

Local Law Filing

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County

City

of Mexico

Town

Village

Local Law No. 2 of the year 2017

A local law regulating energy systems for the Town of Mexico

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

County

City

of Mexico

as follows:

Town

Village

ARTICLE 1: ENACTING CLAUSE, TITLE, PURPOSES, APPLICATION

SECTION 101 ENACTING CLAUSE

Pursuant to the authority conferred by the Town Law and the Municipal Home Rule Law of the State of New York, the Town Board of Mexico hereby adopts and enacts as follows:

SECTION 102 TITLE

This local law shall be known as Local Law 2 of 2017 a local law regulating energy systems for the Town of Mexico, New York.

SECTION 103 LEGISLATIVE INTENT

- 1 The Town of Mexico recognizes the anticipated demand for electricity generating devices and that renewable energy systems are clean and readily available. It further recognizes that electricity generated from such energy systems can be used to offset energy demand on the grid where excess power is generated.

- 2 The intent of this local law is to regulate and restrict the height, size, location and other features of these energy facilities, as herein defined, in order to provide standards for the safe provision of energy facilities and to protect the interest of the town, its residents and its businesses subject to reasonable restrictions.
- 3 This local law aims to accommodate energy systems while balancing the potential impact on neighbors and preserving the rights of property owners to install energy systems. This local law is intended to promote the effective and efficient use of energy resources in properly siting energy systems in a manner consistent with sound land use planning and the Town of Mexico Comprehensive Plan, to uphold the public health, safety and welfare, and to ensure that such systems will not have a significant adverse impact on the environment, aesthetic qualities and character of the Town.
- 4 Greater regulations to prevail. It is not intended by this local law to repeal, except as herein stated, abrogate or impair existing conditions previously made or permits previously issued relating to the use of buildings or premises or to impair or interfere with any easements, covenants or agreements existing between parties. Except as otherwise provided herein, whenever this local law imposes a greater regulation upon the use of buildings or premises than is required by existing provisions of law, ordinance, regulations or permits, or by such easements, covenants or agreements, the provisions of this local law shall control.

SECTION 104 VALIDITY

If any section, paragraph, subdivision or provision of this local law shall be held invalid, such invalidity shall apply only to that section, paragraph, subdivision or provision adjudged invalid, and the rest of this local law shall remain valid and effective.

SECTION 105 DEFINITIONS:

Accessory Facilities or Equipment: For energy systems, any structure customarily incidental and subordinate to the principal use, located at the energy system facility.

Accessory Use/Accessory Structure: Use of building customarily incidental and subordinate to the principal use or building and location on the same lot.

Ambient Noise: For the purpose of this local law will be rated as 40-45 dba.

Background Noise: The "lull" in the ambient noise environment. Intermittent noise events such as from aircraft flying over, dogs barking, mobile farm machinery and the occasional vehicle traveling along a nearby road are all part of the ambient noise environment but would not be considered part of the background noise unless they were present for at least 90% of the time.

Base Elevation: The elevation of the highest point of contact of a structure with the adjacent ground.

Building-Integrated Photovoltaic (BIPV) System: A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the facade, which does not alter the relief of the roof.

Building-Mounted Solar Energy System: A solar energy system that is affixed to the roof or side(s) of a building, accessory structure, or accessory use either by means of support structures or other mounting devices. Solar energy systems constructed over a parking lot are considered building-mounted solar energy systems.

CEO: Code Enforcement Officer appointed by the Town of Mexico.

Districts: Those areas within the Town of Mexico which the Town Board has determined are appropriate for the development of energy systems and relate to infrastructure, electrical lines and substations, access roads and accessory structures.

ES: Refers to energy systems.

Energy Systems: A complete system intended for the collection, inversion, storage and/or distribution of energy and that directly or indirectly generates thermal, chemical, electrical or other usable energy.

Ground-Mounted Solar Energy Systems: A solar energy system that is affixed to the ground either directly or by support structure or other mounting devices and that is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered ground-mounted solar energy systems for the purpose of this local law.

LWECS: See Wind Energy Conversions Systems

Modification: Any change or alteration that was not on the site plan at time of approval. This does not include maintenance and the replacement of parts unless they have been changed or altered from the original plan.

Net Metering: A billing arrangement that allows energy system customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of any given month.

Noise: Any discordant or disagreeable sound or sounds. More commonly, in an environmental context, noise is defined simply as unwanted sound.

Photovoltaic (PV): A semiconductor based device that converts light directly into electricity.

Reflector, Solar: A device for which the sole purpose is to increase the solar radiation received by a solar collector.

Residence: Any dwelling suitable for habitation existing in the Town of Mexico on the date an application is received. A residence may be part of a multi-dwelling or multipurpose building, and shall include buildings such as hunting camps, seasonal residences, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, correctional institutions, schools or other buildings used for educational purposes.

Site: The parcel(s) of land where the energy system is to be placed. The site could be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties.

Small Solar: A small solar energy system which has a rated capacity of not more than 10 KW and which is intended to primarily generate on-site power or reduce on-site consumption of utility power.

