damage

The owner of any permitted SEF shall, to the extent practicable, repair or replace all real or personal property, public or private, damaged during the SEF construction.

A. Any road damage during construction that is caused by the Applicant/Owner/Operator or one or more of its subcontractors that is identified by this NY DOT, Genesee County Highway, and Town of Stafford Highway (as appropriate) shall be repaired or reconstructed to the satisfaction of NY DOT, Genesee County Highway, and Town of Stafford Highway (as appropriate) at the Applicant/Owner/Operator's expense, prior to the final inspection. In addition, the Applicant/Owner/Operator shall pay for all costs related to NY DOT, Genesee County Highway, and Town of Stafford Highway (as appropriate) pre-inspection work prior to receipt of the final inspection.

B. The surety for removal of a decommissioned SEF shall not be released until the Town Board or designee is satisfied that any road damage identified during and after decommissioning that is done by the Applicant/Owner/Operator and/or one or more of its contractors or subcontractors has been repaired or reconstructed to the satisfaction of the NYDOT, Genesee County Highway and/or Town of Stafford Highway at the Applicant/Owner/Operator's expense. In addition, the Applicant/Owner/Operator shall pay for all costs related to work of this NY DOT, Genesee County Highway, and Town of Stafford Highway (as appropriate) inspection prior to receipt of the release of the surety.

### 9-2 SEF Environmental Monitoring:

The Applicant/Owner/Operator will permit post-construction environmental studies deemed appropriate by the Stafford Town Board/Building Inspector or designee, which will be funded by the Escrow Account. The Applicant/Owner/Operator is responsible to see that the Town of Stafford has a current written list of all chemicals used for maintenance, etc. of the SEF (e.g. pesticides, herbicides, cleaners). This list shall include quantity and frequency of application of each of these chemicals. At any time if this information is out of date, the Applicant/Owner/Operator will be subject to a fine of \$250 per incident.

Post-construction field studies will include scientific assessments of regional nesting failures, and territory abandonment of special status species within one (1) mile of the SEF. When these assessments are being done, only researchers involved with these studies will be legally allowed to touch carcasses. SEF personnel who move carcasses without written Town of Stafford approval will be subject to a fine per law as solar arrays have been known to kill endangered and other highly protected species. During the life of the project carcass found anywhere within the SEF must be reported to the Town of Stafford Building Inspector by the Applicant/Owner/Operator within seven (7) days. The fine for violation of section 9.2 is \$250 per carcass per incident.



### 9-3 SEF Decommissioning:

The Town of Stafford Town Board will review the projected Decommissioning costs every five (5) years. The SEF owner will adjust their security to any changes from the original calculation. If the Town of Stafford Building Codes official condemns any portion of a SEF, or if no electricity is generated from any solar array for three (3) consecutive months, the Applicant/Owner/Operator and/or property owner shall have three (3) months to remedy the safety issues or complete the decommissioning of the SEF, according to the approved plan.

9-3.1 The Town Board may through the Code Enforcement Officer grant reasonable extensions of time for repair and/or maintenance, for good cause, such as the need to back-order parts that are not currently available from the supplier or the need to repair a SEF damaged by a storm.

9-3.2 Decommissioning shall include the complete removal of solar arrays, buildings, electrical components, cabling, roads, and any other associated facilities and/or structures ,buffered fencing, including below-ground items (e.g. foundations), to a depth of four (4) feet below grade.

9-3.3 Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

9-3.4 The Town Board shall pay (from the Escrow Account) for at least ten representative soil sample tests, to assure that no new contaminants are left behind. If evidence of new contaminants is found, the Applicant/Owner/Operator is obligated to remedy the situation to the Town of Stafford Town Board's satisfaction.

### 9-4 SEF Complaints:

The Town of Stafford shall set up a procedure for filing and handling SEF complaints. The Applicant/Owner/Operator shall initially be given a reasonable opportunity to resolve all complaints. The cost of such resolution shall be borne by the Applicant/Owner/Operator. If resolution is not made in a reasonable time or sixty days (reasonable as determined by the Stafford Town Board), the Town of Stafford may utilize its Escrow Account to attempt to resolve any SEF issues. The Town of Stafford shall establish a monitoring committee to oversee resolution of complaints regarding SEFs.

## Section 10. Miscellaneous

### 10-1 Fiscal Responsibility

10-1.1 The Town Board may, at its discretion, request the most recent annual audited financial report of the permittee prepared by a duly licensed Certified Public Accountant, during the review process. If such

report does not exist, the Town Board may, in its sole discretion, require a suitable alternative to demonstrate the financial responsibility of the Applicant/Owner/Operator and its ability to comply with the requirements of this Local Law.

10-1.2 No transfer or sale of any SEF, including the sale of more than 30% of the stock of such entity (not counting sale of shares on a public exchange) shall occur without advanced written acceptance by such entity of the obligations of the permittee under this Local Law. Any such transfer shall not eliminate the liability of any entity for any act occurring during its ownership or status as permittee.

#### Section 11. Applicability

The requirements of this Local Law shall apply to all SEFs proposed, operated, modified or constructed after the effective date of this Local Law.

#### Section 12. Severability

Should any provision of this Local Law be declared by any Court, administrative body, or board, or any other government body or board, to be unconstitutional, invalid, preempted, void, or otherwise inapplicable for any reason, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional, invalid, preempted, void, or otherwise inapplicable.