STATE OF NEW YORK
OFFICE OF RENEWABLE ENERGY SITING

Application for a Permit for a Major Renewable Energy Facility pursuant to Article VIII of the New York State Public Service Law for construction of a 125-megawatt (MW) Solar Electric Generating Facility, including a 20-MW Battery Energy Storage Facility, located in the Town of Wilna in Jefferson County and the Town of Croghan in Lewis County, New York.	**ORES DOCKET NO. 23-03027**

TOWN OF WILNA'S STATEMENT OF COMPLIANCE WITH LOCAL LAWS AND REGULATIONS

Pursuant to 19 NYCRR §900-8.4(d) and the Combined Notice of Availability of Draft Permit Conditions, Public Comment Period and Public Comment Hearing, and Commencement of Issues Determination Procedure, dated December 2, 2025, the Town of Wilna (hereinafter "Town") hereby submits its Statement of Compliance with Local Laws and Regulations in this proceeding. This Compliance Statement assesses whether the project proposed by applicant Sugar Maple Solar, LLC (hereinafter "Applicant") for the construction and operation of a solar electric generating facility (hereinafter "Facility") is designed to be sited, constructed, and operated in compliance with the substantive requirements of the Town's laws and regulations applicable to the Facility concerning the environment and public health and safety. For the purpose of this assessment, the Town has assumed that the proposed Facility will be constructed and operated in a manner consistent with the application, as amended, which was deemed complete on October 3, 2025 by the New York State Office of Renewable Energy Siting and Electric Transmission (hereinafter "ORES"). The Town has also assumed that the proposed Facility will be required to operate within

the terms and conditions of the Draft Permit for a Major Renewable Energy Facility issued by ORES for the Facility on December 2, 2025 (hereinafter the "Draft Permit").

Applicable Laws and Regulations

Town of Wilna Solar Energy Law (hereinafter the "Solar Law"), constituting Article VII of the Zoning Code of the Town of Wilna and the Town of Wilna Battery Energy Storage Law (hereinafter the "Battery Law"), constituting Article XI of the Zoning Code of the Town of Wilna (collectively the Solar Law and the Battery Law shall be referred to herein as "Town Code") are the Town local laws that primarily provide the substantive requirements applicable to the Facility. The Solar Law was adopted by the Wilna Town Board and filed on the New York State Department of State website on December 16, 2019 as Local Law No. 2 of 2019. A true copy of the Solar Law is annexed hereto as **Exhibit "A"**. The Battery Law was adopted by the Wilna Town Board and filed on the New York State Department of State website on August 12, 2024 as Local Law No. 1 of 2024. A true copy of the Battery Law is annexed hereto as **Exhibit "B"**.

Assessment of Compliance with the Solar Law

Pursuant to the Solar Law, absent the provisions of Public Service Law Article 10, the Applicant would be required to (1) have all solar energy systems designed by a New York State licensed architect or licensed engineer and be installed in conformance with the applicable International Building Code, International Fire Prevention Code and National Fire Protection Association (NFPA) 70 standards, and National Electric Code; and (2) obtain Site Plan Approval and a Special Use Permit.

Town officials and the Town's consultant team, including GYMO Architecture, Engineering & Land Surveying, D.P.C. and Kendall, Harrienger & Burrows as Attorneys for the Town, reviewed

the Application and Draft Permit for compliance with the substantive requirements of the Solar Law concerning the environment and public health and safety and engaged in multiple communications with representatives of the Applicant. The Town finds that the Facility complies with the Town's local laws and regulations **except** for the matters discussed below.

1. Town Code § 250-49(E)(3)(a)

Town Code § 250-49(E)(3)(a) states in relevant part "[a]ny structure and equipment shall be set back a minimum of 50 feet from lot lines". The Applicant has asked that the Office provide relief from the setback requirement implemented by the Town. The Daft Permit grants relief to the extent Town Code § 250-49(E)(3)(a) applies to internal participating lot lines. See, Draft Permit, 10. However, the Draft Permit clearly states that the Facility must comply with the setbacks set forth in 16 NYCRR § 1100-2.6(d), Table 2 ("Table 2"). Id.

In the interest of participation and courtesy, and with the recognition that this waiver would only impact internal lot lines on participating parcels, the Town is willing to accept this waiver outlines by ORES as it applies to this particular applicant and the limited parcels which are affected by such waiver. The Town does this with the understanding that the affected property owners recognize that such acceptance by the Town of this waiver will not necessarily apply to future projects or reviews.

2. Town Code § 250-49(E)(3)(b)

Town Code § 250-49(E)(3)(b) states "[l]arge-scale energy systems shall be located on lots with a minimum lot size of five acres". The Applicant has asked that the Office provide relief from the minimum lot size requirement as it pertains to Tax Parcel No. 86.00-2-32.238. The Draft Permit

grants limited relief and elects not to apply the minimum lot size requirement named in Town Code § 250-49(E)(3)(b) as it pertains to Tax Parcel No. 86.00-2-32.238. See, Draft Permit, 10.

In the interest of participation and courtesy, and with the recognition that this waiver would only impact one (1) parcel which will not host solar panels but instead only medium voltage collection lines and a permanent access road, the Town is willing to accept this limited waiver outlined by ORES. The Town does this with the understanding that the affected property owner recognizes that such acceptance by the Town of this waiver will not necessarily apply to future projects or reviews.

3. Town Code § 250-49(E)(3)(d)

Town Code § 250-49(E)(3)(d) states in relevant part, "[i]n accordance with National Fire Protection Association, all access roads shall be a minimum of 20 feet wide to ensure adequate emergency and service access". The Applicant has asked the Office to provide relief from the minimum road width requirement and states that the majority of the proposed permanent access roads within the site are 16 feet wide, not 20 feet wide as required by the local laws. See, Appendix 24-3, 17. Only the access roads to the substation, POI, and BESS are proposed to be 20 feet wide. Id. The Draft Permit grants limited relief as applied to 16-foot-wide access roads within the solar PV arrays. See, Draft Permit, 11. The Draft Permit then states that the pertinent agency shall implement the New York State Uniform Fire Prevention and Building Code pursuant to subpart 4.1(d)(3) of the Draft Permit. Id.

The Town drafted the access road requirement in the Town Code in accordance with the National Fire Protection Association guidelines. The National Fire Protection Association ("NFPA") establishes codes, guidelines, and recommended practices for the prevention and control of fire.

These codes and guidelines are extensively referenced by Federal, State, and Local government agencies. The New York State Fire Code does not have provisions relating to access roads less than 20 feet in width, as all access roads under the New York State Fire Code are at least 20 feet in width. See, NYS Fire Code, Appendix D.

If ORES, as a New York State Agency, is comfortable ignoring and waiving the requirements named in the New York State Fire Code, the Town trusts ORES is guaranteeing the safety in the event of a fire for all Town Residents with regard to this proposed solar facility. If ORES, as a State Agency, finds it appropriate to override the Fire Safety Objectives of New York State, the Town is not aware of a viable reason to object.

4. Town Code § 250-49(E)(3)(g)

Town Code § 250-49(E)(3)(g) states in relevant part, "...[n]o more than 15% of the total existing brush, trees, and other perimeter screening vegetation on a parcel of property may be removed in order to accommodate a solar farm...". The Applicant has asked the Office to provide relief from this provision of the Town Code as it relates to one (1) parcel in the proposed solar facility. See, Appendix 24-3, 19. The Applicant states that the vegetative clearing on Tax Parcel No. 86.00-2-32.21 will "exceed the Town's 15% threshold because of the parcel size relative to the total amount of treed area on the parcel". Id. The Draft Permit grants limited relief from this provision of the Town Code as it pertains solely to Tax Parcel No. 86.00-2-32.21. See, Draft Permit, 11.

The Applicant states that the adverse impacts of granting the request will be mitigated by vegetative screening between the Facility and residences in close proximity to the Facility, including along Strickland Road, which runs along the southern border of Tax Parcel No. 86.00-2-

32.21 and along the eastern edge of the proposed fence line on the parcel, where there are potential views from neighboring residences. See, Appendix 24-3, 21.

In the interest of cooperation, the Town will not object to this waiver requested by Applicant, so long as the vegetative screening placed on and around this particular parcel is increased and approved by the Town Engineer in order to offset the impact this waiver will have on both vegetation and visual impacts. As with all vegetative screening placed by Applicant, the same must be maintained and when necessary, replaced. The same should be completed in conjunction with the Town Engineer.