Solar Collector: A solar or photovoltaic cell, plate, panel, film, array, reflector or other structure affixed to the ground, a building or other structure that harnesses solar radiation to directly or indirectly generate thermal, chemical, electrical or other usable energy, or that reflects or concentrates solar radiation to a solar or photovoltaic cell, plate, panel, film, array, reflector or other structure that directly or indirectly generates thermal, chemical, electrical or other usable energy.

Solar Energy: A direct radiant energy received from the sun.

Solar Energy System: A solar energy system consists of, but is not limited to, solar collectors, mounting devices or structure, lines, foundations, generators/turbines, water and energy storage and distribution systems, storage maintenance and/or other accessory buildings, inverters, combiner boxes, meters, transformers and all other mechanical structures.

Sound Pressure Level: The level that is equaled or exceeded a stated percentage of time. An L90 – 30 dBA indicates that in any hour of the day, 30 dBA can be equaled or exceeded no more than 10% of the time, or for 6 minutes. The measurement of the sound pressure level shall be done according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11).

SWECS: See Wind Energy Conversions Systems

Tower Facility: Site where one or more wind energy-deriving tower(s) or wind turbines will be located, including all accessory facilities or equipment.

Large scale-Scale Solar Energy System or Solar Farm: Energy generation facility or area of land used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, design and intended to supply energy principally into a utility grid for sale to the general public.

Wind Energy Conversions System (“WECS”): Any tower, pole, or other structure, whether attached to a building, or freestanding, designed to be used for the support of a rotor that consists of blades and hub, as well as a nacelle and generator for producing electricity. A machine that converts the kinetic energy in the wind into a usable form (commonly known as a wind turbine or windmill).

Wind Energy Conversion System (“LWECS”) (large project): More than one WECS intended to provide wholesale electricity production for delivery on the local transmission network. WECS that produce more than 100 kW. Any WECS not meeting the definition of a SWECS.

Wind Energy Conversion System (“SWECS”) (small project): A WECS which has a rated capacity of not more than 100 kW and which is intended to primarily generate on-site power or reduce on-site consumption of utility power.

Wind Measurement Tower (WMT): A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

ARTICLE 2: AUTHORITY, ADMINISTRATION AND PROCEDURE

SECTION 201 AUTHORITY

1. The requirements of this local law shall apply to all energy systems and equipment installations modified or installed after the effective date of this local law. If the installation has commenced before the effective date of this local law the energy systems shall not be required to meet the requirements of this local law providing there are no changes other than maintenance.
2. All energy systems shall be designed, erected and installed in accordance with all appropriate energy codes and standards including but not limited to New York State Building Codes and National Electric Codes.

SECTION 202 PERMITS REQUIRED

1. **Permits:** Areas with a "SP" are permitted with issuance of a special use permit by the Zoning Board of Appeals, a site plan review by the Planning Board, a public hearing, and applicable fees. Areas with an "X" are permitted with building permits and those left blank are not allowed.

Energy System	A1	A2	A3	R1&R2	AP	C1	C2	M1	M2
SWECS	SP	SP	SP		SP			SP	SP
LWECS	SP	SP	SP						
Solar Large scale Farms	SP	SP							
Small Ground Mounted Solar	SP	SP	SP		SP	SP	SP	SP	SP
Small Roof Mounted Solar	X	X	X	X	X	X	X	X	X
WMT	SP	SP	SP	SP	SP	SP	SP	SP	SP

2. **CONSTRUCTION:** No energy systems shall be constructed, reconstructed, modified, or operated in the Town of Mexico, except in compliance with this local law.
3. **EXEMPTIONS:** No permit or other approval shall be required under this local law for energy systems utilized solely for on-site agricultural operations. Solar energy systems on fence posts and/or trailers producing less than 10kW are also exempt.
4. **TRANSFER:** No transfer of ownership of any Large Scale Energy System or special use permit will occur without prior approval of the Zoning Board of Appeals, which shall include written acceptance by the transferee of the obligations of the transferor under this local law.
5. **VIOLATIONS:** No special use permit shall be issued if there are violations of any federal, state or local law or regulations on the property.

- 6 **INSTALLATION:** The installation of a small solar energy system, whether attached to the main structure, an accessory building or as a detached, free-standing or ground-mounted solar collector in designated zones is permitted as an accessory structure, and shall meet all requirements of this section and shall require a building permit.

ARTICLE 3 ALL STANDARDS

SECTION 301 STANDARDS FOR ENERGY SYSTEMS

1. The recipient of the special use permit must correct any complaint within sixty (60) days of the said complaint or the permit may be revoked.
2. No television, radio or other communication antennas may be affixed or otherwise made part of any energy system.
3. If it is determined that an energy system is causing stray voltage, the operator shall take the necessary corrective action to eliminate the problem including relocation or removal of the energy system.
4. An energy system which is not used in twelve (12) months shall be deemed abandoned and shall be dismantled and removed from the property. Failure to notify and/or remove the obsolete energy system in accordance with these regulations shall be a violation of this local law. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any permit shall constitute grounds for the revocation of the permit.
5. The latest assessment roll of the Town shall be used to determine mailing addresses.
6. The Zoning Board of Appeals has the authority to waive any requirements contained in this local law with a majority plus one vote with supporting documentation.

