

# City of North Tonawanda

DONNA L. BRAUN  
City Clerk-Treasurer  
dbraun@northtonawanda.org

Lori Swartz  
Assistant City Clerk

Denise Proefrock  
Assistant City Treasurer

OFFICE OF THE CITY CLERK - TREASURER  
VITAL STATISTICS  
CITY HALL  
216 PAYNE AVENUE  
NORTH TONAWANDA, N.Y. 14120

Treasurer's Office: (716) 695-8575  
Clerk's Office: (716) 695-8555  
Fax: (716) 695-8557

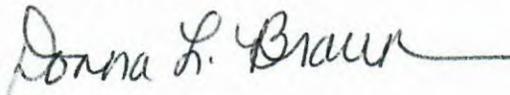
## **COMMON COUNCIL WORKSHOP AGENDA**

April 21, 2022

The following meeting has been scheduled for **TUESDAY APRIL 26, 2022:**

<b>6:30 PM Mayor Tylec</b>	<b>Re: NTHS &amp; City of North Tonawanda Camera Resolution</b>
<b>6:45 PM Pete Chenier</b>	<b>Re: Canal Fest</b>
<b>7:00 PM Maureen Harding</b>	<b>Re: Solar Law</b>
<b>7:15 PM Common Council</b>	<b>Re: General Discussion</b>
<b>7:30 PM Executive Session</b>	<b>Re: Water Treatment Plant Project</b>

Respectfully submitted,



**Donna L. Braun**  
City Clerk-Treasurer

CITY OF NORTH TONAWANDA



AUSTIN J. TYLEC

April 18, 2022

North Tonawanda Common Council  
216 Payne Avenue  
North Tonawanda, NY 14120

RE: NTHS and City of North Tonawanda - Camera Resolution

Dear Honorable Body,

In conjunction with the North Tonawanda School system, I am recommending the City approve an agreement to install and monitor safety cameras on all school buses transporting North Tonawanda students.

The attached resolution has been discussed with both our Chief of Police and the Superintendent of NT Schools, to increase safety for our students and the public.

Thank you for your consideration with this matter.

Respectfully,

A handwritten signature in black ink that reads "Austin J. Tylec".

Austin J. Tylec, Mayor

Attachment

2022 APR 18 PM2:28  
NORTH TONAWANDA NY

RECEIVED  
CITY CLERK'S OFFICE

**CITY SCHOOL DISTRICT OF THE CITY OF NORTH TONAWANDA  
IN CONJUNCTION WITH CITY OF NORTH TONAWANDA**

RESOLUTION AUTHORIZING THE NORTH TONAWANDA CITY SCHOOL DISTRICT, ENTERING AN AGREEMENT WITH THE CITY OF NORTH TONAWANDA, NEW YORK, FOR INSTALLATION AND USE OF SAFETY CAMERAS ON ALL BUSES TRANSPORTING DISTRICT STUDENTS

**BACKGROUND INFORMATION:**

In an effort to address the continued violation of motor vehicle operators, illegally overtaking or passing school buses and placing students at risk of injury or death, the New York State Legislature passed, and the Governor signed legislation amending the Vehicle and Traffic Law providing for the installation and use of safety cameras on school buses and allowing for the adoption of procedures to adjudicate owner's liability for an operator illegally overtaking or passing a school bus. The legislation also amends New York Education Law so as to permit the Board of a Small City School District, in its discretion, to pass a resolution authorizing the entering of an Agreement with the City for the installation and use such safety cameras.

Superintendent Gregory Woytila met with The Mayor and former Chief of Police (Krantz) to retain a Vendor to install their safety cameras with the City of North Tonawanda retaining a portion of the fines resulting from owners and/or operators illegally passing a school bus.

As result of the meeting, the Superintendent recommends the Mayor authorize entering an Agreement with the City of North Tonawanda School District for the installation and use of safety cameras on school buses, and further directs him to negotiate such Agreement for the review and final approval by the Common Council.

**RECOMMENDATION:**

A motion is recommended for the approval of the following: Resolution authorizing the School District of the City of North Tonawanda entering an Agreement with the City of North Tonawanda, New York for the installation and use of safety cameras on all buses transporting the district's students, with review of any violations by the North Tonawanda police department.

**WHEREAS**, In an effort to address the continued violation of motor vehicle operators, illegally overtaking or passing school buses and placing students at risk of injury or death, the New York State Legislature passed and the Governor signed legislation amending the Vehicle and Traffic Law providing for the installation and use of safety cameras on school buses and allowing for the adoption

of procedures to adjudicate owner's liability for an operator illegally overtaking or passing a school bus.; and

**WHEREAS**, the legislation also amends New York Education Law so as to permit the Board of Small City School Districts, in their discretion, to pass a resolution authorizing the entering of an Agreement with the City for the installation and use such safety cameras; and

**WHEREAS**, The Superintendent met with the Mayor and Chief of Police to discuss the City's interest in retaining a Vendor to install them at the Vendor's cost, and with the City's retaining a portion of the fines resulting from owners and/or operators illegally passing a school bus. and

**WHEREAS**, the Superintendent recommends the Common Council authorize entering an Agreement with the City of North Tonawanda, New York for the installation and use of safety cameras on school buses, and further directing him to negotiate such Agreement for the review and final approval by the School Board; now therefore it be

**RESOLVED**, the School Board hereby authorizes the entering of an Agreement with the City of North Tonawanda, New York for the installation and use of safety cameras on all school buses transporting District students, by the School District, with the cost of the cameras, installation and use being incurred by its selected Vendor; and further

**RESOLVED**, That the Superintendent is directed to negotiate the Agreement with the City of North Tonawanda, New York, and return it to this Common Council for its review and final approval.

---

Austin J. Tylec, Mayor

---

Gregory J. Woytila, Superintendent



P.O. Box 1243  
North Tonawanda, NY 14120

April 12 2022

Honorable President Robert Pecoraro Council President  
North Tonawanda City Hall  
216 Payne Avenue  
North Tonawanda, NY 14120

Dear President Pecoraro ,

Canal Fest of the Tonawandas Inc is requesting permission from the City of North Tonawanda to hold the 37<sup>th</sup> annual festival from Sunday, July 17 to Sunday, July 24, 2022. We are seeking permission to use certain city facilities and streets including manpower from certain city departments. Included with this letter are our requests for the year 2022.

Canal Fest looks forward to another successful event for our membership and the Twin Cities. North Tonawanda has always contributed to this success and we hope to maintain our good working relationship for many years to come.

Thank you for your time and consideration of our requests.

Respectfully,

Peter R Chenier, President  
Canal Fest of the Tonawandas Inc  
716-695-3655

*April 26<sup>th</sup>*

RECEIVED  
CITY CLERK'S OFFICE

2022 APR 18 AM 9:39  
NORTH TONAWANDA NY

Canal Fest requests for the year 2022:

1. Canal Fest will be held July 17<sup>th</sup> through July 24<sup>sh</sup> 2022.
2. The use of Gateway Park on Sweeney St between Main Street and Webster St for the purpose of setting up tents by our members and for the use of entertainment. As in the past, the beer tent may go up as soon as **Thursday, July 14<sup>th</sup>** with all tents to be removed no later than the eve of **Monday, July 25** (canal side) and noon (building side).
3. Barricades to be placed for closing of the Renaissance Bridge by 5:00pm on **Friday, July 15<sup>th</sup>** and at other locations as necessary. Water connections at the Pavilion and other locations across Sweeney will be required at this time also.
4. **Tim Frank 4 Mile Run.** Sweeney Street between Main Street and approx Mayor's Park for the use of the 4 Mile Run coordinated by The Boy's and Girl's Club of the Tonawandas on **Thursday, July 21<sup>th</sup>** with Sweeney closed off accordingly for a race tart 7:00pm. Starting point will be on Sweeney c/o Main Street. The race committee has told us they have already been in touch with the Police Dept.
5. **Parade.** Webster Street from Sweeney to Goundry St for the parade on **Tuesday, July 19<sup>th</sup>** with Webster Street being posted for vehicle removal by an agreed time before the parade. The city grandstand and viewing stand will also be required in front of the Riviera Theater.
6. **Car Cruise.** Webster Street from Sweeney to Goundry St, and Tremont from Webster to Main St at 4:00 pm on **Wednesday, July 20<sup>th</sup>** for the Twin Cities Car Cruise. "No parking after" signage to be placed accordingly to close the street after 4:00pm. The use of Gratwick Park as a pre-staging area.
7. **Diaper Derby.** Tremont Street between Webster and Main Streets for the use of the Diaper Derby on **Thursday, July 21<sup>st</sup>** with Tremont Street closed accordingly. Coordination of this event is handled by the DeGraff Hospital Volunteers and Phyllis Guenter. Rain location will be Salem Church in Tonawanda.
8. **ANTIQUE FIRE TRUCK MUSTER.** – Webster St between Sweeney and Tremont for the use of the parking antique fire apparatus on **Sunday, July 17<sup>th</sup>** from noon-6pm. "No Parking After" signage to be placed accordingly to close that part of the street after 4:00pm.(because of the size it takes longer to park these vehicles than it does cars) We will know by July 1 if this block will be needed. If not, I will inform the Mayor's office to cancel this request. The City of Tonawanda will also be used for the initial parking.
9. **Bike Night.** The Bike Cruise and Show on Webster St on **Friday, July 22<sup>nd</sup>**. The stage will again be located on Webster (Riviera Theater area) with the direction of our site set-up committee. The band is scheduled to begin approx at 7:00pm and continue no later than 10:30pm. Usage of Webster Street from Sweeney to Goundry St, Tremont from Webster to Main St(only one side) **and Main St from Goundry to Tremont St to Sweeney St** at 4:00 pm on **Friday, July 22<sup>th</sup>** for the Bike Cruise & Show. "No parking after" signage to be placed accordingly to close the street by 4:00pm.
10. **Craft Show.** Webster Street between Sweeney and Goundry for the use of our 2-day Craft Show to be held on **Saturday and Sunday, July 23<sup>rd</sup> and 24<sup>th</sup>**.
11. **Craft Show.** Tremont Street between Webster and Main Streets for the use of our 2-day Craft Show to be held on **Saturday and Sunday, July 23<sup>rd</sup> and 21<sup>th</sup>**.
12. **Craft Show.** Tremont Street between Webster and Manhattan Street for the use of our 2-day Craft Show to be held on **Saturday and Sunday, July 23<sup>rd</sup> and 21<sup>th</sup>**. This is a change from last year due to the truck routes on main street.

13. The scheduling of manpower from the D.P.W., Water Department, Parks and Recreation, Fire Department and Police Department plus material and services that were supplied by these departments in previous years.
14. Nightly closing of Webster Street between Tremont and Sweeney as requested in the past.  
Support from the Police Department with crowd control and also in keeping animals, bike riders, skate boarders, roller bladers, etc, out of the campus area for safety concerns.  
Support from the Fire Department in manning our First Aid tent during the 8 days.  
Support from the Water Department in the water hookup at the Fire Training Tower the amusements mobile living quarters to be coordinated by the Carrousel Society.  
Support from the Parks and Recreation Department in daily cleanup and to supply us with the following; trash cans, garbage bags, bleachers for the parade and a reviewing stand for the parade judges. We are also requesting extra garbage containers for the Friday night Bike Cruise and Saturday/Sunday Craft Show.  
Support from the Dive Rescue Team to provide manpower and equipment for all events that take place directly on the water.
15. Dock space for two 36' boat at the west end of the Gateway Pavilion.
16. Permission to place 6 restroom facilities between the sidewalk and curb along Webster St between Sweeney and Tremont. An alternate location will be utilized during the Craft Show. Also, the grease barrels typically located in the forbidden alley will probably be placed at the individual tents utilizing this service.
17. The use of the Renaissance Bridge for a low level fireworks display on **Sunday evening, July 23rd**. The fireworks display have been and will continue to be coordinated by the fire departments of both the City of North Tonawanda and City of Tonawanda in the lead role, the police departments of both cities, the fireworks display company, Canal Fest and other policing organizations that normally patrol this section of the Erie Canal. Baseline rules were established for the 2009 shoot and will continue to be the normal procedure with improvements and changes as required.
18. Use of Main Street between Sweeney Street and Tremont Street depending on State approval for the rides as previously discussed
19. Anything else I may have missed as was provided in previous years.

Thank you in advance  
Peter R. Chenier, President  
Canal Fest of the Tonawandas Inc

CANAL FEST 2022 NTPD PATROL									
DAYS	TIME	# PATROL	AVG. OT RATE	# LT	AVG. OT RATE	TOTAL			
<b>DAILY PATROL</b>									
Sunday - Sunday (8)	1830 - 2230	3	\$62	1	\$70	\$8,200			
Sat, Sun - Craft Show (2)	1200 - 1800	2	\$62	n/a	n/a	\$744			
Tuesday - parade	1700-2100	3	\$62	1	\$70	\$1,024			
Total						\$9,968			
<b>DAILY PATROL WITH LARGE RIDES</b>									
Sunday - Sunday (8)	1730-2230	2	\$62	n/a	n/a	\$4,960			
Total						\$14,928			
In 2019, rides operated during the following times:									
		Sunday	closed	Monday	5pm - 10pm				
		Tuesday	5pm - 10pm	Wed.	noon - 10pm				
		Thursday	5pm - 10pm	Friday	5pm - 10pm				
		Saturday	noon - 10pm	Sunday	noon - 9pm				
In 2019, the parade ran from 6:30pm to approximately 8:00pm.									
Logistics for the parade will certainly change this year if it is not beginning in City of Tonawanda.									
In 2019, the craft show ran from 10am - 5pm on Saturday and Sunday. We could manage with one officer instead of two.									
Fireworks are held on the last Sunday at dusk. We could utilize the four on patrol that are already there for that event.									

CANAL FEST 2022 FIRE									
DAILY									
DAYS	TIME	# PATROL	AVG. OT RATE	# LT	AVG. OT RATE	TOTAL			
Total						\$10,000			
DAILY WITH LARGE RIDES									
Total						\$12,000			
If our city inherits the large rides I would propose some additional overtime for EMS coverage during the peak times, such as, Wednesday, in the past this was ride all day for one price,									
Sanitation Department Costs									
Day	Tons of Debris	# of Drivers	# of Hrs	Total Paid	# of Lab	# of Hrs	Total Paid	Total Cost	
Monday	0.75	1	1	\$26.93	1	1	\$16.70	\$43.63	
Tuesday	1	1	1	\$26.93	1	1	\$16.70	\$43.63	
Wednesday	0.75	1	1	\$26.93	1	1	\$16.70	\$43.63	
Thursday	0.75	1	1	\$26.93	1	1	\$16.70	\$43.63	
Friday	0.75	1	1	\$26.93	1	1	\$16.70	\$43.63	
Saturday (Overtime)	1	1	3	\$121.19	1	3	\$110.79	\$231.98	
Sunday (Overtime)	1	1	6	\$242.37	1	6	\$221.58	\$463.95	
	<b>Total</b>		<b>6</b>						
Rates									
Employee Title	Hourly	Overtime							
Driver (Step 6)	\$26.93	\$40.40							
Sanitation Laborer	\$16.70	N/A							
Laborer (Step 6)	\$24.62	\$36.93							
Sanitation Totals									
			Labor Costs	\$914.08					
			Debris Disposal Costs	\$249.00					
			Grand Total	\$1,163.08					