5. Town Code § 250-49(E)(3)(j)

Town Code § 250-49(E)(3)(j) states, "[n]oise-producing equipment such as substations and inverters shall be located to minimize noise impacts on adjacent properties. Their setback from property lines should achieve no discernible difference from existing noise levels at the property line". The Applicant has asked the Office to provide relief from this provision of the Town Code, as the Applicant feels this requirement would be "unreasonably burdensome and is contrary to the goals of the Climate Leadership & Community Protection Act ("CLCPA") and the needs of consumers". See, Appendix 24-3, 22. The Applicant also comments that this requirement "would be time consuming". See, Appendix 24-3, 23. The Draft Permit grants a waiver from this Town Code and states that the Applicant shall comply with the maximum noise limits specified in subpart 4.5(b) of the Draft Permit. See, Draft Permit, 12.

The Town Code was designed in order to protect the community. It is difficult to see how protecting the community would be at odds with the Climate Leadership & Community Protection Act, and while zoning could generally be considered "time consuming", that is simply the

responsibility of each property owner/user within any Town, Village, or City. In no other discernable instance are individuals or companies able to waive and ignore Town Codes because they are "time consuming".

In the interest of being cooperative, the Town asks that the Applicant coordinate with the Town Engineer in order to reach an agreement relative to Noise and the waiver granted under the Draft Permit.

6. Town Code § 250-68(C)(9)(a)

Town Code § 250-68(C)(9)(a) states [t]ier 2 Battery Energy Storage Systems shall comply with the setback requirements of the underlying zoning district for principal structures. The Applicant has asked the Office to provide relief from this requirement as it relates to the rear setback of Tax Parcel No. 86.00-2-21. The Applicant states that the rear lot line is shared with another participating parcel. See, Appendix 24-3, 25. The Draft Permit approves limited relief to the extent the Town Code requires a 50-foot minimum rear setback for Tax Parcel No. 86.00-2-21. See, Draft Permit, 12. We note that the Draft Permit does not specify an alternative minimum setback as it relates to this parcel, nor does the Applicant request a specific alternative minimum setback as it relates to this parcel. We would ask ORES to set at least some minimum standard, perhaps 30 feet, to prevent disorder amongst Tax Parcel Nos. 86.00-2-21 and 86.00-2-36.

Otherwise, in the interest of cooperation, the Town is amenable to accepting the limited waiver offered by ORES within the Draft Permit. The Town does this with the understanding that the affected property owner recognizes that such acceptance by the Town of this waiver will not necessarily apply to future projects or reviews.

7. Town Code § 250-49(E)(3)(a) and Town Code § 250-58(G)(1)

Town Code § 250-49(E)(3)(a) states in relevant part, "[a]ny structure and equipment shall be set back a minimum of 50 feet from lot lines". Town Code § 250-58(G)(1) states "[a]ll buildings, structures, and accessory uses shall be located at least 200 feet from any residential lot line". The Applicant has asked the Office to determine which provision of the Town Code should apply to the proposed solar facility and then waive that provision. See, Appendix 24-3, 27. The Draft Permit grants limited relief from both provisions of the Town Code solely as it relates to the tax parcels hosting the collection substation and POI. See, Draft Permit, 12. The Applicant states that the relevant parcels are Tax Parcel Nos. 86.00-2-36 and 86.00-2-21. See, Appendix 24-3, 27. However, the Draft Permit further states that the facility shall comply with the setbacks set forth in 16 NYCRR § 1100-2.6(d), Table 2. Id.

While the Draft Permit demands compliance with 16 NYCRR § 1100-2.6(d), Table 2, it does not specify an alternative minimum setback as it relates to this parcel, nor does the Applicant request a specific alternative minimum setback as it relates to this parcel. We would ask ORES to set at least some relevant minimum standard, as Table 2 is generally silent as to the internal setbacks of participating parcels.

Otherwise, in the interest of cooperation, the Town is amenable to accepting the limited waiver offered by ORES within the Draft Permit. The Town does this with the understanding that the affected property owner recognizes that such acceptance by the Town of this waiver will not necessarily apply to future projects or reviews.

8. Town Code § 250-49(E)(2)(f) and Town Code § 250-49(E)(2)(g)

Town Code § 250-49(E)(2)(f) states in relevant part "[t]he [decommissioning] plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction". Town Code § 250-49(E)(2)(g) states in relevant part "[t] he applicant shall be required to provide sureties, as set forth, for the removal of the large-scale solar energy system. Pursuant to the execution of the decommissioning plan, the applicant shall provide the Town with a bond in an amount determined by the Town Board, but in no case less than 20% of the component/material cost (adjusted for inflation 20 years into the future after installation) to cover the expense of removal of the system and remediation of the landscape, in the event the Town must remove the facility. The bond shall be in a form acceptable to the Town Attorney, which includes, but are not limited to, a letter of credit, perpetual bond, or any combination thereof. The amount shall be reviewed every three years by the Town Board and shall be adjusted if deemed necessary". The Applicant has asked the Office to provide relief from these provisions. The Draft Permit approves limited relief to the extent these provisions conflict with the Final Decommissioning and Site Restoration Plan as approved in accordance with subparts 4.6(b) and 6.1(b) of the Draft Permit. See, Draft Permit, 9 and 10.

The Town requests that Office decommissioning standards be used at all times as a minimum baseline to be met by the Applicant. The Town looks specifically to the language of 16 NYCRR § 1100-6.6(b), which states: "The financial security regarding decommissioning and site restoration activities shall be in the form of a letter of credit (LOC) or other financial assurance approved by the Office, and shall be established by the permittee to be held by each City, Town,

or Village hosting facility components. The total amount of the financial security created for the Cities, Towns, or Villages shall be equal to the net decommissioning and site restoration estimate; the net decommissioning and site restoration estimate is equal to the gross decommissioning and site restoration estimate (which is the overall decommissioning and site restoration estimate plus a fifteen (15) percent contingency cost) less the total projected salvage value of facility components; reference to salvage value data shall also be included in the Decommissioning and Site Restoration Plan required at 1100-2.24 of this Part. If the permittee and the host municipalities cannot come to an agreement as to the appropriate amount of financial security to be provided, the Office shall make the final determination. The financial security shall remain active until the facility is fully decommissioned. The LOC shall be irrevocable and state on its face that it is expressly held by and for the sole benefit of the specific Town, City, or Village."

The Town wishes to clarify one point regarding the financial security related to decommissioning which is to be provided by the Applicant to the Town. For the convenience of the Towns in the future, the Town of Wilna requests that two (2) separate bonds be executed by the Applicant; one for the Town of Croghan and one for the Town of Wilna. The bonds should be in amounts which proportionately correspond to the type, nature, and value of infrastructure located in each Town. The Town understands this may be resolved by stipulation. This will prevent any disagreements between the Towns in the future and will ultimately result in a more cohesive decommissioning process for the Applicant.

Town Engineer's Review

In addition to the comments and concerns raised above, the Town Engineer would like the following to be addressed:

1. Training and Communication with the Local Fire Department

The Applicant should meet with the local fire department in order to provide training, demonstrations, and appropriate procedures regarding safely combating fires within the solar facility, especially as it pertains to the BESS. An open line of communication should be established between the Applicant and the fire department in order to ensure there are appropriate safety precautions in place.

2. Visual Impact

The Applicant should consider expanding the visual study area to include a Black River Valley context, summer visualizations, and to address views from superior elevations.

3. Road Use Agreement

When the appropriate time comes, counsel for the Applicant should work in conjunction with the Town Attorney in order to execute a Road Use Agreement. Engineering professionals from both sides should participate in outlining any relevant concerns. This Agreement should also address concerns such as culvert sizing, grading limits, and ponding corrections.

Petition for Party Status/Issues Statement

The Town and Applicant should be able to work together in order to find a suitable path forward, despite the waivers which have been granted by ORES. The Town finds that if the Applicant is willing to work with the Town, it will also benefit the Applicant, as the Facility's commencement and operation will not be slowed by litigation. In the interest of cooperation and

with the understanding that the Applicant will abide by the requests made by the Town, the Town further finds that the issues raised are not substantive nor significant so as to necessitate an adjudicatory hearing before the Administrative Law Judges. Therefore, the Town will not submit a Petition for Party Status nor an Issues Statement.

Dated: February 6, 2026

Respectfully Submitted,

Kendall, Harrienger & Burrows

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EXHIBIT “A”

EXHIBIT "A”

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
www.dos.ny.gov

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

FILED
STATE RECORDS
DEC 16 2019
DEPARTMENT OF STATE

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Wilna

Local Law No. 2 of the year 2019

A local law To regulate Renewable Energy
(Insert Title)

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

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Wilna as follows:

See attachment.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. **(Final adoption by local legislative body only.)**
I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2019 of the ~~(County)~~(City)(Town)(~~Village~~) of Wilna was duly passed by the Town Board (*Name of Legislative Body*) on Dec. 9 2019, in accordance with the applicable provisions of law.