SECTION 302 SITE PLAN FOR ENERGY SYSTEMS

A plan for the proposed development of an Energy System shall be submitted with the application demonstrating compliance with this local law and such plan shall include:

1. Six (6) copies of the special use permit application, name and address of property owner, project name and address, telephone number of the applicant. Payment of all fees shall be made at the time of the application submission.
2. Name and address of developer and seal of the engineer, architect, or surveyor preparing the plan. If the property owner is not the applicant, the application shall include written permission signed by the property owner.
3. Energy systems require a map showing existing and proposed topography at five (5) foot contour intervals.

4. Energy systems require a map showing all existing natural land features, trees, forest cover and all proposed changes to these features including size and type of plant material and erosion control measures.
5. A description of the project, including the number and maximum rated power output capacity.
6. For energy systems requiring a variance or special use permit a survey prepared by a licensed surveyor or engineer with the date, scale and north arrow and drawn in sufficient detail to clearly describe the following:
 1. Property lines and physical dimensions of the site.
 2. Location of nearest off-site, non-participating property line, and the distance from the proposed energy systems.
7. State Environmental Quality Review Act (SEQRA) /Environmental Assessment Form (EAF).
8. The proposed intent and capacity of energy generation as well as a justification for the height need of any energy system and justification for any clearing required.
9. The Zoning Board of Appeals or the Planning Board have the right to hire a consultant at the applicant's expense.

SECTION 303 PERMIT REVOCATIONS:

1. All energy systems 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 an energy system become inoperable, or should any part of the energy system be damaged, or should an energy system violate a permit condition, the owner or operator shall remedy the violation within 90 days after written notice from the Town. An extension of the 90-day period may be considered by the Zoning Board of Appeals, but the total remediation period shall not exceed 180 days.
2. Notwithstanding any other abatement provision under this local law, if the energy systems is not repaired or made operational or brought into compliance after said notice the Zoning Board of Appeals may, after a public hearing at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance,
 - (i) order either remedial action within a particular timeframe, or
 - (ii) order revocation of the Permit for the energy systems and require the removal of the energy systems within 90 days. If the energy systems is not removed, the Town Board shall have the right to use the security posted as part of the Decommission Plan to remove the energy systems.

SECTION 304 PROCEDURES FOR ENERGY SYSTEMS

1. An application for a special use permit shall be submitted to the CEO.
2. The Zoning Board of Appeals shall have thirty (30) days to review the application prior to its next regularly scheduled meeting to determine if the application is complete.
3. If the application is deemed incomplete, the Zoning Board of Appeals or its designated reviewer shall provide the applicant with a list of the missing information. No refund of the application fee shall be made.
4. Within sixty-two (62) days after the Zoning Board of Appeals meeting where the application is deemed complete, a public hearing shall be held.
5. The Planning Board shall be sent a copy of the application (containing the site plan) and notice of hearing for review prior to the public hearing. The Planning Board will submit a report of its advisory opinion containing its recommendations prior to the hearing.
6. Notice of public hearing shall be given by first class mail to property owners within Five Hundred (500) feet of the property line of each proposed SWECS and published in the Town's official newspaper, no less than five (5) days before any hearing. Upon the receipt of recommendation from the Planning Board, the holding of a public hearing and the completion of the SEQRA process, the Zoning Board of Appeals may approve, approve with conditions, or deny the applications, in accordance with the standards in this Article.
7. Upon receipt of the Planning Board's recommendation, completion of the SEQRA process and within sixty-two (62) days of the completion of the public hearing, the Zoning Board of Appeals may approve, conditionally approve, or disapprove the application. The time in which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Zoning Board of Appeals. The decision of the Zoning Board of Appeals on the application shall be filed in the office of the Town Clerk, within five (5) days after such decision is rendered and a copy thereof mailed to the applicant.

ARTICLE 4 SMALL ENERGY SYSTEMS

SECTION 401 STANDARDS FOR SMALL WECS

1. A plan for the proposed development of a SWEC shall include:
Elevation drawing of the SWECS 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.

SECTION 402 STANDARDS FOR RESIDENTIAL/SMALL BUSINESS/SMALL-SCALE SOLAR

- A. Any solar energy system that cumulatively on a lot shall meet all of the following provisions:
 1. Is an accessory use or accessory structure, designed and intended to generate energy primarily for a principal use located on site.

2. Produce up to 10 (ten) kilowatts (kW) per hour of energy or solar thermal system which serve parcel and do not provide energy beyond the said parcel. Small-scale solar energy systems located on a farm operation (as per NYS Agriculture and Markets Law Section 301(11) definition of that term) can produce up to 110% of the farm's needs.
3. All-on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines.
4. Except during short-term events, a solar energy system shall be designed, installed and operated so that noise generated by the system shall not exceed ambient noise level plus 5 decibels (dBA).
5. All solar collectors and their associated support shall, at the time of installation, be designed according to generally accepted engineering practice to withstand wind pressures applied to exposed areas by wind from any direction, to minimize the migration of light or sound from the installation and to minimize the development of sight obstructions for adjacent structures or land parcels.
6. Photovoltaic systems that are integrated directly into building, part of, and not mounted on the building or structure, must meet all applicable building codes, obtain necessary permits and/or variances and may produce up to 110% of the business' needs.

