

TOWN OF CONCORD TOWN BOARD MEETING  
7:00 p.m.

June 13, 2019

MEETING CALLED TO ORDER BY CLYDE M. DRAKE, SUPERVISOR

PRESENT: CLYDE M. DRAKE, SUPERVISOR  
JAMES M. KREZMIEN, COUNCILMAN  
KENNETH D. ZITTEL, COUNCILMAN  
WILLIAM F. SNYDER, III, COUNCILMAN  
PHILIP DROZD, COUNCILMAN

ALSO PRESENT: DARLENE G. SCHWEIKERT, Town Clerk  
BRIAN F. ATTEA, Town Atty  
DENNIS M. DAINS, Hwy Supt

KELLEN M. QUIGLEY, Springville Times      MAX BORSUK, Springville Journal  
GEORGE DONHAUSER                              NICOLE RYAN, CPA, FreedMaxick  
MARY JANE MIESS                                 JOHN MIESS

INVOCATION DELIVERED BY TOWN CLERK SCHWEIKERT

PLEDGE TO THE FLAG LED BY SUPERVISOR DRAKE

ITEM #1      2018 AUDIT REPORT

CPA Ryan reviewed the audit for the fiscal year ending December 31, 2018. Copies of the Audit were given to the Board members. Town Clerk Schweikert will publish in the Springville Times the Notice that the Annual Report for the Town of Concord for the Year 2018 has been filed in the Office of the State Comptroller and a copy is available at the Town Clerk's Office. The Notice and Audited Basic Financial Statements will also posted on the Town's website.

CPA Ryan reviewed the Audited Basic Financial Schedules with the Board and answered questions from the Board members. CPA Ryan also reviewed the Letter Communicating Control Deficiencies and Other Matters with regard to tracking and recording of capital assets, compensated absences, review of Court bank reconciliations, Investment Policy and the appropriated fund balance in the Joint Youth Fund. CPA Ryan welcomes any questions after the Board members have had an opportunity to review the audit in more detail. (CPA Ryan left the meeting at 7:23 p.m.)

ITEM #2      APPROVAL OF MINUTES

a) Public Hearing – Local Law #1 of 2019 – 05/09/2019 - Motion by Councilman Krezmien, seconded by Councilman Zittel, to approve the minutes as presented. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

b) Town Board Meeting – 05/09/2019 - Motion by Councilman Zittel, Seconded by Councilman Snyder, to approve the minutes as presented. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

ITEM #3      PUBLIC COMMENT

Supervisor Drake thanked those in attendance for coming tonight and opened the floor for Public Comment. No one else wished to address the Board.

Motion by Councilman Krezmien, seconded by Councilman Zittel, to close Public Comment. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

ITEM #4      MONTHLY REPORTS

Motion by Councilman Drozd, seconded by Councilman Zittel, to approve the Monthly Reports, Items a-h. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

a) Code Enforcement Officer – May 2019. There were 14 building permits issued for the month. There are currently 8 new homes and 15 significant additions being inspected and renovated.

b) Dog Control Officer – May 2019. Seven Summonses were served for Unlicensed dogs; 90 phone calls received and 92 phone calls made. Picked up and returned three dogs.

c) Town Clerk Report – May 2019

d) Judge Frank Report – April 2019. Received \$5,307 this month.

e) Judge Gibbin Report – April 2019. Received \$13,953 this month.

f) Supervisor Report – April 2019

g) Senior Van Report – April 2019. Traveled 3,242 miles in 70 trips.

h) Senior Van Report – May 2019. Traveled 4,0652 miles in 71 trips.

i) Highway Report - Hwy Supt Dains reviewed his filed report. Hwy Supt Dains discussed the following with the Board:

(1) The Erie County Plow Contract which expired at the end of April 2019. The County has scheduled a meeting with the Town representatives which includes the Supervisors from Newstead, Aurora, and Eden are on the negotiation team for the Towns and the Highway Superintendents are Wales, Concord, Evans, and Orchard Park. This meeting is scheduled for Monday, June 17<sup>th</sup> at 9 a.m. There was a meeting in March 2019 where the County threw out a 3% increase per year; there was no agreement to that. Hwy Supt Dains had prepared a listing of estimated expenses the Town has incurred over the last three years; these expenses include salt, equipment, plow, parts, repair costs, fuel and manhours (regular and overtime). These expenses show a little idea as to the costs to the Town on the County side of the budget in the DB accounts. The total expenses for December 2016 through April 2017 was \$231,797.15 with a total revenue paid by the County of \$235,860.82. For that year there was a plus of \$4,063.67. The total expenses from August through December 2017 and January through April 2018, the second year of the contract, the expenses totaled \$295,868.51 with a total revenue paid by the County of \$242,936.88 which was deficient of \$52,931.85. The third and final year of the three-year contract, August through December 2018 and January through April of 2019, total expenses were \$253,231.33 and total revenue from the County was \$250,224.96 which was a negative of \$3,006.37. Hwy Supt Dains noted that the price of salt has gone up this year and fuel is starting to increase; the negotiation team will need to work hard to get a mutually agreeable contract. When this last three-year contract was negotiated, it took about six meetings. This is roughly a split of 55% for County and 45% for the Town for the expenses.