2. **(Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (*Name of Legislative Body*) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (*Elective Chief Executive Officer**) and was deemed duly adopted on _____ 20[ ][ ], in accordance with the applicable provisions of law.

3. **(Final adoption by referendum.)**
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (*Name of Legislative Body*) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (*Elective Chief Executive Officer**) on _____ 20____.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. **(Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (*Name of Legislative Body*) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (*Elective Chief Executive Officer**) on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. **(City local law concerning Charter revision proposed by petition.)**
I hereby certify that the local law annexed hereto, designated as local law No.____________ of 20____ of the City of ____________ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on ____________ 20____, became operative.

6. **(County local law concerning adoption of Charter.)**
I hereby certify that the local law annexed hereto, designated as local law No.____________ of 20____ of the County of ____________ State of New York, having been submitted to the electors at the General Election of November ____________ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Lori Borland
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: 12/9/19

Renewable Energy Law Town of Wilna

ARTICLE III DEFINITIONS

ADVERSE NOISE IMPACTS
A sound level condition that creates, imposes, aggravates or leads to inadequate, impractical, or unsafe conditions on a site proposed for development.

AMBIENT NOISE
Any continual or intermittent sound rated at or above 40-45 DbA.

AMBIENT SOUND
The average level of undifferentiated background sound perceived in an area at any given time exclusive of any distinguishable extraneous sounds or noises. Statistically, the long-term residual ambient sound level for an area is expressed as the L90 value, i.e., the level that is exceeded 90% of the time.

COMMERCIAL WIND ENERGY CONVERSION SYSTEM (WECS)
A commercial machine with a generating capacity equal to or greater than 500 kW that converts the kinetic energy of wind into electricity (also called a "wind turbine").

GEOTHERMAL CLOSED-LOOP SYSTEM
Closed-loop systems use a ground loop (typically made of polyethylene or PVC piping) that circulates water or antifreeze to exchange heat with the ground or a groundwater source. For closed-loop residential and smaller commercial systems, horizontal "slinky" configurations are often used. Vertical configurations, which can have column wells of up to 400 feet deep, are often used for large commercial systems. Closed-loop systems can also be submerged in bodies of water.

GEOTHERMAL ENERGY SYSTEMS
Are a system of ground-source heat pumps that can also be designed as direct exchange systems, which circulate a refrigerant through a copper pipe instead of a typical ground loop. Direct exchange systems are highly efficient at heat extraction and rejection.

GEOTHERMAL OPEN-LOOP SYSTEM
Open-loop systems circulate water for heat extraction and rejection directly from local groundwater sources. This can reduce the installed cost due to less piping and enhance system efficiency due to improved heat transfer.

NOISE
Any loud, discordant or disagreeable sound or sounds. More commonly, in an environmental context, noise is defined simply as unwanted sound. Sound generated by projects may become noise due to land use if there are receptors surrounding them. When lands adjoining a proposed project contain residential, commercial, institutional, or recreational uses, noise is likely to be a matter of concern to residents or adjacent landowners.

SITE
The spatial location of an actual or planned structure or set of structures (such as a building, town, or structure). Wind Energy Conversion (WECS) site are all parcels of land making up the WECS project.

SMALL WIND ENERGY CONVERSION SYSTEM (WECS)
Small wind systems are defined as wind turbines with generating capacities between 1 kW and 100 kW. Small wind systems are rated by their potential generating capacity. The maximum output in watts of the turbines generator is used as a base comparison.

SOUND
An oscillation in pressure, stress, particle displacement or other physical parameter in a medium with internal forces (American National Standards Institute terminology).

SOUND LEVEL
The sound-pressure level or weighted pressure level, in decibels, as measured by the use of a metering characteristic and the weighing A, B, and C (American National Standards Institute terminology).

TOTAL HEIGHT The height of the tower and furthest vertical extension of the blade tip of the WECS.

TOWER HEIGHT
Towers are made of tubular steel, steel lattice or concrete and taller towers help generate more electricity since the wind rate increases with height. The tower height is the height above grade of the fixed portion of the tower structure

WIND ENERGY CONVERSION SYSTEM (WECS)
A machine that converts the Kinetic energy in the wind into a usable form (commonly known as "wind turbine" or ("windmill").

ARTICLE VI SUPPLEMENTAL REGULATIONS

Section 740 Energy Systems

Purpose.

The purpose of this section is to provide a uniform and comprehensive set of standards for the implementation and use of energy systems designed for on-site or off-site home, farm, small and large scale commercial energy regulations. The intent of this article is to encourage the development of alternative energy systems while protecting the health, safety, and welfare of the public.

A. Geothermal energy systems.

1. Applicability.

(a) Only closed-loop geothermal energy systems utilizing heat transfer fluids as defined in Article I are permitted. Open-loop geothermal energy systems are not permitted.

(b) Geothermal energy systems in public waters may be permitted in accordance with approval from the Wilna Planning Board, subject to state and federal permits and water quality standards.

(c) Geothermal energy systems in water bodies owned or managed by the Town of Wilna are not permitted.

2. Design standards.

(a) All components of geothermal energy systems, including pumps, borings and loops, shall be set back at least five feet from side lot lines and at least 10 feet from rear lot lines.

(b) All borings and loops shall be set back at least 10 feet from the foundation of any structure, either on or off site.

(c) Aboveground equipment associated with geothermal energy shall not be installed in the front yard of any lot or the side yard of a corner lot adjacent to a public right-of-way and shall meet all required setbacks for the applicable zoning district.

(d) Geothermal energy systems shall not encroach on public drainage, utility roadway or trail easements.

(e) Geothermal heat pumps shall be screened to reduce noise levels as measured at the property boundary to 50 decibels or less as to mitigate adverse noise impacts.

(f) In addition to screening for noise control, geothermal energy systems are considered mechanical equipment and are subject to screening by landscaping, fencing or other methods to enhance the view.

3. Standards and certifications.

Geothermal energy systems shall be certified by Underwriters' Laboratories, Inc., and shall meet the requirements of the New York State Building Code as adopted by the Town of Wilna.

4. Abandonment.

(a) If a geothermal energy system remains nonfunctional or inoperative for a continuous period of 12 months, the system shall be deemed to be abandoned and shall constitute a public nuisance.

(b) Upon notice to the owner by the Zoning Enforcement Officer, within 180 days the owner shall remove the abandoned system at his/her expense after a hearing by the Wilna Town Board, in accordance with the following:

(i) The heat pump and any external mechanical equipment shall be removed.

(ii) Pipes or coils below the land surface shall be filled with grout to displace the heat transfer fluid. The heat transfer fluid shall be captured and disposed of in accordance with applicable regulations. The top of the pipe, coil or boring shall be uncovered and grouted.

(iii) Geothermal energy systems shall be completely removed from the bottom of any water body.

5. Permits.

(a) A building permit shall be obtained from the Town of Wilna Code Enforcement Officer.

(b) Borings for vertical systems are subject to any and all required approvals and permits from the NYSDEC Division of Water and the New York State Department of Health.

B. Small wind energy conversion systems (WECS).

1. Applicability.

Small WECS may be used primarily to generate on-site power or to reduce the off-site supply of electricity.

2. Approval.

(a) Freestanding and building mounted small WECS shall only be permitted in AR Zoning Districts by site plan review and approval from the Planning Board.

(b) All small WECS installed prior to the enactment of this article are exempt from the conditions herein; provided, however, that:

(i) Any such preexisting small WECS that has been inoperable, not supplying energy for 12 months will require conditions and processes of this section to be met prior to operations being reinitiated.
No modification or alteration to an existing small WECS shall be allowed without full compliance with this section.

(ii) Small WECS constructed and installed in accordance with this section shall not be deemed expansions of a nonconforming use or structure.

3. Application Requirements for Small WECS.

An application for a building permit and site plan review for freestanding small WECS shall include the following requirements.

(a) Ownership and land use information within a radius of 1,000 feet of the location proposed for each tower to be shown on the site plan.
(b) Location of the proposed small WECS, foundations, guy anchors, and associated equipment to be shown on the site plan.
(c) Setback requirements as outlined in this chapter to be shown on the site plan.
Small WECS specifications, including manufacturer, model, rotor diameter, tower height, and tower type (freestanding or guyed).
(d) If the small WECS will be connected to the power grid, documentation shall be provided regarding the notification of the intent with the utility regarding the applicant's installation of a small WECS.
(e) Sound level analysis prepared by the wind turbine manufacturer.
(f) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code (usually provided by the manufacturer).
(g) The site plan must be stamped by a professional engineer licensed to practice in the State of New York.
(h) A building permit application for building-mounted small WECS shall include all requirements in the adopted code, including building connection detail plans, to be submitted and stamped by a NYS licensed professional engineer.