B. Roof- Mounted Solar Energy Systems

1. **PERMITTED USE:** Roof-Mounted Solar Energy Systems that use the electricity onsite or offsite are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
2. **HEIGHT:** 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:
 - i. Panels facing the front yard must be mounted at the same angle as the roofs surface with a maximum distance of 18 inches between the roof and highest edge of the system.
4. **SAFETY:** In order to ensure firefighter and other emergency responders safety, except in the case where solar panels are installed on an accessory structure less than one thousand (1000) square feet in area, there shall be a minimum perimeter area around the edge of the roof and 18 inch pathways to provide space on the roof for walking around solar collectors and panels.

C. Ground-Mounted Solar Energy Systems.

Free-standing or ground-mounted solar collectors are permitted as accessory structures subject to the following additional conditions:

1. **HEIGHT AND SETBACKS:** Ground-Mounted Solar Energy Systems shall adhere to the height and setbacks requirements of the underlying zoning district. Ground-Mounted or free-standing solar collector height shall not exceed fifteen (15) feet when oriented at maximum tilt.
2. **LOT COVERAGE:** Lots are limited to a minimum of one acre parcel for ground mounted energy systems. The surface area covered by Ground-Mounted Solar Panels shall be included in total lot coverage, not to exceed the area of ground covered by building structure of the largest building on the lot measured from the exterior walls, not including patios and decks.
3. **DESIGN AND LOCATION:** All ground mounted energy systems shall be installed in side or rear yards. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g. public parks, roads, trails). To the greatest extent feasible, a solar energy system shall use natural landforms and vegetation for screening. All solar collectors and related equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.

ARTICLE 5 LARGE SCALE ENERGY SYSTEMS

SECTION 501 ADDITIONAL SITE PLAN REQUIREMENTS

1. **PRELIMINARY REPORT:** A preliminary report prepared by the applicant describing the following shall be included in the site plan:
 - i. Surrounding topography in relation to the capabilities for generation of electricity.
 - ii. Required improvements for construction activities, including those within the public's right of way or land controlled by the Town of Mexico.
 - iii. Proposed mitigation measures for visual impacts of energy system.
 - iv. Proposed safety measures to mitigate energy system failure.
2. **CONSTRUCTION SCHEDULE:** A construction schedule describing commencement and completion dates and hours of construction.
3. **AREA DESCRIPTION:** A description of the general geographic areas that would be acceptable for energy projects within the Town of Mexico. Demonstration that the proposed site is an appropriate site within the immediate area for the location of the Large Scale Energy System.
4. **VISUAL IMPACT ASSESSMENT:** The project developer shall prepare a Visual Impact Assessment (VIA) to evaluate the project's impact on scenic resources with a five (5) miles radius of the project site. The VIA may include any of the following as determined in consultation with the Zoning Board of Appeals and Planning Board

- i. Mapping of scenic resources of statewide significance, as defined by the NYS Department of Environmental Conservation (DEC) Visual Policy (Policy DEP-00-2.), and of local significance, as officially listed by the Town.
 - ii. View shed mapping and/or cross section analysis to identify areas (Including the significant resources identified above) with potential views of the project.
 - iii. A colored computerized photographic simulation of what the proposed project will look like from a reasonable number of representative viewpoints within the five (5) mile radius study area to be selected in consultation with the Zoning Board of Appeals and Planning Boards.
 - iv. Recommended visual mitigation measures (in accordance with DEC Policy DEP-002), if warranted, based on the results of the VIA described above.
 - v. Digital elevation model-based project visibility map showing the impact of visibility of the project from other locations, to a distance radius of five (5) miles from the center of the project. The base map used shall be a published topographic map showing natural and structural and built features.
 - vi. All applicants shall use measures to reduce the visual impact of energy systems to the greatest extent possible. All structures in a project shall be finished in a single, non-reflective matte-finished color. LSES shall be constructed using equipment whose appearance, with respect to one another, is similar within and throughout the Town to provide reasonable uniformity in overall size and geometry. No lettering, company insignia, advertising, or graphics shall be located on any part of the parcel.
5. **REFLECTION:** The applicant may be required to conduct a study on potential shadow flicker, reflection or other negative impact.
 6. **PROPERTY VALUE ANALYSIS:** A property value analysis may be required which is to be prepared by a licensed appraiser approved by the Town in accordance with industry standards, regarding the potential impact of values or properties that neighbor sites, and will include a fair market appraisal of each non-participating property and/or residence within a one (1) mile radius of the proposed LSES.
 7. **RUNOFF:** Plans to prevent the pollution of surface or ground water, erosion of soil both during and after construction, excessive runoff, and flooding of other properties, as applicable. There should be pre-construction and post construction drainage calculations for the site done by a certified engineer. The engineer must show how there will be no increase in runoff from the site.
 8. **DESIGN SPECIFICATION:** For each proposed Large Scale Energy System, the applicant shall include make, model, color, picture and manufacturer's specifications, including noise dBA data and maximum kW limit. Applicant shall also include Manufacturers' Material Safety Data Sheet documentation for the type of and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
 9. Upon determination that the application is complete the Zoning Board of Appeals shall hold at least one public hearing (within 62 days) on the application. Notice shall be given by first class mail to property owners within 1000 feet of the property line of each proposed LSES and published in the Town's official newspaper, no less than five (5) and no more than

twenty (20) days before any hearing but, where any hearing is adjourned by the Zoning Board of Appeals to hear additional comments, no further publication or mailing shall be required. Upon the receipt of recommendation from all appropriate agencies (including the Planning Board), the holding of a public hearing and the completion of the SEQRA process, the Zoning Board of Appeals may approve, approve with conditions, or deny an application, in accordance with the standards in this local law.