Streets Department Costs									
Employee Costs					Vehicle Costs				
Employee	# of Hours	Rate	Activity	Total Cost	Vehicle	Rate	Total Cost	Materials	
Debris Disposal	\$41.50	per ton							
BLDG. MTE. MECH.	4	\$ 25.56		\$ 102.24					
SEASONAL LABORER	4	\$ 13.20	Deliver snow fence	\$ 52.80	7	\$ 6.06	\$ 24.24	Snow fence (20 Rolls)	
SEASONAL LABORER	4	\$ 13.20		\$ 52.80					
MOTOR EQUIP. OP.	2	\$ 26.93	Sweep street	\$ 53.86	71	\$ 26.03	\$ 52.06		
MOTOR EQUIP. OP.	2	\$ 26.93	Sweep street	\$ 53.86	71	\$ 26.03	\$ 52.06		
LABORER	2	\$ 24.62		\$ 49.24					
SEASONAL LABORER	2	\$ 13.20	Deliver barricades & cones	\$ 26.40	13	\$ 6.06	\$ 12.12	Barricades (30) & cones (24)	
SEASONAL LABORER	2	\$ 13.20		\$ 26.40					
TRAFFIC LABORER	2	\$ 29.10	Relocated barricades & cones	\$ 58.20	345	\$ 6.06	\$ 12.12	Barricades & cones	
TRAFFIC LABORER	2	\$ 29.10		\$ 58.20					
MOTOR EQUIP. OP.	2	\$ 26.93	Sweep street	\$ 53.86	71	\$ 26.03	\$ 52.06	Barricades (30)	
MOTOR EQUIP. OP.	2	\$ 26.93	Sweep street	\$ 53.86	71	\$ 26.03	\$ 52.06	Barricades (10)	
LABORER	1	\$ 24.62		\$ 24.62					
SEASONAL LABORER	1	\$ 13.20	Deliver snow fence	\$ 13.20	7	\$ 6.06	\$ 6.06	Snow fence (3 Rolls)	
MOTOR EQUIP. OP.	2	\$ 26.93	Sweep street	\$ 53.86	71	\$ 26.03	\$ 52.06		
MOTOR EQUIP. OP.	8	\$ 26.93	Pickup barricades	\$ 215.44	7	\$ 6.06	\$ 48.48	Barricades	
LABORER	8	\$ 24.62		\$ 196.96	16	\$ 6.06	\$ 48.48	Snow fence & cones	
LABORER	8	\$ 26.42	Snow fence & cones	\$ 211.36					
Streets Totals									
Labor Costs			\$	1,357.16					
Vehicle Costs			\$	411.80					
Grand Total			\$	1,768.96					
<b>Parks Dept Figures</b>			<b>Total Cost to City</b>	\$27,900.00					
Cost w/ No Large Rides		\$5,000	With No Large Rides						
Cost w/ Large Rides		\$6,000	<b>Total Cost to City</b>	\$35,860.04					
			With Large Rides						

## **Draft City of North Tonawanda Solar Energy System PILOT Law**

### **§1. Title**

This Local Law be cited as the “Solar Energy System PILOT Law of the City of North Tonawanda, New York.”

### **§2. Purpose**

This Local Law is adopted to ensure that the benefits of the community’s solar energy resource are available to the entire community, by promoting the installation of solar energy generating equipment through a payment-in-lieu-taxes (PILOT), granting reduced costs to system developers and energy consumers, and providing a revenue stream to the entire community.

### **§3. Authority**

This Local Law is adopted under the authority granted by

1. Article IX of the New York State Constitution, §2(c)(8),
2. New York Statute of Local Governments, § 10 (5),
3. New York Municipal Home Rule Law, § 10 (1)(i) and (ii) and §10 (1)(a)(8), and
4. New York Real Property Tax Law § 487(9).

### **§4. Definitions**

1. “Annual Payment” means the payment due under a PILOT Agreement entered into pursuant to Real Property Tax Law § 487(9).
2. “Annual Payment Date” means January 1<sup>st</sup> of each year.
3. “Capacity” means the manufacturer’s nameplate capacity of the Solar Energy System as measured in kilowatts (kW) or megawatts (MW) AC.
4. “Owner” means the owner of the property on which a Solar Energy System is located or installed, or their lessee, licensee or other person authorized to install and operate a Solar Energy System on the property.
5. “Residential Solar Energy Systems” means a Solar Energy System with a nameplate generating capacity less than 50 kW AC in size, installed on the roof or the property of a residential dwelling (including multi-family dwellings), and designed to serve that dwelling.
6. “Solar Energy Equipment” means collectors, controls, energy storage devices, heat pumps and pumps, heat exchangers, windmills, and other materials, hardware or equipment necessary to the process by which solar radiation is (i) collected, (ii) converted into another form of energy such as thermal, electrical, mechanical or chemical, (iii) stored, (iv) protected from unnecessary dissipation and (v) distributed. It does not include pipes, controls, insulation or other equipment which are part of the normal heating, cooling, or insulation system of a building. It does include insulated glazing or insulation to the extent that such materials exceed the energy efficiency standards required by New York law.
7. “Solar Energy System” means an arrangement or combination of Solar Energy Equipment designed to provide heating, cooling, hot water, or mechanical, chemical, or electrical energy by the collection of solar energy and its conversion, storage, protection and distribution.

### **§5. PILOT Required**

1. The owner of a property on which a Solar Energy System is located or installed (including any improvement, reconstruction, or replacement thereof), shall enter into a PILOT Agreement with the City of North Tonawanda consistent with the terms of this Local Law, except for

a) Residential Solar Energy Systems

b) Solar Energy Systems that do not seek or qualify for an exemption from real property taxes pursuant to Real Property Tax Law § 487(4).

2. The Lessee or licensee of any owner of a property required to enter into a PILOT Agreement by this section, which owns or controls the Solar Energy System, may enter into the PILOT Agreement on behalf of the owner of the property.

3. Upon receipt of any notification from an owner or other person of intent to install a Solar Energy System, the Building Inspector or City Assessor shall immediately, but in no case more than sixty days after receipt of the notification, notify the owner or other person of the mandatory required for a PILOT Agreement pursuant to the terms of this Local Law.

4. Nothing in this Local Law shall exempt any requirement for compliance with state and local codes for the installation of any solar energy equipment or a solar energy system or authorize the installation of any solar energy equipment or a solar energy system. All solar energy systems must file a Real Property Tax Exemption application pursuant to Real Property Tax Law § 487 to receive a tax exemption.

#### **§6. Contents of PILOT Agreements**

1. Each PILOT Agreement entered into shall include

a) Name and contact information of the Owner or other party authorized to act upon behalf of the Owner of the Solar Energy System.

b) The SBL number for each parcel or portion of a parcel on which the Solar Energy System will be located.

c) A requirement for fifteen successive annual payments, to be paid commencing on the first Annual Payment Date after the effective date of the Real Property Tax Exemption granted pursuant to Real Property Tax Law § 487.

d) The Capacity of the Solar Energy System, and that if the Capacity is increased or increased as a result of a system upgrade, replacement, partial removal or retirement of Solar Energy Equipment, the annual payments shall be increased or decreased on a pro rata basis for the remaining years of the Agreement.

e) That the parties agree that under the authority of Real Property Tax Law § 487 the Solar Energy System shall be considered exempt from real property taxes for the fifteen-year life of the PILOT Agreement.

f) That the PILOT Agreement may not be assigned without the prior written consent of the City of North Tonawanda which consent may not be unreasonably withheld if the Assignee has agreed in writing to accept all obligations of the Owner, except that the Owner may, with advance written notice to the City of North Tonawanda but without prior consent, assign its payment obligations under the PILOT Agreement to an affiliate of the Owner or to any party who has provided or is providing financing to the Owner for or related to the Solar Energy System, and has agreed in writing to accept all payment obligations of the Owner.

g) That a Notice of this Agreement may be recorded by the Owner at its expense, and that the City of North Tonawanda shall cooperate in the execution of any Notices or Assignments with the Owner and its successors.

h) That the Annual Payment shall be

i) For Solar Energy Systems with a Capacity greater than 1 MW, \$ \_\_\_\_\_ per MW of Capacity.

i) That the Annual Payment shall escalate \_\_\_\_ percent (\_\_\_%) per year, starting with the second Annual Payment.

j. That if the Annual Payment is not paid when due, that upon failure to cure within thirty days, the City of North Tonawanda may cancel the PILOT Agreement without notice to the Owner, and the Solar Energy System shall thereafter be subject to taxation at its full assessed value.

#### **§7. Severability**

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

#### **§8. Effective Date**

This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law and shall apply to all solar energy systems constructed.

***DRAFT Ver.8 March 23, 2022***

**NORTH TONAWANDA SOLAR ENERGY SYSTEMS LAW**

**Chapter 103-XXX**

**§ 103-XXX. Authority.**

This zoning for solar electric energy systems is adopted pursuant to the Section 20 of the Municipal Home Rule Law and §20(24) of General City Law of the State of New York, which authorizes the City of North Tonawanda to adopt zoning provisions that advance and protect the health, safety, and welfare of the community and to make provisions for, so far as conditions may permit, the accommodation of solar energy systems and equipment.