4. Standards for Small WECS.

(a) Upon receipt of a building permit application for a Small WECS the Town of Wilna Code Enforcement officer will review the permit. A building permit will be issued when the requirements for site plan review and building permit review have been met.

(b) Setback and area requirements.

(i) Freestanding small WECS shall be set back a distance, measured from the center of the tower base to the height of the Nacelle plus 100 feet from:

[1] Any public road right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road.

[2] Any overhead utility or transmission lines.

[3] All property lines.

[4] All dwellings not owned by the requester/WECS owner.

[5] Any travel ways, to include but not be limited to driveways, parking lots, nature trails or sidewalks.

[6] Other wind turbine towers, electrical substations, or meteorological towers.

[7] Guy wires used to support the tower are exempt from the small WECS setback requirements. However, the guy wires may not be located within or over a right-of-way without obtaining an easement.

[8] Small WECS often are deemed unlisted actions and require the Short Environmental Assessment form, yet SEQRA review is determined on a project-by-project basis.

[9] No small WECS shall be installed or mounted less than 110% of the Tower height from the nearest dwelling as measured horizontally from the center of the tower base.

[10] All small WECS shall require a minimum lot size of 5 acres for each turbine.

5. Height.

The total height for freestanding small WECS in AR Districts shall not exceed 150 feet to the nacelle.

6. Towers.

(a) Freestanding wind turbines may only be attached to specifically designed and manufactured towers.

(b) The applicant shall provide evidence that the proposed tower height does not exceed the height recommended by the manufacturer of the wind turbine.

(c) Anchor points for any guy wires for a system tower shall be located within the property or easements that the system is located on and not on or across any aboveground electric transmission or distribution lines.

(d) Tower foundation engineering drawings stamped by a professional engineer licensed to practice in the State of New York.

7. Sound level.

(a) A small WECS shall be designed, installed, and operated so that noise generated by the system shall not exceed ambient noise (L90 measured with the turbine in operative) plus five decibels (dBA), as measured at the closest neighboring property line. Sound levels should be determined based on noise study.

8. Safety.

(a) To prevent harmful wind turbulence on existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a radius of 250 feet. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.

(b) All small WECS shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

(c) Owners shall be instructed to provide one of the following means of access control or other appropriate method of access:

(i) Tower-climbing apparatus located no closer than 12 feet to the ground.

(d) Any small WECS found to be unsafe by the local Code Enforcement Officer shall be repaired by the owner to meet federal, state and local safety standards or shall be removed within three months.

(e) The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.

(f) The system shall be operated such that no damage is caused by stray voltage. If it has been demonstrated that a system is causing stray voltage, the system operator shall promptly mitigate the damage or cease operation of the system.

(g) Small WECS shall be sited in a manner that does not result in shadowing or flicker impacts in excess of one hour per day. The applicant has the burden of proving that this effect does not have a significant adverse impact on neighboring or adjacent uses, either through siting or mitigation.

(h) Signs. All signs, both temporary and permanent, are prohibited on the small WECS, except as follows:

[1] Manufacturer's or installer's identification on the wind turbine.

[2] Appropriate warning signs and placards.

[3] At least one sign shall be posted on the tower at a height of five feet, warning of electrical shock or high voltage and harm from rotating machinery.

[4] No advertisement, including, brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed in an unobtrusive manner on a system generator housing.

9. Code compliance.

The small WECS shall comply with all applicable sections of the New York State Building Code and National Electric Code.

10. Aviation compliance.

(a) The small WECS shall be built to comply with all applicable Federal Aviation Administration guidelines, including but not limited to 14 CFR Part 77, Sub part b, regarding installations close to airports, and the New York Aviation regulations. Evidence of compliance or non-applicability shall be submitted with the application.

(b) Fort Drum. The applicant shall notify Fort Drum personnel in the Plans, Analysis, and Integration Office as soon as possible upon application submission to determine potential impacts on Fort Drum airfield and training activities. The applicant should provide a letter from Fort Drum with comments of the proposed tower.

(c) Watertown International Airport. The applicant shall file a Notice of Proposed Construction or Altercation, FAA Form 7460 Airport Airspace Analysis, and notify the Airport Manager as soon as possible upon application submission to determine potential impacts on the airport. If warranted by the energy system type development proposed the developer should complete studies of the potential impacts to landing facility traffic patterns, air navigation, and radar or instrument approach procedures.

11. Utility connection.

(a) If the proposed small WECS is to be connected to the power grid through net metering, the applicant shall provide written evidence that the electric utility service provider that services the proposed site has been informed of the applicant's intent to install an intermittent customer-owned electric generator.

12. Approved wind turbines.

The manufacturer and model of the wind turbine to be used in the proposed small WECS must have been approved by New York State Energy Research and Development Authority, or a similar list approved by the State of New York, if available. NYSERDA uses the "Unified List of Wind Turbines"

13. Clearing.

Clearing of natural vegetation shall be limited to that which is permitted by applicable laws, regulations, and ordinances.

14. Operations.

(a) All small WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. "Operational condition" includes meeting all permit conditions.

(b) Should a small WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Town of Wilna Code Enforcement Officer to cure any deficiency.

(c) An extension of the ninety-day period may be considered, but the total period may not exceed 180 days.

15. Abandonment.

(a) At such time that a small WECS is scheduled to be abandoned or discontinued, the applicant will notify the Zoning Enforcement Officer by certified United States mail of the proposed date of abandonment or discontinuation of operations.

(b) Upon abandonment or discontinuation of use, the owner shall physically remove the small WECS within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Town of Wilna Code Enforcement Officer. "Physically remove" shall include but not be limited to:

(c) Restoration of the location of the small WECS to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the after-conditions.

(d) In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out of service for a continuous twelve-month period. After the 12 months of inoperability, the Town of Wilna Code Enforcement Officer may issue a notice of abandonment to the owner of the small WECS. The owner shall have the right to respond to the notice of abandonment within 30 days from notice receipt date.

(e) The Zoning Enforcement Officer shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides reasons for the operational difficulty, provides a reasonable timetable for corrective action, and demonstrates that the small WECS has not been abandoned.

(f) If the owner fails to respond to the notice of abandonment or if after review by the Town of Wilna Code Enforcement Officer it is determined that the small WECS has been abandoned or discontinued, the owner of the small WECS shall remove the wind turbine and tower at the owner's sole expense within 120 days of receipt of the notice of abandonment.

(g) If the owner fails to physically remove the small WECS after the notice of abandonment procedure, the Town shall have the authority to enter the subject property and physically remove the small WECS at the owner's sole expense.

16. Violations; prior installations.

(a) It is unlawful for any person to construct, install, or operate a small WECS that is not in compliance with this chapter or with any condition contained in the site plan review approval pursuant to this section.

(b) Small WECS installed prior to the adoption of this section are exempt.

17. Severability.

Should any provision of this section be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this section as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

C. Commercial Wind Energy Conversion Systems (WECS).

NOTE: Combined with Purpose statement at beginning.

1. Applications Requirements for Commercial Wind Energy Systems.

A complete special use permit application for a Commercial WECS shall include the following materials unless specifically waived by the Planning Board. Such information shall be in addition to any information required by the Town of Wilna, under any related Local Law or Ordinance.

Ten copies of the application shall be submitted to the Town Zoning, payment of all application fees shall be made at the time of the application submission. If any waivers are requested, wavier application fees, if any, shall be paid at the time of receipt of the application. In addition, the applicant shall provide the Planning Board additional copies necessary to coordinate the review with involved agencies pursuant to SEQRA.

1. Name, address, telephone number of the applicant. If an agent represents the applicant, the application shall include the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

2. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (1) confirming that the property owner is familiar with the proposed applications and (2) authorizes the submission of the application.

3. Address, or other property identification, of each proposed tower location, including Tax Map section, block, and lot number.

4. A description of the project, including the number and maximum rated capacity of each WECS.

5. A site plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:

   a. Lot lines and physical dimensions of the WEF Site

   b. Location, approximate dimensions and types of major existing structures and used on the WEF Site, public roads, and adjoining properties within five hundred (500) feet of the boundaries of the proposed WEFS Site.

   c. Location and elevation of each proposed WECS.

   d. Location of all above ground utility lines on the WEF Site or within one radius of the Total Height of the WECS, transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.

e. Location and size of structures above 35 feet within a five hundred-foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.

f. To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower location equal to one thousand two hundred fifty (1,250) feet.

g. Location of each residential structure, both on the WEF Site and off the WEF Site, that is located within two thousand five hundred (2,500) feet from the nearest individual wind turbine, as well as the specific distance from the nearest individual wind turbine to each residential structure.

h. All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.

i. Visual impacts. A visual analysis and photo simulations of the wind turbines.