SECTION 502 STANDARDS FOR LARGE SCALE ENERGY SYSTEMS

1. The applicant 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.
2. A Routing Inspection Report prepared by the supplier/manufacturer, licensed in the state of New York, will be required at the time of installation and every three (3) years thereafter.
3. The development of Large Scale Energy Systems and related structures shall be permitted with issuance of a special use permit by the Zoning Board of Appeals. Large Scale Energy Systems and facilities shall be subject to the following requirements:
4. **GROUND WATER IMPACTS:** An analysis of impacts on local ground water resources shall be prepared, regarding impacts anticipated during construction, reconstruction, modification or operation of Large Scale Energy Systems.
5. **IMPACTS ON LAND:** Large Scale Energy Systems shall be designed to minimize the impacts of land clearing and the loss of open space areas. The construction of Large Scale Energy Systems shall be discouraged on land protected by conservation easements. All top-soil disturbed during construction, reconstruction or modification of Large Scale Energy Systems shall be stock piled and returned to the site, reseeded with grass and/or planted with low level vegetation capable of preventing soil erosion and airborne dust upon completion of the construction.
6. **SOLID WASTE:** All solid waste and hazardous waste and construction debris shall be removed from the site and managed in a manner consistent with all federal, state and local laws, rules and regulations.
7. **LOCATION:** All Energy Systems shall be 500 feet from state-identified wetlands or bodies of water.
8. **SIGNAGE:** No signs are allowed on a LSES site other than as allowed by the special use permit.
9. **TRAFFIC ROUTES:** Construction of Large Scale Energy Systems pose potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for Large Scale Energy Systems and/or associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include
 - i. Minimizing traffic impacts from construction and delivery vehicles;
 - ii. Minimizing Large Scale Energy Systems related traffic during times of school bus activity;

- iii. Minimizing wear and tear on local roads; and
 - iv. Minimizing impacts on local business operations. Permit conditions may limit Large Scale Energy Systems related traffic to specified routes, and include a plan for disseminating traffic route information to the public.
10. **STRAY VOLTAGE:** If it is determined that an energy systems is causing stray voltage, the operator shall take the necessary corrective action to eliminate the problem including relocation or removal of the facilities.
 11. **UNAUTHORIZED ACCESS:** Energy systems shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked or appropriate security measures.
 12. **REPORTS:** Copies of all reports concerning operating and safety inspections for each energy systems shall be filed with the CEO.
 13. **UTILITY SERVICE:** All power transmission/distribution lines from the energy systems shall be underground from the energy systems to the collection station or substations where possible.
 14. **HEIGHT:** The minimum distance between the ground, structures, or other obstacles and any part of the rotor blade shall be no less than thirty (30) feet for LWECS and 15 feet for Large Scale Solar Systems. The height of any LWECS shall be limited to the minimum required to provide needed energy by demonstrated demand, but no greater than 500 feet.
 15. **ACCESS ROADS:** Existing roadways shall be used for access to the site. In the case of construction roadways, they shall be constructed in a way so that they are not conspicuous to the surrounding environment.
 16. **CONSTRUCTION:** Construction of a Large Scale Energy System shall be limited to the hours of 7AM to 7PM Monday through Friday, unless the prior written approval of the Zoning Board of Appeals is received.
 17. **ACCESSORY STRUCTURE/FACILITIES:** Transmission facilities and/or buildings shall be located behind ridges or vegetation to screen from visibility when possible.
 18. **BUILDING AND GROUND MAINTENANCE:** Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in a screened fenced designated storage area. All maintenance equipment and spare parts shall be kept fenced in a designated storage area.
 19. **MODIFICATIONS:** Any and all modifications, additions, deletions or changes to Large Scale Energy Systems shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such energy systems.
 20. **EMERGENCY SHUTDOWN/SAFETY:** The manufacturer's and installer's identification, emergency information and warning signage shall be posted at the site and be clearly visible. All equipment shall be marked in order to provide emergency responders with warning and guidance with respect to isolating the energy system. The marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated. Materials used for marking shall be weather resistant. The applicant shall provide

a fire protection and emergency response plan, created in consultation with the fire department having jurisdiction over the proposed project. All Large Scale Energy Systems shall have emergency shut off capability.

21. **NATURE IMPACTS:** An analysis of impacts on local wildlife shall be prepared, regarding impacts anticipated during construction, reconstruction, modification or operation of Large Scale Energy Systems for wild creatures including wild creatures existing at ground level.

22. **GUY WIRES:** The use of guy wires is prohibited.