**§ 103-XXX. Findings.**

The City Council of the City of North Tonawanda makes the following findings:

- A. The City Council finds a growing need to properly site solar energy systems within the boundaries of the City of North Tonawanda to protect residential, business areas and other land uses; to preserve the overall beauty, nature, and character of the City of North Tonawanda; to promote the effective and efficient use of solar energy resources; and to protect the health, safety, and general welfare of the citizens of the City of North Tonawanda.
- B. Prior to the adoption of this article, no specific procedures existed to address the siting of solar energy systems. Accordingly, the City Council finds that the promulgation of this article is necessary to direct the location and construction of these systems.
- C. To manage and regulate solar development in ways that compliment and protect local residential neighborhoods, business and commercial districts while mitigating potential negative impacts solar installations may have on such community assets.
- D. Solar energy systems need to be regulated for removal when no longer utilized with managed restoration plans in place.

**§ 103-XXX. Definitions.**

The following definitions shall apply to this article:

APPLICANT — The person or entity filing an application and seeking an approval under this article; the owner of a solar energy system or a proposed solar energy system project; the operator of a solar energy system or a proposed solar energy system project; any person acting on behalf of an applicant, solar energy system or proposed solar energy system. Whenever the term "applicant" or "owner" or "operator" is used in this article said term shall include any person acting as an applicant, owner, or operator.

BARRIER — A structure and/or plant materials that obstruct visual and/or noise impact on a use from another use and which is located in a buffer yard. A barrier is not considered a fence for the purposes of the regulations set forth §103-XXX. Permitting requirements.

BUFFER — An area of land forming a physical separation between two uses and consisting of the required setback.

BUILDING INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEM (TIER 1) — 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.

**BUILDING-MOUNTED SOLAR ENERGY SYSTEMS (TIER 1)** — A solar energy system that is affixed to the side(s) of a building or other structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building. Said system is designed and intended to generate electricity primarily for use on said lot (net metering is allowed), potentially for multiple tenants, through a distribution system that is not available to the general public.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM (TIER 2)** — A solar energy system that is affixed to the ground either directly or by support structures or other mounting devices. Said system is an accessory structure, designed and intended to generate electricity primarily for use on said lot (net metering is allowed), potentially for multiple tenants, through a distribution system that is not available to the general public. Ground-mounted solar energy systems not meeting the definition as outlined in this article will be treated as utility-scale solar energy systems and the requirements of such.

**FENCE** — A vertical structure, constructed of wood, masonry, stone, wire, metal, or any other manufactured material or combination of materials, erected in the minimum setback or buffer yard.

**FINISHED GRADE** — The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or structure. If the line of intersection is not reasonably horizontal, the finished grade, in computing height of a building or structure, shall be the mean elevation of all finished grade elevations around the periphery of the building or structure.

**NET METERING** — A billing mechanism that credits solar energy system owners for the electricity they add to the grid. For example, if a residential customer has a solar energy system on their roof, it may generate more electricity than the home uses during daylight hours.

**NATIVE PERENNIAL VEGETATION** — Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

**POLLINATOR** — Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

**PRIME FARMLAND** — Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

**PERMIT, BUILDING** — A permit issued by the code enforcement officer in conformance with this title, the New York State Uniform Fire Prevention and Building Code and/or any other building code requirements adopted by the City of North Tonawanda.

**ROOFTOP-MOUNTED SOLAR ENERGY SYSTEM (TIER 1)** — Any solar energy system that is affixed to the roof of a building and wholly contained within the limits of the roof surface. Said system is designed and intended to generate electricity solely for use on said lot (net metering is allowed), potentially for multiple tenants.

**SETBACK** — A line generally parallel to a lot line and spaced equidistant there from by a distance specified in § 103-6 thru § 103-13.1 of the City Code in the underlying districts or a line generally parallel to an edge of a drive or internal drive and spaced equidistant therefrom by a distance specified in Chapter 103 of the City of North Tonawanda Zoning Code.

**SEDIMENT CONTROL** — Measures that prevent eroded sediment from leaving the site.

**SITE PLAN** — A map, plan and supporting information required pursuant to Chapter 103 for uses specified in § 103-5 in the City Code.

**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 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. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

- a. Rooftop-Mounted Solar Energy Systems
- b. Building-Mounted Solar Energy Systems
- c. Building-Integrated Solar Energy Systems

B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with a total surface area of all solar panels on the lot of up to 4,000 square feet and that generate up to 110 % of the electricity consumed on the site over the previous 12 months.

C. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

**SOLAR PANEL** — A photovoltaic device capable of collection and converting solar energy into electricity.

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

STORMWATER POLLUTION PREVENTION PLAN (SWPP) — A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STRUCTURE — A static construction of building materials, composed of one or more parts, including but not limited to a building, heating-ventilating-air conditioning (HVAC) system, stadium, platform, tower, antenna, shed, display stand, storage bin, sign, fence, reviewing stand and gasoline/fuel pump.

STRUCTURE, ACCESSORY — A structure detached from, on the same lot with and subordinate to a principal structure, used for purposes customarily incidental to those of the principal structure. Accessory structure includes, but is not limited to, portable, removable, or permanent enclosure, shade structure, carport, garage, and storage shed.

STRUCTURE HEIGHT — Structure height means the vertical distance measured from the mean finished grade to the highest point of a roof or otherwise to the top of a structure.

STRUCTURE, PRINCIPAL — A structure where the principal uses of a lot are conducted. Such structure includes any open or enclosed porch, carport, garage, or similar structure attached to such structure.

USE — An activity on a lot.

USE, ACCESSORY — A use which is controlled by the person exercising a principal use, incidental to and customarily associated with the principal use and located on the same lot as the principal use.

USE, PRINCIPAL — A main or primary use of a lot or structure

UTILITY-SCALE SOLAR ENERGY SYSTEM (TIER 3) — Any solar energy system that cumulatively on a lot is designed and intended to supply energy to a utility grid primarily for off-site consumption or sale to the general public and have a capacity to produce less than 25 MW of energy.

YARD, FRONT — An open area bounded by: (1) a front lot line; (2) a front yard setback, and (3) either: (a) two side lot lines, or (b) a side lot line and another front lot line, or (c) two other front lot lines.

YARD, REAR — An open area bounded by: (1) a rear lot line; (2) a rear yard setback related to the rear lot line; and (3) two side yard setbacks.

YARD, SIDE — An open area bounded by: (1) a side lot line; (2) a side yard setback related to the side lot line; (3) a front yard setback; and (4) either: (a) rear lot line, or (b) another side lot line, or (c) another front yard setback.

**§ 103-XXX. Applicability.**

- A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the City after the effective date of this Local Law, excluding general maintenance and repair.
- B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
- C. Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 5% of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Local Law.
- D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”), and the City Code.
- E. Any inconsistent provisions of the North Tonawanda City Zoning Law which purport to or may be interpreted to allow solar energy systems in other districts are hereby superseded.

**§ 103-XXX. General permitting requirements.**

- A. A Building permit shall be required for installation of all Solar Energy Systems.
- B. Issuance of permits and approvals by the Planning Commission shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”)].
- C. The placement, construction, and major modification of all solar energy systems within the boundaries of the City of North Tonawanda shall be permitted only as follows:
  - (1) **Rooftop-mounted and building-mounted solar energy systems (Tier 1)** are permitted in all zoning districts as accessory uses in the city through a building permit application process per North Tonawanda City Code, Chapter 25, Building Permits.
  - (2) **Building integrated photovoltaic systems (Tier 1)** are permitted as accessory uses under the normal building permit process for building construction or building renovations.
  - (3) **Ground-Mounted Solar Energy System (Tier 2)** energy systems are permitted as accessory structures by building permit, site plan review, and special use permit. These units are allowed in the following districts only if the lot in which the freestanding or ground-mounted solar energy system is situated on is greater than 2 acres up to 5 acres.<sup>1</sup>:

---

<sup>1</sup> The minimum lot size per § 103-6(C)(1) for Single Family Residential (R1-1) in the North Tonawanda City Zoning Law is 8,400 sq. ft. which is Low Density Residential.

- a. Single Family Residential (R-1), Neighborhood Business (C-1), General Commercial (C-2), Waterfront District (W-D) and (WD-1) and all industrial districts (M-1, M-2, M-3).