(i) It is inherent that WECS may pose some visual impacts due to the tower height needed to access the wind resources. The purpose of this section is to reduce the visual impacts without restricting the owner's access to the wind resources.

(ii) The applicant shall demonstrate through project site planning and proposed mitigation that the WECS's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, turbine design or appearance, buffering, and screening of ground-mounted electrical and control equipment. All electrical conduits shall be underground.

(iii) The color of the small WECS shall either be the stock color from the manufacturer or painted with a white or off-white non-reflective, unobtrusive color that blends in with the surrounding environment.

(iv) A small WECS shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small WECS.

(j) Existing roads shall be used to provide access to the facility site, or, if new roads are needed, the amount of land used for new roads shall be minimized and the new roads shall be located so as to minimize adverse environmental impacts.

6. Vertical drawing of the wind turbines showing Total Height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each wind turbine of the same type and Total Height.

7. Landscaping Plan depicting existing vegetation and describing any areas to be cleared and the specimens proposed to be added, identified by species and size of specimen at installation and their locations.

8. Lighting Plan showing any FAA-required lighting as well as all other proposed lighting. The application should include a copy of any determination by the Federal Aviation Administration to establish required markings and/or lights for each structure that is part of the facility, but if such determination is not available at the time of the application, no building permit for any lighted facility may be issued until such determination is submitted.

9. List of property owners, with their mailing address, within 500 feet of the lot lines of the proposed Site.

10. Decommissioning Plan: The applicant shall submit a decommissioning plan, which shall include the following information at a minimum:

    (a) the anticipated life of the Commercial WECS ;
    (b) the estimated decommission costs in current dollars;
    (c) how said estimate was determined;
    (d) the method of ensuring that funds will be available for decommissioning and restoration; the method, such as by annual re-estimate-by a licensed engineer,
        a. that the decommissioning cost will be kept current; and
        b. the manner in which the Commercial WECS will be
        c. decommissioned and the WEF Site restored, which shall include at a minimum, the removal of all structures and debris to a depth of
        d. 3 feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner.

11. Complaint Resolution: The application will include a complaint resolution process to address complaints from any resident or property owner. The process in addition to the avenues available under this Law, shall as a condition precedent to arbitration use an independent mediator to attempt to resolve the complaint, and include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint through mediation. The process will be subject to the rules of the American Arbitration Association. In the event the matter is not resolved in mediation, it shall be subject to binding arbitration under the rules of the American Arbitration Association. The applicant shall pay all fees and charges for the Arbitration unless there is a finding by the Arbitrators for absolute no-fault on the part of the applicant. In the event of a ruling in favor of the complaining party, the arbitrators' award may include attorneys' fees and other costs.

12. An application shall include at a minimum, the following information relating to the construction/installation of the Commercial Wind energy Conversion System:

    (a) construction schedule describing commencement and completion dates
    (b) description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.
    (c) Storm water management and Erosion and Sediment control plan.

13. Applications for Wind Measurement Towers subject to this Local Law may be jointly submitted with the Commercial WECS application.

14. For each proposed Commercial WECS, include make, model, picture and manufacturer's specifications, including noise decibels data. Include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.

15. Completed Part I of the Full Environmental Assessment Form.

16. If the applicant agrees in writing in the application that the proposed Commercial WECS may have a significant adverse impact on the environment it may submit a Draft Environmental Impact Statement ("DEIS"), and the Planning Board shall issue a positive declaration of environmental significance.

17. The applicant, either with the application, or, in the event of a positive declaration under SEQRA, as part of any DEIS submitted by the applicant with respect to the application for a Zoning Permit shall submit such studies as the Planning Board reasonably determines to be necessary. Such Studies shall be conducted by a qualified consultant as to each of the identified impacts or potential impacts, which study or studies shall include, at a minimum, a detailed analysis of the existing conditions, any potential adverse impacts, and the measures to be taken by the applicant mitigate or eliminate such impacts.

18. In addition to the materials required in accordance with this section, complete applications should include any additional study or assessment determined to be required by the lead agency during the review of the project pursuant to SEQRA. No application shall be determined to be complete until a formal environmental finding has been made.

19. The application shall, prior to the receipt of a Building Permit, provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and the applicable Transmission Owner.

20. A statement, signed under penalty of perjury, that the information contained in the application is true and accurate.

2. Development Standards for Commercial WECS

The following standards shall apply to all WECS, unless specifically waived by the Planning Board:

1. All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.
2. No television, radio, or other communication antennas may be affixed or otherwise made part of any Commercial WECS.

3. In order to minimize any visual impacts associated with Commercial WECS, no advertising signs are allowed on any part of the Commercial WECS, including fencing and support structures.
4. Lighting of tower. No tower shall be lit except to comply with FAA requirements. Written verification of lighting requirements for Commercial WECS from FAA is required. Minimum-security lighting for ground level facilities shall be allowed as approved on the Commercial WECS development plan.
5. All applicants shall use measures to reduce the visual impact of Commercial WECS to the extent possible. Commercial WECS shall use tubular towers. All structures in a project shall be finished in a single, non reflective matte finished white or gray in color. Commercial WECS consists of wind turbines whose appearance, with respect to one another, is similar within and throughout the Project, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
6. The use of guy wires is disfavored. A Commercial WECS using guy wires for tower support shall incorporate appropriate measures to protect the guy wires from damage, which could cause tower failure.
7. No Commercial WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems can be reasonably expected to produce electromagnetic interference with signal transmission or reception. No Commercial WECS shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a Commercial WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference.
8. The Fort Drum Joint Land Use Study (JLUS) lists a number of compatibility issues and areas that would potentially impact continued viability of the Wheeler Sack Army Airfield operation and training activities. The JLUS should be examined to ensure any potential Commercial WECS locations within the Town of Wilna will not create conflicts with the Fort Drum activities or the Town of Wilna Comprehensive Plan goals, objectives and strategies.
9. All solid waste and hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all appropriate rules and regulations.
10. Commercial WECSs shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided. The use of previously developed areas will be given priority wherever possible. All top-soil disturbed during construction, reconstruction or modification of Commercial WECS shall be stockpiled and returned to the site upon completion of the activity which disturbed the soil.
11. Commercial WECS shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity.
12. Commercial Wind Energy Conversion Systems shall be located in a manner consistent with all applicable State and Federal wetlands laws and regulations.

13. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable State and Federal laws and regulations.

14. If the proposed Commercial WECS is to be connected to the power grid through net metering, the applicant shall provide written evidence that the electric utility service provider that services the proposed site has been informed of the applicant's intent to install an intermittent customer-owned electric generator.

15. The maximum total height of any wind turbine within a Commercial WECS shall be five hundred (500) feet.

16. The substation used in conjunction with a WECS shall be sited in a manner that will have the least intrusive impact upon adjacent residences and shall be sheltered and or screened with a physical barrier and/or vegetation in a manner to eliminate its views from such residences. The Planning Board shall assess such siting in accordance with the requirements of this Local Law.

17. In processing any application for a Commercial WECS or in reviewing such project under SEQRA, the Planning Board shall consider any applicable policy or guidelines issued by the New York State DEC (i.e., visual impacts, noise impacts).

18. If it is determined that a Commercial WECS is causing stray voltage issues, the operator shall take the necessary corrective action to eliminate these problems including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy stray voltage issues is grounds for revocation of the Zoning Permit for the specific Commercial WECS causing the problems.

19. Turbine blades shall pass no closer than thirty (30) feet to the ground during operation of the facility.

20. To the greatest extent possible WECS, together with all above ground facilities, underground cables and wires, and all permanent access roads shall be positioned along existing fence lines, hedge rows or tree rows and/or as near the edge of any fields as possible to minimize disruption to pasture land or tillable land. Following construction, the site shall be graded and seeded and restored to its preconstruction condition or better.

21. Commercial WECS shall be deemed Type I projects under SEQRA. The Planning Board may be responsible for the review of the proposed project under SEQRA, and may, where appropriate, act as lead agency under SEQRA and shall coordinate its review with all other involved agencies in accordance with the requirements of 6 NYCRR Part 617 (State Environmental Quality Review Act regulations).

3. Required Safety Measures for Commercial WECS

1. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.

2. If the participating contiguous property owner submits a written request that fencing be required then the Planning Board shall review what nature or type of fence is required, if any. The color and type of fencing for each wind turbine installation shall be determined on the basis of individual applications as safety needs dictate. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of the fence around each tower or group of towers and any building (or on the tower or building if there is no fence), containing emergency, contact information. The Planning Board may require additional signs based on safety needs.

3. No climbing pegs or tower ladders shall be located closer than twelve (12) feet to the ground level at the base of the structure for freestanding single pole or guyed towers.