23. **SAFETY:**

- i. No climbing pegs or tower ladders shall be located closer than twelve (12) feet to the ground level at the base of the structure.
- ii. No LWECS shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

SECTION 503 ADDITIONAL SITE PLAN REQUIREMENTS FOR LWECS

LWECS and facilities shall be subject to the following requirements:

1. **LOCATION:** Applicant for LWECS shall locate, erect and site LWECS in accordance with the following requirements:
 - i. The minimum setback distance between each (LWECS) from adjacent property lines, rights of ways, easements, public ways, power lines or other generation units or areas shall be 2 ½ times the height measured from the center of the LWECS.
 - ii. Two and one-half (2 ½) times the height of the LWECS from the centerline of the nearest public road.
 - iii. Two and one-half (2 ½) times the height from the nearest edge of a zoning district in which LWECS are not allowed,
 - iv. Two and one-half (2 1/2) times the height from any structure existing at the time of application on the lot on which the WECS is located, measured from the exterior of such structure.
 - v. Tower height plus 10% from any non-LWECS aboveground utilities.
 - vi. All LWECS shall be setback a minimum of 4,500 feet from the high water mark of navigable waters.
 - vii. All LWECS shall be setback a minimum of 2,500 feet from schools, churches, and other public lands where people gather.
2. **ADDITIONAL NATURE IMPACTS:** No LWECS shall be installed in any location where there is a recognized migratory flight path for birds or at a location where birds commonly congregate, unless applicant can demonstrate that the operation of the LWECS will not have a significant impact on either migratory or resident birds. A bird migration study shall be performed for all LWECS sites.

3. NOISE IMPACT

- i. The statistical sound pressure level (90) generated by a LWECS shall in no case, regardless of wind speed or conditions, exceed ambient noise level plus 5 dBA when measured at the nearest property line existing at the time of application. Independent certification shall be provided before and after construction demonstrating compliance with this requirement,
- ii. The increase in ambient statistical noise levels is based on an assumed background 90 ambient noise level of 26 dBA or the actual ambient background level from 2200 hours until 0700 hours during the day. The applicant shall conduct measurements to determine the actual ambient 90 background level.
- iii. Background noise measurements shall be obtained at the appropriate measurement point, synchronized with wind speed measurement of hub height conditions at the nearest LWECS location.
 - i. For the purposes of determining whether a proposed LWECS would satisfy the ambient noise standard, noise levels at the appropriate measurement point are predicted assuming that all of the proposed WECS' turbines are operating between cut-in speed and the wind speed corresponding to the maximum sound power level established by IEC 61400-11 (version 2002-12). These predictions must be compared to the highest of either the assumed ambient noise (base noise level of 26dBA), or to the actual ambient background 90 noise level, if measured. The WECS complies with the noise ambient background standard if this comparison demonstrates to the satisfaction of the Town's acoustical consultant and the satisfaction of the Town Zoning Board of Appeals that the increase in noise is not more than 5dBA over the entire range of wind speeds.
- iv. In the event audible noise due to LWECS operations contains a steady purr tone, such as a whine, screech, or hum, the standards for audible noise set forth in subparagraph 1 of this subsection shall be reduced to three (3) dBA.
- v. In the event that ambient noise level is proven, prior to permitting, to exceed the applicable standard given above (26dBA), the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is defined as the 90 sound pressure levels.
- vi. This section describes the steps to be taken to assess whether the LWECS noise-reaching receivers at relevant locations will comply with the criteria of this local law.
- vii. To prevent adverse impacts from the increased noise of WECS under all wind conditions the varying noise level must also be compared to the corresponding background noise at the relevant receiver.
- viii. A special use permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third party acoustic measurement consultant. The initial fund shall be in the amount of \$25,000. The noise testing shall demonstrate compliance with the terms and conditions of the special use permit and this local law and shall also include an evaluation of any complaints

received by the Town. The applicant shall have 90 days after written notice from the Zoning Board of Appeals to cure any deficiency. An extension of the 90-day period may be considered by the Zoning Board of Appeals but the total period may not exceed 180 days.

4. **LWECS SITE PLAN REQUIREMENTS:** For LWECS to demonstrate compliance with the setback requirements of this Article, the site plan shall include circles drawn around each proposed tower location equal to:
 - i. 2.5 times the tower height.
 - ii. Five hundred foot perimeter.
 - iii. Location of the nearest residential structure on the site and the distance from the proposed LWECS.
 - iv. Location, approximate dimensions and types of existing structures and uses on site, public roads, and adjoining properties within designated area of the Site.
 - v. Location of all above ground utility lines on the site, and all related transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.
 - vi. All proposed facilities, electrical lines, substations, storage or maintenance units, and fencing.
 - vii. A description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.
5. **ELEVATION DRAWING** of the LWECS 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 LWECS of the same type and total height.
6. **LIGHTING PLAN** showing any FAA-required lighting and other proposed lighting shall be submitted to the Zoning Board of Appeals. The application should include a copy of the determination by the FAA to establish required markings and/or lights for the structure. However, 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.
7. **BACKGROUND NOISE:** Background noise is measured at relevant receiver locations over continuous 10-minute intervals and particularly over the range of wind speeds at which the LWECS operate.
 - i. The data must adequately represent condition at the site and cover approximately 2,000 intervals. Wind speed is measured at 30 feet above the ground and in intervals that correlate with the background noise measurements.
 - ii. The wind speed data, together with the manufacturer's noise data for the LWECS and using a suitable mode, is then used to predict noise levels at each integral wind speed from cut-in to rated power, at relevant receiver locations.