(4) **Utility-Scale Solar Energy Systems (Tier 3)** shall require site plan approval, special use permit before the issuance of a building permit and shall be subject to all provisions of this article where the lot in which the freestanding or ground-mounted solar energy system is situated on lots at least 5 acres or greater.<sup>2</sup>

- a. Neighborhood Business (C-1), General Commercial (C-2), Waterfront District (W-D) and (WD-1) and all industrial districts (M-1, M-2 and M-3).

Table A. Use Districts	(Tier 1)		Ground Mounted (Tier 2)	Utility Scale (Tier 3)
	Roof Mounted	Bldg. Integrated	> 2 to 5 ac.	>5 ac.
R1-1 Single-Family Residence	A (P)	A (P)	AS (SU/SPR)	NP
R1-2 Single-Family Residence	A (P)	A (P)	NP	NP
R-2 General Residence	A (P)	A (P)	NP	NP
R-C Residence–Restricted Business	A (P)	A (P)	NP	NP
C-1 Neighborhood Business	A (P)	A (P)	AS (SU/SPR)	AS/PS (SU/SPR)
C-2 General Commercial	A (P)	A (P)	AS (SU/SPR)	AS/PS (SU/SPR)
M-1 Light Manufacturing	A (P)	A (P)	AS (SU/SPR)	AS/PS (SU/SPR)
M-2 General Industrial	A (P)	A (P)	AS (SU/SPR)	AS/PS (SU/SPR)
M-3 Special Industrial	A (P)	A (P)	AS (SU/SPR)	AS/PS (SU/SPR)
WD Waterfront District	A (P)	A (P)	AS (SU/SPR)	AS/PS (SU/SPR)
WD-1 Waterfront District	A (P)	A (P)	AS (SU/SPR)	AS/PS (SU/SPR)
Sub area Mixed Use DD	A (P)	A (P)	NP	NP
Sub area Mixed Use DD=1	A (P)	A (P)	NP	NP
<b>Key:</b> AS=Accessory Structure    A =Accessory Use    (SU) = Special Use Permit PS=Principal Structure        P= Principal Use        (SPR)= Site Plan Review				

**§ 103-XXX. Permitting requirements.**

**A. Rooftop-mounted and building-mounted solar energy systems (Tier 1)** All rooftop-mounted or building-mounted or building integrated (BIPV) solar energy systems shall meet all building permit requirements, including the New York State Uniform Fire Prevention and Building Code standards.

<sup>2</sup> Solar Energy Systems producing 25 MW or more are required to seek a permit through a State-level siting process administered by the Office of Renewable Energy Siting (ORES).

**a. Interpretation.** The provisions of this chapter shall be interpreted as providing minimum requirements for (Tier 1) solar energy systems adopted for the purpose of promoting the health, safety, morals, and general welfare of the community.

- (1) Installation of small-scale solar energy systems and equipment is encouraged on all preexisting structures; however, access to sunlight which is necessary therefor cannot be obtained through the provisions of this chapter. Height limitations for solar collectors shall be three feet above the level of the permitted building height in the underlying zoning district. All solar collectors and their associated support elements shall 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.
- (2) Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface and the highest edge of the system.
- (3) Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
- (4) Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 36 inches above the flat surface of the roof, whichever is higher.
- (5) Glare: All Solar Panels shall have anti-reflective coating(s) and proof of such must be provided with the building permit application.
- (6) Fire safety: All Roof mounted systems shall be designed and installed in accordance with the Uniform Fire Prevention and Building Code Standards.
- (7) Installation of building-integrated photovoltaic energy systems under (Tier 1), as defined herein, are exempt from the requirements of this article. BIPV systems are still required to meet applicable building codes and obtain all necessary permits. The Building Inspector/Code Enforcement Officer may request assistance from the Planning Commission to determine whether a solar energy system should be considered a BIPV system.
- (8) Solar collectors must be completely contained within the limits of the building roof. All other equipment and components (not panels) of the solar energy system (not located on or in the building/structure) shall be located within the rear yard only and are subject to setbacks for accessory structures as prescribed in the underlying zoning district.

**b. General Provisions**

- (1) Allowing or permitting the reflective glare of solar rays of any solar energy system/or array of solar panels, of any nature or kind or description, onto neighboring properties, public roads, or public parks, under any circumstances whatsoever, is strictly prohibited.

- (2) It is the responsibility of any landowner, resident, manager, tenant, or lessee of any premises upon which there is situated a solar energy system or array of solar panels of any nature, kind, or description to keep reflective glare of any description from going onto neighboring properties, public roads, or public park at any time. In that regard, it is the ongoing responsibility of such persons to conduct regular inspections of such systems or array to prevent the direction of reflective glare onto the property of another and, if necessary, to make appropriate adjustments to prevent the same from occurring.
- (3) In the event such persons become aware of, or with the exercise of reasonable care would have become aware of, or has received a complaint, that reflective glare from his solar energy system or array of solar panels is upon the property of another, such person shall undertake action to immediately block the reflective glare. This may be accomplished by adjusting the angles of the system or array, if possible, or by physically blocking the glare by covering the panels or by removing them.
- (4) Upon the failure, refusal, or neglect of such person to immediately block the reflective glare as directed above, City of North Tonawanda workforces, at the direction of the City Building Inspector and/or Code Enforcement Officer, shall cover such system or array of panels, if possible, to block the reflective glare. If not, the system or panels shall be physically de-constructed or removed to the point the reflective glare is blocked.
- (5) In the event the system or panels are removed or de-constructed as set forth in number (4) above, the owner or person responsible for the system or array shall not replace or reconstruct the system or panels until he or she applies to and receives a new Building permit after submitting to the Building Inspector a plan of operation that will ensure no further incidents of reflective glare onto neighboring properties, public road, or public park will occur.
- (6) Further, or additional complaints of such incidents shall be grounds to revoke any permit received from the City of North Tonawanda for the system or array and the system or array shall be fully dismantled and removed from the premises.
- (7) All (Tier 1) photovoltaic solar panels at the end of their life must be recycled pursuant to the County of Niagara, New York's Solar Panel Recycling Regulations. A written verification (with a copy the stewardship plan, if possible) must be submitted to the City of North Tonawanda showing that they comply with the county solar recycling regulations.

**B. Site plan requirements for a Ground-Mounted Solar Energy system (Tier 2) and Utility-Scale Energy System (Tier 3).** The applicant shall be required to apply for a special use permit and a site plan review drawn in sufficient detail as follows:

**a. Preliminary site plan review.**

- (1) Plans and drawings of the solar energy system installation signed and sealed by a professional engineer registered in New York State showing the proposal layout of the solar energy system along with a description of all components, existing vegetation, any proposed clearing and grading of the lot involved, any stormwater or erosion disturbances, and utility lines, both above and below the ground, on the site and adjacent to the site; and
- (2) Any solar energy system to be used strictly for agricultural use purposes in accordance with the New York State Agriculture and Markets Law may have some of the requirements of this article waived by the Building Inspector or Planning Commission and will include an expedited approval process, as necessary.
- (3) Property lot lines and the location and dimensions of all existing structures and uses on site within 500 feet of the proposed solar panels; and
- (4) Any proposed signage, fencing and/or screening for said project; and
- (5) Any such additional information as may be required by the City's professional engineer or consultant, City of North Tonawanda Planning Commission, City Attorney, Building Inspector, or other City entity.
- (6) At the earliest point possible in the applicant's preliminary project planning applicant must submit a letter of consultation with agencies with jurisdiction New York State Department of Environmental Conservation pursuant to Article 24, Freshwater Wetlands, Title 23 of Article 71 of Environmental Conservation Law (ECL) Article 5 of ECL (and Chapter 44 of the City of North Tonawanda Code); and/or the Regulatory Branch of the US Army Corps of Engineers (USACOE) for federal wetlands pursuant to Section 404 of the Clean Water Act.
  - i Should wetlands be present, at the earliest point possible in the applicant's preliminary project planning, the applicant shall conduct a wetland delineation to determine the boundaries of all federal, state and locally regulated wetlands present on the facility site and within one hundred (100) feet of areas to be disturbed by construction, including the interconnections, access roadways, and utility tie-ins. For adjacent properties without accessibility, wetland delineation surveys shall be based on remote sensing data, interpretation of existing wetland and soils mapping, observations from adjacent accessible properties, and current and historical aerial imagery.
  - ii The applicant shall submit to the City Engineer and Planning Commission, with a copy to NYSDEC and/or USACOE a draft wetland delineation report summarizing the wetland characteristics and Cowardin classifications of all federal, state, and locally regulated wetlands, the wetland class consistent with 6 NYCRR Section 664.1 (if applicable), a summary of the field data collected, and an ArcGIS compliant shapefiles or geo-database of the field delineated wetland features.