4. Each wind turbine shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.

5. Existing snowmobile and/or ATV trails shall be posted to warn of potential Ice throw dangers from the Commercial WECS.

6. Copies of all reports concerning operating and safety inspections for each Commercial WECS shall be filed with the Town Clerk.

4. Traffic Routes

1. Construction of Commercial WECS pose potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Special Use Permit conditions may limit Commercial WECS-related traffic to specified routes and include a plan for disseminating traffic route information to the public. Factors in establishing such routes shall include:

   (a) Minimizing traffic impacts from construction and delivery vehicles, including impacts on local residential areas;
   (b) Minimizing WECS related traffic during times of school bus activity;
   (c) Minimizing wear and tear on local roads; and
   (d) Minimizing impacts on local business operations.

2. The Applicant shall demonstrate that it has entered into an agreement with the Town of Wilna and/or County of Jefferson relative to the use of roads.

3. The applicant is responsible for repair of all damages to Town Roads occurring during the construction or maintenance of a Commercial WECS in accordance with its agreement with the Town.

4. Noise Standards for Wind Energy Conversion Systems

1. The Sound Level statistical sound pressure level (L) (10) due to any Commercial WECS operation shall not exceed ambient noise levels (exclusion of the development proposed) by more than 5 dBA at the nearest lot line.

2. Any Sound level falling between two whole decibels shall be the lower of the two.

5. Setbacks for Commercial WECS

Structures and wind turbines for Commercial WECS shall be set back from lot lines, measured from the center of the applicable component part of the Commercial WECS the following minimum distances:

1. 1250 feet from offsite lot lines;

2. 800 feet minimum from the high water mark in any river or lake.

6. Abatement

1. If any Commercial WECS remains non-functional or inoperative for a continuous period of one (1) year, the applicant agrees that, without any further action by the Planning Board, the Commercial WECS shall be de commissioned and removed at his own expense. Removal of the system shall include at a minimum the removal of the entire above ground structure, including transmission equipment and fencing, from the lot. This provision shall not apply if the applicant demonstrates to the Planning Board or Town Board that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after a public hearing.

2. Decommissioning Bond / Fund Plan – The applicant, or successors, shall provide a continuously maintained fund or bond payable to the Town of Wilna in a form approved by the Town Attorney, for the removal of non- functional towers and appurtenant facilities, in an amount to be determined by the Town Board, for the period of the life of the facility or other plan acceptable to the Town Board. This fund or plan may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant. All decommissioning funding requirements shall be met prior to commencement of construction.

7. Agriculture and Markets compliance.

The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for WECS projects shall be adhered to both inside and outside of agricultural districts. Specific information is located at: www.agmkt.state.ny.us, "Construction Projects Affecting Farmland."

8. Wildlife Concern:

The Planning Board shall determine the potential impact on important bird areas, as identified by the New York Audubon Society, other recognized habitats such as any nearby New York State wildlife management areas, and any locally recognized priority habitat areas such as those set aside for bats and any areas considered "sensitive," which may include but not be limited to areas such as bird conservation areas or areas covered under mitigation for species such as grassland birds; and at least 500 feet from state-identified wetlands. The setback of 1,250 feet from off-site lot lines may be adjusted may be to be greater or lesser at

the discretion of the reviewing body, based on topography, land cover, land uses, and other factors that influence the flight patterns of resident birds.

9. Aviation compliance.

(a) Commercial

WECS shall be built to comply with all applicable Federal Aviation Administration guidelines, including but not limited to 14 CFR Part 77, Sub part b, regarding installations close to airports, and the New York Aviation regulations. Evidence of compliance or non-applicability shall be submitted with the application.

(b) Fort Drum. The applicant shall notify Fort Drum personnel in the Plans, Analysis, and Integration Office as soon as possible upon application submission to determine potential impacts on Fort Drum airfield and training activities. The applicant should provide a letter from Fort Drum with comments of the proposed tower.

(c) Watertown International Airport. The applicant shall file a Notice of Proposed Construction or Altercation, FAA Form 7460 Airport Airspace Analysis, and notify the Airport Manager as soon as possible upon application submission to determine potential impacts on the airport. If warranted by the energy system type development proposed the developer should complete studies of the potential impacts to landing facility traffic patterns, air navigation, and radar or instrument approach procedures.

10. Permit Revocation

Operation- A Commercial WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a Commercial WECS become inoperable, or should any part of the Commercial WECS be damaged, or should a Commercial WECS violate a permit condition, the owner or operator shall remedy the situation within 180 days after written notice from the Town Zoning Enforcement Officer, to correct any deficiency. The Planning Board may extend the 180-day period for good cause shown.

D. Wind Measurement Towers

Wind site assessment is typically conducted using Wind Measurement Towers (anemometer towers) to determine the wind speeds and the feasibility of using particular Sites.

No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated in the Town except pursuant to a Special Use Permit issued pursuant to Local Law.

1. Applications for Wind Measurement Towers

An application for a Wind Measurement Tower shall include:

(a) Name, address, telephone number of the applicant. If an agent represents the applicant, the application shall include the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

(b) Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that their property owner is familiar with the proposed applications(s) and (ii) authorizing the submission of the application.

(c) Address of each proposed tower location, including Tax Map section, block, and lot number

(d) A site plan showing the location of the proposed Wind Measurement Towers, lot lines, proposed and existing structures, setbacks from lot lines and access driveway.

(e) Decommissioning Plan, including a security bond for removal.

(f) SEQR Short or Long EAF.

2.. Standards for Wind Measurement Towers

a. The distance between a Wind Measurement Tower and the lot line shall be at least one and a half times the Total Height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties as long as all properties are owned or leased by the developer of the Wind Measurement tower.

b. Special Use Permits for Wind Measurement Towers may be issued for a period of up to twenty-six (26) months. Permits may be renewed if the Wind Measurement Tower is in compliance with the conditions of the Special Use Permit. Such permit may be renewed at the discretion of the Planning Board.

c. Anchor points for any guy wires for a Wind Measurement Tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from three to eight feet above the ground.

d. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for Wind Power projects shall be adhered to for Wind Measurement Towers located on land both inside and outside New York State Certified agricultural districts.

Recommendation: Article VII be renamed to Planning Board Review since both site plan and special permit are in this article. YES

E. Solar Energy

ARTICLE III OF THE TOWN OF WILNA ZONING LAW IS HEREBY AMENDED TO INCLUDE THE FOLLOWING DEFINITIONS.

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

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 via a pole or other mounting system, detached from any other structure that generates electricity for onsite or offsite consumption.

LARGE-SCALE SOLAR ENERGY SYSTEM: A Solar Energy System that is ground-mounted and produces energy primarily for off-site sale or consumption which produces a rated power of more than (10 or 25) kilowatts (kW) per hour of energy.

SMALL SCALE/ON-SITE SOLAR ENERGY SYSTEM: A Solar Energy System that is ground mounted or roof mounted on any legally permitted building or structure for the purpose of producing electricity for on-site usage which produces a rated power of (10 or 25) or less kilowatts (kW) per hour of energy.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

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

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electricity.

STORAGE BATTERY: A device that stores energy and makes it available in an electrical form.

ARTICLE V, SCHEDULE I OF THE TOWN OF WILNA ZONING LAW IS HEREBY AMENDED BY ADDING THE FOLLOWING USES:

Roof-Mounted Solar Energy System as a permitted use in all districts.
Small-Scale/On-Site Solar Energy System as a permitted accessory use in all districts.
Large-Scale Solar Energy Systems as special use permit uses in the AR Districts.

Solar Energy Systems

A. PURPOSE

The purpose of these Solar Energy regulations are to advance and protect the public health, safety, and welfare of the Town of Wilna including:

1. Taking advantage of a safe, abundant, renewable, and non-polluting energy resource;

2. Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; and

3. Increasing employment and business development in the region by furthering the installation of Solar Energy Systems.

B. APPLICABILITY

The requirements of this law shall apply to all Solar Energy Systems installed or modified after its effective date, excluding general maintenance and repair and Building-Integrated Photovoltaic Systems.

C. ROOF-MOUNTED SOLAR ENERGY SYSTEMS

1. Zoning Permit. Roof-Mounted Solar Energy Systems that use the electricity onsite or offsite are permitted as accessory uses when attached to any lawfully permitted building or structure. A zoning permit shall be obtained through the Town of Wilna Zoning Enforcement Officer, prior to installation.

2. Height. Roof-Mounted Solar Energy Systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.

3. Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements:
    a. Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of eighteen inches (18") between the roof and highest edge of the system.

    b. Roof mounted structures shall be color-coordinated to harmonize with roof material and other dominant colors of the structure.

    c. All solar collectors shall be installed so as to prevent any glare and heat that is perceptible beyond applicant property's lot lines.