- iii. The correlated wind speed and background noise data are plotted against each other to give a standard graph for background noise at each relevant receiver. This graph is then used in conjunction with the predicted noise levels to assess whether the LWECS will meet the criteria of this local law.
- iv. The protocol to be followed will be that of the Environment Noise Guidelines: Wind Farms, Environment Protections Authority, Adelaide SA.

SECTION 504: CERTIFICATIONS

1. The applicant shall show that for each manufacturer that state and federal standards for the construction, operation and maintenance of a Large Scale Energy Systems have been met or are being complied with. Town of Mexico shall be named as an additional insured, and proof of such insurance shall file with the Code Enforcement Officer on January 1st, beginning on a date prior to initiation of construction. Prior to issuance of a building permit the applicant shall provide the Zoning Board of Appeals proof, in the form of a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Zoning Board of Appeals in consultation with the Town's insurer, to cover damage or injury which might result from the failure of energy systems.
2. Following commencement of operations, all Large Scale Energy Systems shall annually, by the first day of February of each year, provide the Code Enforcement Officer documentation from the utility company verifying that the system is active and showing the amount of electricity it produced and sold for the prior year.
3. After completion of a Large Scale Energy System, the applicant shall provide a post-construction certification from a professional engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected.

SECTION 505 ADDITIONAL STANDARDS FOR LARGE SCALE SOLAR ENERGY SYSTEM/ SOLAR FARMS

1. The Large Scale Solar Energy System, including any proposed off-site infrastructure, shall be located and screened in such a way as to avoid or minimize visual impacts as viewed from publicly dedicated roads and highways and existing residential dwellings located on contiguous parcels. A berm, landscape screen or other opaque enclosure, or any combination thereof, to be determined by the Planning Board, shall be provided. The design, construction, operation and maintenance of any solar energy systems shall prevent the misdirection and/or reflection of solar rays onto neighbor properties, public roads and public parks in excess of that which already exists.
2. Development and operation of a Large Scale Solar Energy System shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats identified by the Town of Mexico or other federal or state regulatory agencies. Lands which have the highest ecological values as evidenced by large, contiguous

areas of forest, undisturbed drainage areas, wetlands, or NYS DEC identified critical habitats or rare plant and animal populations shall be avoided.

3. The average height of the solar panel arrays shall not exceed fifteen (15) feet at maximum tilt. There shall be a minimum 100 foot buffer between any component of the Large Scale Solar Energy System and the parcel boundary line, with the width determined by the special use permit Process after analysis of site conditions and adjacent land uses.
4. Any site containing a Large Scale Solar Energy System shall be enclosed by perimeter fencing to a height of 8.5 feet, of a type acceptable to the Planning Board, to restrict unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing.
5. **LAND CLEARING:** Previously cleared or disturbed areas are preferred locations for Large Scale Energy System. The clearing of additional lands to accommodate a proposed utility grade facility may be permitted provided the percentage of newly cleared land does not exceed 30% of the existing woodlands on any site that is leased or purchased and used as a Large Scale Solar Energy System.
6. **NATIVE VEGETATION:** Native vegetation shall be maintained below the Large Scale Energy System.
7. **SUPPORT COLORS:** All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color to aid in blending the facility into the existing environment.
8. **TRANSMISSION LINES AND WIRING:** All transmission lines and wiring associated with a Large Scale Solar System shall be buried and include necessary encasements in accordance with the National Electric Code and all New York State and Town requirements. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations, junction boxes and other electric components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.
9. **LOT COVERAGE.** A Large Scale Solar Energy System that is ground-mounted shall not exceed 20%, but in no case shall exceed 14 acres of the lot on which it is installed. The Town of Mexico does not support conversion of productive farmland to support grid-supply facilities. Large scale solar system shall be located on a parcel in such a manner as to avoid, to the maximum extent feasible, soils classified as prime farmland by the United States Department of Agriculture and New York State or the Natural Resources Conservation Services. A minimum parcel size of 10 acres is required for Large Scale Solar Energy Systems.

SECTION 506 ADDITIONAL LARGE SCALE SOLAR SYSTEM SITE PLAN REQUIREMENTS

1. **EQUIPMENT SPECIFICATION SHEETS:** The equipment specification sheets shall be documented and submitted for photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

ARTICLE 6 WIND MEASUREMENT TOWERS

SECTION 601: WIND SITE ASSESSMENT

The Town Board acknowledges that prior to construction of a WECS; an assessment is typically needed to determine local wind speeds and the feasibility of using particular sites. Installation of Wind Measurement Towers (WMT), also known as anemometer towers, shall be permitted with a special use permit.

1. As a condition of the permit for the WMT tower, all data collected shall be turned over to the Town on demand.
2. In addition, continuous sound recordings shall be collected and shall be turned over to the Town on a monthly basis.
3. Any and all modifications, additions, deletions or changes to WMT under a special use permit, whether structural or not, shall be made by special use permit, except that such permit shall not be required for repairs which become necessary in the normal course of use of such WMT.