- iii The applicant shall consult with the City Engineer and Planning Commission, and as necessary with the NYSDEC and USACOE, to determine the status of the delineated state-regulated and federal regulated-wetlands and the NYSDEC and/or USACOE may conduct a site visit at the request of the Planning Commission to assist in determining which wetlands are state-regulated pursuant to ECL Article 24, or which are federal-regulated pursuant to Section 404 of the Clean Water Act and to advise with respect to potential impacts to jurisdictional wetlands.
- iv At the request of the Planning Commission, the NYSDEC and/or USACOE shall review the draft wetland delineation and advise the Planning Commission if the proposed facility components could impact regulated wetlands. The Planning Commission, with a copy to the NYSDEC or USACOE, shall provide a final approved jurisdictional determination to the applicant within sixty (60) days of receipt of the applicant's draft wetland delineation report, provided that weather and ground conditions are suitable for making such a determination. In the event that weather or ground conditions prevent the Planning Commission from making a determination within sixty (60) days, the Planning Commission shall provide a jurisdictional determination to the applicant as soon as practicable, following suitable weather and ground conditions.
- v The applicant shall provide the approved wetland delineation and associated report in the application as required in Part b. Final Site Plan Review.
- vi All applicants are required to conduct restoration activities in accordance with an approved Wetland Restoration and Mitigation Plan, restore disturbed wetland areas with native vegetation and erosion controls and monitor vegetative cover for a minimum of 5 years.

**b. Final Site Plan Review.** Applicants for a special use permit to place, construct, and make a major modification to a Ground-mounted Solar Energy System (Tier 2) and Utility-Scale Energy System (Tier 3). within the boundaries of the City of North Tonawanda shall submit six sets of the following information to the Building Inspector, who shall first present it to a professional engineer or consultant for an initial review and then onto the Planning Commission for its review and recommendation. The Planning Commission may make such additional referrals as it deems appropriate. No such application shall be deemed filed until any required application fee has been paid. Site Plan Review and Special Use Permit applications shall be deemed incomplete if one or more questions have not been answered or if submittal materials are missing. The following information shall be contained in the application:

1. A completed State Environmental Quality Review Act (SEQRA) short form environmental assessment form (EAF), unless a full form is required by the City's professional engineer or consultant or the City of North Tonawanda Planning

Commission, with the City of North Tonawanda Planning Commission designated as lead agency for the SEQRA process.

2. Necessary special use permit information:
  - a. Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include the name, address, and telephone number of the applicant and a letter or other written permission signed by the property owner authorizing the applicant to represent the property owner; and
  - b. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit; and
  - c. Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc.; and
  - d. Documentation of the clearing, grading, stormwater, and erosion control plans; and
  - e. Utility interconnection data and a copy of written notification to the utility of the proposed interconnection; and
  - f. One or three-line electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices.
3. A site plan drawn in sufficient detail as follows:
  - a. Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposal layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved, and utility lines, both above and below the ground, on the site and adjacent to the site; and
  - b. Property lot lines and the location and dimensions of all existing structures and uses on site within 500 feet of the solar panels; and (3) Proposed fencing and/or screening for said project.
4. A landscape plan for all Ground-Mounted Solar Energy Systems (Tier 2) and Utility-Scale Solar Energy Systems (Tier 3) shall be prepared and included with the site plan and special use permit application. The Planning Commission can require that Ground-Mounted Solar Energy Systems (Tier 2) and Utility-Scale Solar Systems (Tier 3) involving complex or sensitive visual and/or aesthetic concerns be approved by a NYS registered landscape architect. Therefore, the applicant should retain a NYS registered landscape architect in the early planning stages of the proposal.

- a. The screening & landscaping plan shall specify the locations, elevations, height, plant species, grading and/or materials that will comprise the landscape design. The landscape plan should also incorporate existing trees, plants, and shrubs into the landscape design to the extent practical and possible.
- b. The landscape screening (buffer and barriers) shall be comprised of evergreen/coniferous trees and supplemental lower growth shrubs planted between the evergreen/conifers. The evergreen/coniferous tree plantings must be 6 feet or more in height at the time of planting and planted at recommended spacing for preferred growth and screening coverage. A staggered, zig-zag or similar planting pattern shall be used that will achieve healthy growth and maximum screening. A berm, landscape screen, or other opaque enclosure, or any combination thereof acceptable to the City Planning Commission capable of screening the site may be required along any property line that abuts an existing residence.
- c. Plantings and landscaping must be undertaken in a way that is appropriate for the type of soil, drainage, and other conditions at the planting site. A site inspection and analysis of soil and drainage factors is required; the USDA, Soil and Water Conservation District and/or a landscape professional should be consulted to assist with the selection and placement of appropriate species.
- d. Sites shall be planted with perennial native vegetation to the extent practicable by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. No chemical herbicides shall be used to manage vegetation in and around facility components unless such chemical herbicides are used to preserve native pollinator vegetation or vegetation providing visual impact screening. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species and native seed mixes. These plantings shall cover the ground area throughout the solar panel fenced in area.
- e. The use of any pesticides is prohibited in the operation and construction of Ground-Mounted Solar Energy Systems (Tier 2) and Utility-Scale Solar Energy Systems (Tier 3).
- f. Photo-simulations of landscaping and screening of ground-mounted solar energy systems must be included with the site plan and special use permit application. Simulations shall illustrate how the applicant intends to mitigate visual impacts to the greatest extent possible from all adjoining property lines and public roadways. Simulations shall demonstrate how landscaping will be employed to mitigate community character impacts and blend incompatible land uses.

- g. A visual impact assessment shall be required for Utility-Scaled Solar Energy Systems (Tier 3) situated on lots over 10 acres (which automatically is designated as a SEQR Type 1 Action) or within the City's Land and Water Revitalization Program (LWRP) Area prepared by a NYS registered landscape architect.
  - a. The visual impact analysis must consider existing conditions of various viewpoints and view sheds from abutting properties and abutting public roadways, or other aesthetic sources prescribed by the Planning Commission under the null condition. (Null conditions mean under existing conditions).
  - b. The analysis shall consider comparable viewpoints and view sheds (of those taken from the Null) at the time of completion with proposed plantings and screenings, and secondly, when the landscaping has matured. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to be submitted by the applicant.
- 5. A boundary survey stamped and prepared by a New-York-State-licensed professional is to be provided, including the metes and bounds, monumentation, tax map information, property acreage, and easements
- 6. Clearing, grading, stormwater, and erosion control:
  - a. Prior to Planning Commission site plan and special use permit approval, and before the City of North Tonawanda shall issue a building permit, the applicant shall submit an Erosion and Sediment Control Plan and a Stormwater Pollution Prevention Plan (SWPPP) to the City of North Tonawanda's City Engineer for its review and approval pursuant to § 48-10B of the Code of the City of North Tonawanda.; and
  - b. The Plan should avoid, minimize, and mitigate all federal and state wetlands the potential adverse impacts on wetlands and Class I and II streams and the banks and vegetation along those streams and wetlands and minimize erosion or sedimentation.
  - c. All ground mounted solar energy systems shall be considered pervious if they maintain sheet flow for water to infiltrate under and around arrays through a pervious surface into the subsoil.
  - d. An erosion and sediment control plan shall include construction, post construction activity and decommissioning for removal of any ground-mounted solar energy system.

7. Parking surfaces shall be impervious. Parking space requirements shall be at the discretion of the Planning Commission.
8. Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.
9. Owner or operator shall provide security fencing and warning signs prohibiting unauthorized access.
  - a. A sign not to exceed 8 SQ. FT. shall be displayed on or near the main access point and shall list the facility name, owner, and telephone number; and
  - b. As required by National Electric Code (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 not to exceed four square feet.
10. Glare - All Solar Panels shall have anti-reflective coating(s) and proof of such must be provided with the site plan and then the building permit applications.
11. Deforestation discouraged. Removal of trees and other existing vegetation shall be limited to the extent necessary for the construction and maintenance of the solar facility. Removal of existing trees larger than six inches in diameter at breast height (DBH) is prohibited to the extent possible. A tree inventory of all trees larger than six inches in diameter must be submitted with any application to the City for a special use permit. Previously cleared or disturbed areas are preferred locations for solar panel arrays. The clearing of additional lands to accommodate a proposed utility-scale solar energy system may be permitted, provided the percentage of newly cleared land on any parcel does not exceed 10% of the existing woodlands on that parcel.
12. Prior to operation, all electrical connections must be inspected and approved by an Electrical Engineer or Inspector.
13. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed shall be provide with the site plan/special use permit application. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
14. All transmission lines and wiring associated with a solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and City requirements. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant to demonstrate that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan.