4. Roof-Mounted Solar Energy Systems that increase the overall height of the structure by more than eighteen (18) inches, shall require a Special Use Permit by the Planning Board.

D. SMALL-SCALE/ON-SITE SOLAR ENERGY SYSTEMS

1. Zoning Permit. Small-Scale/On-Site Solar Energy Systems are permitted as accessory structures. A zoning permit shall be obtained through the Town of Wilna Zoning Enforcement Officer, prior to installation.

2. Height and Setback. Small-Scale/On-Site Solar Energy Systems shall not exceed sixteen (16) feet in height when oriented at maximum tilt. They shall be setback at least twenty (20) feet from side and rear lot lines. All solar collectors must be located in compliance with NYS Department of Environmental Conservation (DEC) and Federal Flood Plain regulations and specifications as they pertain to waterways, waterbodies, and designated wetlands.

3. All such Systems shall be installed in the side or rear yards.

4. Glare. All solar collectors shall be installed so as to prevent any glare and heat that is perceptible beyond subject property's lot lines. Particular attention shall be paid to panel orientation with regard to airport runway locations, and airplane flyover/approach patterns to minimize potential glare impacts on pilots.

E. LARGE SCALE SOLAR ENERGY SYSTEMS

1. Large-Scale Solar Energy Systems are allowed through the issuance of a Special Use Permit subject to the requirements set forth in this Section and Section 730. Applications for the installation of Large-Scale Solar Energy Systems shall be submitted to the Planning Board for its review and action, which can include approval, approval with conditions, and disapproval.

    a. All Large-Scale Solar Energy Systems shall be designed by a NYS licensed architect or licensed engineer and installed in conformance with the applicable International Building Code, International Fire Prevention Code and National Fire Protection Association (NFPA) 70 Standards.

    b. All solar collectors must be located in compliance with DEC and Federal Flood Plain regulations and specifications as they pertain to waterways, waterbodies, and designated wetlands.

2. Application requirements for Large-Scale Solar Energy Systems. The following items are required as well as those required in Section 720.

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

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

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

    d. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

    e. Glint and Glare Report is required to determine potential impacts to the Watertown International Airport and Wheeler-Sack Army Airfield.

    f. Decommissioning Plan. To ensure the proper removal of Large-Scale Solar Energy Systems, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a Special use permit under this Section. The Decommissioning Plan must specify that after the Large-Scale Solar Energy System can no longer be used, the applicant or any subsequent owner shall remove it. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall

be prepared by a Professional Engineer or Contractor. Cost estimations shall take into account inflation. Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan. If the Large-Scale Solar Energy System is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality.

g. Sureties/Bond. The applicant shall be required to provide sureties, as set forth, for the removal of the Large-Scale Solar Energy System. Pursuant to the execution of the decommissioning plan, the applicant shall provide the Town with a bond in an amount determined by the Town Board, but in no case less than 20% of the component/material cost (adjusted for inflation 20 years into the future after installation) to cover the expense of removal of the system and remediation of the landscape, in the event the Town must remove the facility. The bond shall be in a form acceptable to the Town Attorney, which includes but are not limited to a letter of credit, perpetual bond, or any combination thereof. The amount shall be reviewed every three years, by the Town Board and shall be adjusted if deemed necessary. If the bond is deemed to be adjusted, the applicant shall have 90 days from notice to provide an adjustment bond.

h. Fort Drum. The applicant shall notify Fort Drum personnel in the Plans, Analysis, and Integration Office as soon as possible upon application submission to determine potential impacts on Fort Drum airfield and training activities. The applicant shall provide a letter from Fort Drum with comments.

i. Watertown International Airport. The applicant shall notify the Airport Manager as soon as possible upon application submission to determine potential impacts on the airport. The applicant shall provide a letter from the Manager with comments.

3. Review Standards for Large-Scale Solar Systems.

a. Height and Setback. Large-Scale Solar Energy Systems shall not exceed sixteen (16) feet in height when oriented at maximum tilt. Any structure and equipment shall be setback a minimum of 50 feet from lot lines.

b. Lot Size. Large-Scale Energy Systems shall be located on lots with a minimum lot size of 5 acres.

c. Prime soils, prime if drained, and soils of statewide importance that are in agricultural production are a valuable and finite resource. Proposed Large-Scale solar systems shall minimize the displacement of prime soils that are in agricultural production. The site plan shall depict the location and extent of prime soils, prime soils if drained, soils of statewide importance, and indicate whether the parcel(s) is/are receiving an agricultural valuation. The site plan shall also depict the location and extent of current agricultural uses on the land (e. g rotational crops, hay land, unimproved pasture, support lands, and fallow lands) the location of diversions and ditches, and areas where tile drainage has been installed.

d. Roadways. In accordance with National Fire Protection Association, all access roads shall be a minimum of twenty (20) feet wide to assure adequate emergency and service access. Dead end roads that are at least 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus. Maximum use of existing roads, public or private, shall be made. Minimal access points shall be allowed by the Planning Board. A turnaround shall be provided at the gate.

e. Structures for overhead collection lines are to be located upon the nonagricultural areas and along field edges where possible. Electric interconnect cables and transmission lines are to be buried in agricultural fields wherever practical. Interconnect cables and transmission lines installed aboveground shall be located outside agricultural field boundaries. When above-ground cables and transmission lines must cross agricultural fields, taller structures that provide longer spanning distances and locate poles on field edges to the greatest extent practicable. All buried electric cables in cropland, hayland, and improved pasture shall have a minimum depth of 48 inches of cover. At no time is the depth of cover to be less than 24 inches below the soil surface.

f. Fences. All Large-Scale Energy Systems shall be enclosed by fencing to prevent unauthorized access. The type of fencing shall be determined by the Planning Board. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts.

g. Screening. All Large-Scale Solar Energy Systems shall have the least visual effect practical, as determined by the Planning Board. Based on site specific conditions, including topography, adjacent structures, and roadways, reasonable efforts shall be made to minimize visual impacts by preserving natural vegetation, and providing landscape screening to abutting residential properties, public roads, and from public sites known to include important views or vistas, but screening should minimize the shading of solar collectors. No more than fifteen (15) percent of the total existing brush, trees, and other perimeter screening vegetation on a parcel of property may be removed in order to accommodate a solar farm. Appurtenant Structures such as inverters, batteries, equipment shelters, storage facilities, transformers, shall be screened.

h. Signage. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. Solar equipment shall not be used for displaying any advertising. All signs, flags, streamers or similar items, both temporary and permanent, are prohibited on solar equipment except: (a) manufacturer's or installer's identification; (b) appropriate warning signs and placards; (c) signs that may be required by a federal agency; and (d) signs that provide a 24-hours emergency contact phone number and warn of any danger.

i. Glare. Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties, or roadways. Exterior surfaces of all collectors and related equipment shall have a non-reflective finish. Particular attention shall be paid to panel orientation with regard to airport runway

locations, and airplane flyover/approach patterns to minimize potential glare impacts on pilots based on the Glint and Glare Study.

j. Noise. Noise producing equipment such as substations and inverters shall be located to minimize noise impacts on adjacent properties. Their setback from property lines should achieve no discernable difference from existing noise levels at the property line.

k. Safety. The owner/operator shall provide a letter from the Fire Chief of the Carthage Fire Department that the Fire Department has reviewed the application and site plan with any comments. All means of shutting down the photovoltaic solar energy system shall be clearly marked on the site plan and building permit applications.

l. The Planning Board may impose conditions on its approval of any Special Use Permit under this Section in order to enforce the standards referred to in this Section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

4. Abandonment and Decommissioning - Solar Energy Systems are considered abandoned after twelve (12) months without electrical energy generation and must be removed from the property. Applications for extensions are reviewed by the Planning Board for a period of six months. The site shall be restored to as natural a condition as possible within one (1) year of removal.

F. Solar Rights

1. Pursuant to Chapter 263 of New York Town Law, all parcels within the Town of Wilna shall be permitted to enjoy access to direct sunlight.

2. No structure shall be constructed or vegetation installed that limits direct solar access greater than 50 percent of the ground surface of adjoining lots to less than six hours (per day) on any day of the year.

EXHIBIT “B”

EXHIBIT "B”

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
www.dos.ny.gov

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of Wilna

FILED
STATE RECORDS
AUG 16 2024
DEPARTMENT OF STATE

Local Law No. 1 **of the year 20**24

A local law To enact Article XI - Battery Energy Storage
(Insert Title)

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

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of Wilna **as follows:**

See Attached

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 _____ of 2024 of the ~~(County)(City)~~(Town)~~(Village)~~ of Wilna _____ was duly passed by the Town Board _____ on Aug. 12 2024, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)
(repassed after disapproval) by the _____ and was deemed duly adopted
(Elective Chief Executive Officer)*
on _____ 20[ ][ ], in accordance w ith the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____.
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

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

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

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 ___, became operative.