SECTION 602: STANDARDS for WMT

1. The distance between a WMT and the property line shall be at least 1.5 times the total height of the tower.
2. Special use permits for WMT may be issued for a period of up to twenty-six (26) months. Permits may be renewed if the WMT is in compliance with the conditions of the special use permit.
3. No signs are allowed on any part of the WMT Facility.
4. Owners shall 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 from the ground.
 - ii. A locked anti-climb device installed on the tower.

SECTION 603 APPLICATION REQUIREMENTS for WMT

An application for a special use permit for a WMT shall include:

1. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include written permission signed by the property owner.
2. A description of the project, including the WMT(S) proposed and a plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:
 - i. Property lines and physical dimensions of the Site:

- ii. Location, approximate dimensions and types of existing structures, uses on Site, public roads, and within 500 feet of the Site.
- iii. Location and ground elevation of proposed WMT.
- iv. To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower location equal to 1.5 times the tower height and evidencing a five hundred foot perimeter.
- v. Location of the nearest residential structure on the site and the distance from the proposed WMT.
- vi. Location of nearest off-site, non-participating property line, and the distance from the proposed WMT if within 500 feet.
- vii. A construction schedule describing commencement and completion dates and hours of construction;
- viii. All proposed facilities, storage or maintenance units, and fencing,
- ix. Elevation drawing of the WMT showing total height.

ARTICLE 7: ABANDONMENT – DECOMMISSIONING – BONDING OF LARGE SCALE ENERGY SYSTEMS

SECTION 701 ABANDONMENT. Large Scale Energy Systems are considered abandoned after one year without electrical energy generation and must be removed from the property at the expense of the applicant. Applications for extensions are reviewed by the Zoning Board of Appeals for a period of 6 months. Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA or by lack of income generation. The applicant shall make available (subject to a non-disclosure agreement) to the Town Board and/or the Zoning Board of Appeals all reports to and from the purchaser of energy from individual Large Scale Energy Systems, if requested, necessary to prove the Large Scale Energy System is functioning.

SECTION 702 DECOMMISSIONING. To ensure the proper removal of Large Scale Energy Systems, a Decommissioning Plan shall be submitted as part of the application along with a bond. 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 Energy System is abandoned, cessation of activity or in conjunction with the removal of the facility, it shall be removed by the applicant or any subsequent owner.

The decommissioning plan must ensure that the site be restored to a useful, nonhazardous condition within one hundred twenty (120) days of such notification to the CEO and shall include, but not limited to the following:

- i. Removal of all above ground and below ground equipment, wire, structures, fencing and foundations.

- ii. Restoration of the surface grade and soil after removal of equipment, structures and foundations.
- iii. Re-vegetation of restored soil areas with native seed mixes; excluding any invasive species.
- iv. The plan shall also include an expected timeline for execution.
- v. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor.
- vi. Cost estimations shall take into account inflation.
- vii. Removal of Large Scale Energy Systems must be completed in accordance with the Decommissioning Plan.

SECTION 703 BOND

- i. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town for the removal of non-functional towers and appurtenant facilities in an amount to be determined by the town for the period of the life of the facility. All decommissioning funding requirements shall be met prior to commencement of construction. The amount of the bond shall be reviewed annually by the Zoning Board of Appeals.
- ii. In addition to the conditions above, if the owner and/or operators fail to implement the Decommissioning Plan within 180 days the town may, at its discretion, provide for the restoration of the site in accordance with the decommissioning plan and may utilize the bond provided by the applicant to cover the cost of restoring the property.

ARTICLE 8: ENFORCEMENT

This local law shall be enforced by the Code Enforcement officer of the Town of Mexico or such enforcement officer duly empowered by the Town of Mexico.

ARTICLE 9: PENALTIES

- 1. Any person who shall violate any of the provisions of this local law shall be guilty of an misdemeanor and subject to a minimum fine of Two Hundred Fifty Dollars (\$250.00) and a maximum of One Thousand Dollars (\$1,000) for each offense. Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.
- 2. In addition to the above provided penalties, the Town Board may also maintain an action or proceedings in the name of the Town in a court or competent jurisdiction to compel compliance with or restrain by injunction the violation of any article of this local law.

ARTICLE 10: SEPARABILITY

Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

ARTICLE 11: EFFECTIVE DATE

This law shall be effective upon filing with the Secretary of State.

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

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

I hereby certify that the local law annexed hereto, designation as local law No. 2 of 2017 of the (County)(City) (Town) (Village) of Mexico was duly passed by the Town Board on November 13, 2017, 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 _____ 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 with the applicable provisions of law.

3. ~~(Final adoption by referendum.)~~

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


ELIZABETH DISHAW, TOWN CLERK

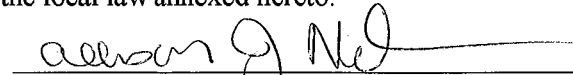
(Seal)

Date: Nov 13, 2017

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF OSWEGO

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceeding have been had or taken for the enactment of the local law annexed hereto.


Signature _____ ALLISON J. NELSON, ESQ.
Town Attorney _____
Title _____

County _____
City _____
Town _____ of Mexico
Village _____

Date: 11/13/17