15. All transmission lines and electrical wiring shall comply with the utility's requirements for interconnection.
16. Artificial lighting of solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
17. A decommissioning plan to ensure the proper removal of Utility-scale Solar Energy Systems (Tier 3). The decommissioning plan is to be submitted as part of the special use permit application to the Building Inspector for approval and must specify that after the utility-scale solar energy system is no longer in use (as determined by the owner/operator or the Building Inspector), it shall be removed by the applicant or any subsequent owner. The decommissioning plan shall identify the anticipated life of the project. The plan shall demonstrate how the removal of all infrastructure and restoration shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate for decommissioning prepared by a professional engineer or qualified contractor. Cost estimates shall take inflation into consideration and be revised every five years during operation of the system and include any salvage value. Removal of the Utility-Scale Solar Energy System (Tier 3) must be completed in accordance with the approved decommissioning plan and the standards provided as follows:
  - a. All structures and foundations associated with the Utility-Scale Energy Solar Systems (Tier 3) shall be removed.
  - b. All disturbed ground surfaces shall be restored to original conditions, including topsoil, using native plant species and native seeding as necessary; and
  - c. All electrical systems shall be properly disconnected, and all cables and wiring buried shall be removed.
  - d. A restoration plan for agricultural areas per New York State Agriculture and Markets (NYSDAM), Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands. Agricultural mitigation is limited to impacts to “active agricultural lands within New York State Agricultural Land Classified Mineral Soil Groups 1 through 4. Active agricultural production is defined as “active three of the last five years.”
  - e. As described in NYS 6 CRRNY, collected photovoltaic modules and installation components may not be stored within Niagara County for a period exceeding one fiscal quarter (three months).
18. All (Tier 2 and Tier 3) photovoltaic solar panels at the end of their life must be recycled pursuant to the County of Niagara, New York's Solar Panel Recycling Regulations. A written verification (with a copy the stewardship plan, if possible)

must be submitted to the City of North Tonawanda showing that they comply with the county solar recycling regulations.

19. Any such additional information as may be required by the City's professional engineer or consultant, City of North Tonawanda Planning Commission, City Attorney, City Engineer, Building Inspector, or other City entity.

**§ 103-XXX. Special use permit performance standards.**

**A.** Special use permits issued for a Ground-Mounted Energy System (Tier 2) shall meet the following conditions:

- (1) Minimum lot area: The minimum lot area shall be 2 acres.
- (2) Maximum lot area: 5 acres.
- (3) Setbacks: Any Ground mounted energy system (Tier 2) shall adhere to the following setbacks:
  - a. From any residential (R1-1, R1-2, R2, or RC); business (C-1 or C2); or Waterfront District (WD or WD-1) use district: A minimum 100 feet from all property lot lines bordering these use districts, including required screening.
  - b. From any industrial (M-1, M-2, or M-3) use district: A minimum of 50 feet from all property lines bordering an industrial (M-1, M-2, or M-3) use district.
  - c. From any property lot lines: A minimum of 50 feet from any property lot line, including required screening.
  - d. From buildings or structures: A minimum of 250 feet from any inhabited building or structure, except for buildings and structures located on the proposed project lot.
  - e. From public roads:
    - i. A minimum of 100 feet from any public road (measured from the road right-of-way or property line); and
    - ii. Where the lot line abuts a public right-of-way, the setbacks specified above shall be measured from such right-of-way line.
  - f. Maximum overall height. The height of a ground mounted energy system (Tier 2) shall not exceed 15 feet when oriented at maximum tilt.
  - g. A height of a ground mounted energy system (Tier 2) shall only be located in a rear yard or side year if there is a principal structure or dwelling on said lot.

**B.** Special use permits issued for a Utility-Scale Solar Energy Systems (Tier 3) shall meet the following conditions:

- (1) Minimum lot area: The minimum lot area shall be 5 acres.

- (2) Maximum lot area: None.
- (3) Setbacks: Any Utility-Scale Solar Energy System (Tier 3) shall adhere to the following setbacks:
  - a. From any residential (R1-1, R1-2, R2, or RC); business (C-1 or C2); or Waterfront District (WD or WD-1) use district: A minimum 100 feet from all property lot lines bordering these use districts, including required screening.
  - b. From any industrial (M-1, M-2 or M-3) use district: A minimum of 50 feet from all property lines bordering an industrial (M-1, M-2 or M-3) use district.
  - c. From any property lot lines: A minimum of 50 feet from any property lot line, including required screening.
  - d. From buildings or structures: A minimum of 250 feet from any inhabited building or structure, except for buildings and structures located on the proposed project lot.
  - e. From public roads:
    - i A minimum of 100 feet from any public road (measured from the road right-of-way or property line); and
    - ii Where the lot line abuts a public right-of-way, the setbacks specified above shall be measured from such right-of-way line.
  - f. Maximum overall height. The height of a utility-scale solar energy system shall not exceed 20 feet when oriented at maximum tilt.
  - g. A Utility-Scale Solar Energy System (Tier 3) shall only be located in a rear yard if there is a principal structure or dwelling on said lot.
- C. All appurtenant or accessory structures to Ground-Mounted Solar Energy Systems (Tier 2) and Utility-Scale Solar Energy Systems (Tier 3) shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements of the underlying zoning district. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be screened from view by vegetation or structures using traditional development forms and materials. Whenever reasonable, structures should be joined or clustered to avoid adverse visual impacts.
- D. All signage shall be in accordance with Chapter 77 of the City Code.
- E. After completion of any Ground-Mounted Solar Energy System (Tier 2) or Utility-Scale Solar Energy System (Tier 3), the applicant shall provide a post-construction certification from a professional engineer licensed in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans.

- F.** All transmission lines and wiring associated with a utility-scale solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and City requirements. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan.
- G.** The applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county, and local agencies having jurisdiction and approval related to the completion of Ground-Mounted Solar Energy Systems (Tier 2) and Utility-scale solar energy systems (Tier 3). Prior to the issuance of a building permit, the applicant shall document that all applicable federal, state, county, and local permits have been obtained.
- H.** Special use permits for a Ground-Mounted Solar Energy System (Tier 2) and Utility-Scale Solar Energy System (Tier 3) granted under this article shall be issued only following a public hearing held as required by the North Tonawanda City Zoning Law.
- I.** Artificial lighting of Ground-Mounted Solar Energy Systems (Tier 2) and Utility-Scale Solar Energy Systems (Tier 3) shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
- J.** All Solar Energy Systems shall comply with Chapter 61A Noise Control of the City Code and shall be strictly enforced. The table "Receiving Land Use Categories" in Chapter 61A shall govern all Solar Energy Systems lot perimeters.
- K.** Escrow for annual inspections. If deemed necessary by the Planning Commission, the applicant for Ground-Mounted Solar Energy Systems (Tier 2) and Utility-Scale Solar Energy Systems (Tier 3) shall be required to bear the cost of on-site inspection by any independent consulting engineers or electrical inspectors engaged by a department, board, or commission. Payment for the services of any professional consultant, licensed electrical inspector and/or any licensed professional engineer retained by the Planning Commission or department is to be made from funds deposited by the applicant with the City in an escrow account for such purpose. The cost of the consultant's services provided under this section shall not exceed the reasonable cost of such services and the estimate(s) provided by the consultant in advance of providing such services.
- L.** Security. The deposit, execution, or filing with the City Clerk of cash, bond, or other form of security reasonably acceptable to the City Attorney and/or Engineer and approved by the City Planning Board, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 150 % of the cost of removal of

the Utility-Scale Solar Energy System (Tier 3) and restoration of the property with an escalator of 2 % annually for the life of the Solar Energy System. The decommissioning amount shall not be reduced by the amount of the estimated salvage value of the Solar Energy System. The bond shall be renewed every five (5) years or, as necessary, to reflect adjustments in the projected costs of decommissioning.