6. (County local law concerning adoption of Charter.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

(Seal)

Lori Borland
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 8/12/24

TOWN OF WILNA

LOCAL LAW NO. 1 FOR 2024

A LOCAL LAW REGARDING BATTERY ENERGY STORAGE
IN THE TOWN OF WILNA

BE IT ENACTED by the Town Board of the Town of Wilna as follows:

Article XI – Battery Energy Storage

§ 250-66 LEGISLATIVE INTENT: It is the intent of this local law to preserve and promote reasonable quality of environment and aesthetics and to protect the public health, safety, welfare, and quality of life within the Town of Wilna. This Law is intended to provide a regulatory scheme for the designation of properties suitable for the location, construction, and operation of Solar Battery Energy Storage Systems; while mitigating the impacts of the same on environmental resources such as agricultural lands, forests, wildlife, and other protected resources.

§ 250-67 DEFINITIONS:

ANSI: American National Standards Institute.

BATTERY(IES): A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM: An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

BATTERY ENERGY STORAGE SYSTEM: One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

A. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.

B. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area.

BUILDING INTEGRATED PHOTOVOLTAIC 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.

CELL: The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

COMMISSIONING: A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

DEDICATED-USE BUILDING: A building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy as defined in the International Building Code, and complies with the following:

1) The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
2) No other occupancy types are permitted in the building.
3) Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
4) Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:

a. The areas do not occupy more than 10 percent of the building area of the story in which they are located.

b. A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

ENERGY CODE: The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

FIRE CODE: The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

GROUND-MOUNTED SOLAR ENERGY SYSTEM (ON-SITE): A solar panel 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 for onsite consumption. Total electrical energy generated does not exceed more than 110 percent of the annual total electrical energy consumed on-site.

LOT COVERAGE, SOLAR ENERGY SYSTEM: The area measured from the outer edge(s) of ground-mounted arrays, inverters, batteries, storage cells and all other mechanical equipment used to create solar energy, exclusive of fencing and roadways.

NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL): A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

NEC: National Electric Code.

NFPA: National Fire Protection Association.

NON-DEDICATED-USE BUILDING: All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

NON-PARTICIPATING PROPERTY: Any property that is not a participating property.

NON-PARTICIPATING RESIDENCE: Any residence located on non-participating property.

OCCUPIED COMMUNITY BUILDING: Any building in Occupancy Group A, B, E, I, R, as defined in the International Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

PARTICIPATING PROPERTY: A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

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

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

UNIFORM CODE: The New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

§ 250-68 BATTERY STORAGE:

A. GENERAL REQUIREMENTS.

1. A building permit and an electrical permit shall be required for installation of all battery energy storage systems.
2. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act ("SEQRA").
3. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town Code.

B. PERMITTING REQUIREMENTS FOR TIER 1 BATTERY ENERGY STORAGE SYSTEMS.

Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts, subject to the Uniform Code and the "Battery Energy Storage System Permit," and exempt from site plan review.

C. PERMITTING REQUIREMENTS FOR TIER 2 BATTERY ENERGY STORAGE SYSTEMS.

Tier 2 Battery Energy Storage Systems are permitted through the issuance of a special use permit in connection with Renewable Energy Systems (Chapter 250 Article VII), and shall be subject to the Uniform Code and the site plan application requirements set forth in this Section.

1. Applications for the installation of Tier 2 Battery Energy Storage Systems shall be:
    a. Reviewed by the Zoning Enforcement Officer for completeness. An application shall be complete when it addresses all matters listed in this Local Law including, but not necessarily limited to: compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code; and matters relating to the proposed battery energy storage system and Floodplain, Utility Lines and Electrical Circuitry, Signage, Lighting, Vegetation and Tree-cutting,

Noise, Decommissioning, Site Plan and Development, Special Use and Development, Ownership Changes, Safety, and Permit Time Frame and Abandonment. Applicants shall be advised within ten (10) business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

b. Subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town shall have a notice printed in a newspaper of general circulation in the Town at least five (5) days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within two hundred (200) feet of the property at least ten (10) days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.
c. Referred to the County Planning Department pursuant to General Municipal Law § 239-m if required.
d. Upon closing of the public hearing, the Planning Board shall take action on the application within sixty-two (62) days of the public hearing, which can include approval, approval with conditions, or denial. The sixty-two (62) period may be extended upon consent by both the Planning Board and Applicant.

2. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

3. Signage.
    a. The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.
    b. As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

4. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

5. Vegetation and tree-cutting. Areas within ten (10) feet on each side of Tier

2 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

6. Noise. The one (1) hour average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of sixty (60) dBA as measured at the outside wall of any non-participating residence or occupied community building. Applicants may submit equipment and component manufacturers noise ratings to demonstrate compliance. The applicant may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.

7. Decommissioning.
    a. Decommissioning Plan. The applicant shall submit a decommissioning plan, developed in accordance with the Uniform Code, to be implemented upon abandonment and/or in conjunction with removal from the facility. The decommissioning plan shall include:
        i. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;
        ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
        iii. The anticipated life of the battery energy storage system;
        iv. The estimated decommissioning costs and how said estimate was determined;
        v. The method of ensuring that funds will be available for decommissioning and restoration;
        vi. The method by which the decommissioning cost will be kept current;
        vii. The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the

system is removed; and

viii. A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

b. Decommissioning Fund. The owner and/or operator of the energy storage system, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town for the removal of the battery energy storage system, in an amount to be determined by the Town, for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant.

8. Site Plan Application. For a Tier 2 Battery Energy Storage System requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:
   a. Property lines and physical features, including roads, for the project site.
   b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
   c. A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
   d. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
   e. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.
   f. Name, address, phone number, and signature of the project Applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.
   g. Zoning district designation for the parcel(s) of land comprising the project site.
   h. Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code.

Where commissioning is required by the Uniform Code, Battery energy storage system commissioning shall be conducted by a New York State (NYS) Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Zoning Enforcement Officer_prior to final inspection and approval and maintained at an approved on-site location.

i. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.

j. Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code.

k. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.

l. Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer.

m. Emergency Operations Plan. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:

    i. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.

    ii. Procedures for inspection and testing of associated alarms, interlocks, and controls.

    iii. Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to

fire department personnel for potentially hazardous conditions in the event of a system failure.

iv. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.

v. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.

vi. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.

vii. Other procedures as determined necessary by the Planning Board to provide for the safety of occupants, neighboring properties, and emergency responders.

viii. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

9. Special Use Permit Standards.
   a. Setbacks. Tier 2 Battery Energy Storage Systems shall comply with the setback requirements of the underlying zoning district for principal structures.
   b. Height. Tier 2 Battery Energy Storage Systems shall comply with the building height limitations for principal structures of the underlying zoning district.
   c. Fencing Requirements. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a seven (7) foot high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
   d. Screening and Visibility. Tier 2 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports.

10. Ownership Changes. If the owner of the battery energy storage system changes or the owner of the property changes, the special use permit shall

remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the Zoning Enforcement Officer of such change in ownership or operator within thirty (30) days of the ownership change. A new owner or operator must provide such notification to the Zoning Enforcement Officer in writing. The special use permit and all other local approvals for the battery energy storage system would be void if a new owner or operator fails to provide written notification to the Zoning Enforcement Officer in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this Local Law.

D. SAFETY.

1. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:
    a. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
    b. UL 1642 (Standard for Lithium Batteries),
    c. UL 1741 or UL 62109 (Inverters and Power Converters),
    d. Certified under the applicable electrical, building, and fire prevention codes as required. Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.

2. Site Access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 2 Battery Energy Storage System is located in an ambulance district, the local ambulance corps.

3. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

E. PERMIT TIME FRAME AND ABANDONMENT.

1. The Special Use Permit and site plan approval for a battery energy storage system shall be valid for a period of twenty-four (24) months, provided that a building permit is issued for construction and construction is commenced. In the event construction is not completed in accordance with the final site plan,

as may have been amended and approved, as required by the Planning Board, within twenty-four (24) months after approval, the Town Zoning Officer may extend the time to complete construction for one hundred eighty (180) days. If the owner and/or operator fails to perform substantial construction after thirty-six (36) months, the approvals shall expire.

2. The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than one (1) year. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, enter the property and utilize the available funds for the removal of a Tier 2 Battery Energy Storage System and restoration of the site in accordance with the decommissioning plan.

§ 250-69 ENFORCEMENT: Any violation of this Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town.

§ 250-70 SEVERABILITY: If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, individual, firm or corporation, or circumstance, shall be adjudicated by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

§ 250-71 EFFECTIVE DATE: This local law shall take effect immediately upon filing with the Secretary of State.