- a. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the City, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
- b. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in this law.

**§ 103-XXX. Maintenance, procedures, and fees.**

- A. Operation and Maintenance Plan. The Utility-Scale Solar Energy Systems (Tier 3) owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan, which may include ensuring that emergency personnel have immediate, 24-hour access to the facility. All means of shutting down the solar photovoltaic installation shall be clearly marked on the plan. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation, whether operational or not.

The Operation and Maintenance Plan shall periodically be jointly reviewed and updated as necessary by the operator of the installation and the City Fire and Police Departments at a frequency to be determined by the City Fire Department(s). Safety personnel may request at any time that the operator provide onsite training in accessing and shutting down the operation of the installation.

The operator shall identify in the plan a qualified contact person who will provide assistance to local officials during an emergency. The operator shall update the contact information whenever there is a change in the contact person.

- B. Time limit on completion. After the granting of a special use permit of a utility-scale solar energy system with concurrent site plan approval or site plan approval of a freestanding or ground-mounted solar energy system by the Planning Commission, the building permit shall be obtained within six months and the project shall be completed within 12 months. A six-month extension to obtain a building permit or the completion time can be issued by the Planning Commission upon application by the applicant. If not constructed, the special use permit and/or site plan approval shall automatically lapse within 12 months after the date of approval by the City of North Tonawanda Planning Commission (unless an extension is granted).

- C.** Inspections. Upon reasonable notice, the City of North Tonawanda Building Inspector or his or her designee may enter a lot on which a solar energy system has been approved for the purpose of compliance with any requirements or conditions. Twenty-four hours' advance notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a Utility-Scale Solar Energy System (Tier 3) shall be inspected annually by a New York State-licensed professional engineer that has been approved by the City or at any other time, upon a determination by the City's Building Inspector that damage may have occurred, and a copy of the inspection report shall be submitted to the City Building Inspector. Any fee or expense associated with this inspection shall be borne entirely by the permit holder. (See § 103-XXX. Special use permit performance standards., B., (11) Escrow for annual inspections).
- D.** If the use of an approved solar energy system is discontinued, the owner or operator shall notify the Building Inspector within 30 days of such discontinuance. If a solar energy system is to be retained and reused, the owner or operator shall further inform the Building Inspector of this in writing at such time and obtain any necessary approvals within one year, otherwise it shall be automatically deemed abandoned (and removed per this section).
- E.** General complaint process. During construction, the City Building Inspector can issue a stop order at any time for any violations of a special use permit or building permit. After construction is complete, the permit holder of a utility-scale solar energy system shall establish a contact person, including name and phone number, for receipt of any complaint concerning any permit requirements.
- F.** Continued operation. A solar energy system shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. "Operational condition" includes meeting all approval requirements and conditions. Further, the Building Inspector shall also have the right to request documentation from the owner for a solar energy system regarding the system's usage at any time.
- G.** The applicant shall retain a qualified landscape architect, arborist, or ecologist to inspect the screen plantings for two years following the installation to identify any plant material that did not survive, appears impaired, and/or otherwise needs to be replaced. The applicant shall remove and replace plantings that fail in materials, workmanship or growth with two years following the completion of installing the plantings.
- H.** Removal. All solar energy systems shall be dismantled and removed immediately from a lot when the special use permit or approval has been revoked by the City of North Tonawanda Planning Commission or the solar energy system has been deemed inoperative or abandoned by the Building Inspector for a period of more than 365 days at the cost of the owner. If the owner does not dismantle and remove said solar energy system as required, the City Council may, after a hearing at which the owner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and place the cost of removal as a tax lien on said parcel.

**I.** Determination of abandonment or inoperability. A determination of the abandonment or inoperability of a solar energy system shall be made by the City Building Inspector, who shall provide the owner with written notice by personal service or certified mail. Any appeal by the owner of the Building Inspector's determination of abandonment or inoperability shall be filed with the City of North Tonawanda Zoning Board of Appeals within 30 days of the Building Inspector causing personal service or mailing certified mail his written determination, and the Board shall hold a hearing on same. The filing of an appeal does not stay the following time frame unless the Zoning Board of Appeals or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of the 366 days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals for the solar energy system shall automatically expire.

**J.** Application and annual fees.

(1) Ground-Mounted Solar Energy Systems (Tier 2) and Utility-Scale Solar Energy System (Tier 3). An applicant shall pay an initial application fee in the amount as set by the City Council, upon filing its Special Use Permit and Site Plan application to cover the cost of processing and reviewing the application.

a. If approved, the owner shall pay an annual fee in the amount as set by the City Council, to cover the cost of processing and reviewing the annual inspection report and for administration, inspections, and enforcement. (see § 103-XXX. Special use permit performance standards, (11))

(2) Site plan application for a freestanding and ground-mounted solar energy systems. An applicant shall pay the standard site plan review fee as determined from time to time by the City Council, by resolution.

(3) Payment in Lieu-of-Taxes (PILOT). Upon filing for site plan review and a Special Use Permit, Ground-Mounted Solar Energy Systems (Tier 2) and Utility-Scale Energy Systems (Tier 3) shall negotiate PILOT agreements (annual payments due under an agreement with the City of North Tonawanda pursuant to NYS Real Property Tax Law § 487(9)) and under the City of North Tonawanda Solar Energy Systems PILOT Local Law. The annual payment shall not exceed the amount which would otherwise be payable but for the exemption under NYS Real Property Tax Law § 487. (Note: Solar Energy Systems under 1 MW AC are exempt from PILOT agreements).

**H.** The Planning Commission may:

(1) For Ground-Mounted Solar Energy Systems (Tier 2) and Utility-Scale Solar Energy Systems (Tier 3), grant a special use permit, deny a special use permit, or grant a special use permit with written stated conditions. The Planning Commission in making this decision shall make findings in accordance with § 103-18(4) of the city of North Tonawanda Zoning Law. Denial of a special use permit shall be by written decision based upon substantial evidence considered by the Board. Upon issuance of a special

use permit, the applicant shall obtain a building permit for the utility-scale solar energy system.

- I. Any changes or alterations post-construction to a utility-scale, freestanding or ground-mounted solar energy system shall be done only by amendment to the special use permit and/or site plan (if required) subject to all requirements of this Code.
- J. Special use permits for Ground-Mounted Solar Energy Systems (Tier 2) and Utility-Scale Solar Energy Systems (Tier 3) shall be assignable or transferrable so long as they are in full compliance with this article and all the conditions, and the Building Inspector is notified in writing at least 15 days prior thereto.
- K. In addition to the requirements of this article, the special use permit application shall be subject to any other site plan approval requirements set forth in the North Tonawanda City Zoning Law.

### **§ 103-XXX. Safety**

- A. A Ground-Mounted Solar Energy Systems (Tier 2) and Utility-Scale Solar Energy Systems (Tier 3) owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan, which may include ensuring that emergency personnel have immediate, 24-hour access to the facility. All means of shutting down the solar photovoltaic installation shall be clearly marked on the plan. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation, whether operational or not.
- B. The operator shall identify a qualified contact person who will provide assistance to local officials during an emergency. The operator shall update the contact information whenever there is a change in the contact person.
- C. Storm Preparedness—All Ground-Mounted Solar Energy Systems (Tier 2) and Utility-Scaled Solar Energy Systems (Tier 3) shall include racking, foundations, and module connection systems designed to withstand sustained hurricane-force winds or damage from wind-blown debris. Storm preparedness and response considerations shall be included in the Operation and Maintenance Plan.
- D. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the City of North Tonawanda and any applicable federal, state, or county laws or regulations.

### **§ 103-XXX. Revocation.**

If the applicant violates any of the conditions of its special use permit or site plan approval or violates any other local, state, or federal laws, rules, or regulations, this shall be grounds for revocation of the special use permit or site plan approval. Revocation may occur after the applicant

is notified in writing of the violations and the City of North Tonawanda Planning Commission holds a hearing on same.

**§ 103-XXX. Interpretation; conflict with other law.**

In their interpretation and application, the provisions of this article shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare. It is not intended to interfere with, abrogate, or annul other rules, regulations, or laws, provided that whenever the requirements of this article are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards, shall govern.

**§ 103-XXX. Severability.**

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