(2) Hwy Supt Dains had attended Cornell Local Roads Highway School summary. There were some very interesting topics at the training. One session dealt with the Town Highway Superintendent and the Town Supervisor which discussed why it is so important to keep the lines of communication open with regards to all aspects of the Highway Department from budgeting to day-to-day operations. There was also an open forum moderated by Superintendents and Supervisors from two different towns. This was exceptional with the importance that while there may be some disagreements between the two positions, there needs to be a good working relationship for the benefit of the residents in funding the Highway Department. Hwy Supt Dains advised that since he had been elected Highway Superintendent, the Board has been exceptional to work with and thanked them for working with the Highway Department in facilitating the operation that is required of them to do for the residents. Councilman Snyder thanked Hwy Supt Dains for compiling the list of expenses and revenues.

(3) Councilman Zittel asked Hwy Supt Dains for an update on the bad County roads and damage to the Town equipment. Hwy Supt Dains said that Belscher

Road has been dragged paved and he believes that road will be oil and chipped. Councilman Zittel asked if the County reimbursed the Town for any of the repairs. Hwy Supt Dains noted that this will be discussed at the plow contract meeting. The cost was \$1,100 to fix the rear springs which was done in-house and the plow frame has been repaired and stiffened a little bit with another support arm on it and Bob Darling finished that yesterday and that will be about \$1,800.

Motion by Councilman Krezmien, seconded by Councilman Drozd, to accept the Highway Department Report. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

j) Fire Department Report – Councilman Drozd advised that the Company is continuing working on the major fundraiser for July 21<sup>st</sup>. The car show, artists & craft vendors, food truck, music. All free of charge. It is the same weekend as the All Class Reunion. Councilman Drozd also noted that lawmakers in Albany are still discussing gun raffle fundraisers.

Motion by Councilman Krezmien, seconded by Councilman Zittel to accept the Fire Department Report. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

ITEM #5      OLD BUSINESS

There was nothing for Old Business.

ITEM #6      NEW BUSINESS

a) Audit of the Bills – Supervisor Drake stated that these bills were audited by Councilman Snyder, and reviewed by the Board.

General Fund A, abstract 6, bills 539-621; \$31,957.07  
 General Fund B, abstract 6, bills 622-633; \$67,144.69  
 Library Fund, abstract 6, bills 634-636; \$393.17  
 Fire Protection, abstract 6, bill 637; \$88,754.56  
 Joint Van, abstract 6, bills 638-639; \$593.40  
 Joint Youth, abstract 6, bill 640; \$202.61  
 Craneridge Lighting, abstract 6, bills 641-642; \$3,366.60  
 Craneridge Sewer, abstract 6, bills 643-657 & 679; \$8,647.73  
 Highway DA, abstract 6, NONE  
 Highway DB, abstract 6, bills 658-672; \$18,071.34  
 Kissing Bridge Water, abstract 6, bill 673; \$135.00  
 Kissing Bridge Sewer, abstract 6, bills 674-678; \$4,304.75  
 Trevett Rd. Water, abstract 6, NONE  
 Cattaraugus St. Water, abstract 6, NONE  
 Trust & Agency, abstract 6, NONE  
 Capital (HA) Craneridge Sewer, abstract 6, NONE  
 Capital (HB) Land, abstract 6, NONE  
 Capital (HD) Catt St, abstract 6, NONE  
 Capital (HE) Sr. Ctr, abstract 6, NONE  
 Capital (HF) Hwy Equip, abstract 6, NONE  
 Capital (HG) Waste Study, abstract 6, NONE

Motion by Councilman Snyder, seconded by Councilman Krezmien, to approve the bills as presented. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

b) Local Law#2 of 2019 – Solar Law - The Public Hearing was held earlier this evening. No one wished to speak at the hearing. Supervisor Drake asked the Board for a resolution adopting Local Law No. 2 of the Year 2019.

Councilman Drozd, moved the adoption of Resolution 5, seconded by Councilman Zittel:

**Local Law No. 2 of the Year 2019  
Town of Concord, County of Erie**

**A LOCAL LAW AMENDING CERTAIN PORTIONS OF THE ZONING  
ORDINANCE OF THE TOWN OF CONCORD PERTAINING TO SOLAR  
ENERGY REGULATIONS**

**BE IT Enacted by the Town Board of the Town of Concord as follows:**

**Article I. General Provisions**

**§ 150-208. Authority.**

This Zoning for Solar Energy Law is adopted pursuant to sections 261-263 of the Town Law of the State of New York, which authorize, the Town of Concord to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and "to make provision for, so far as conditions permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor." Also Pursuant to Article 2 of the Municipal Home Rule Law and Article 16 of the Town Law.

**§ 150-209. Purpose.**

The Town finds that restrictions of regulations in regard to the use of land within the Town for solar power projects or private solar projects are appropriate to properly address community impact, concerns or issues in a manner in which is meaningful and consistent with the Comprehensive Plan of the Town.

A. The Town Board of the Town of Concord recognizes that solar energy is a clean, readily available and renewable energy source and the Town of Concord intends to accommodate the use of solar systems. The Town of Concord also desires to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor."

B. This chapter is adopted to advance and protect the public health, safety, and welfare of the Town of Concord, including:

(1) Taking advantage of a safe, abundant, renewable, and nonpolluting energy resource;

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

(3) Increasing employment and business development in the region by furthering the installation of solar energy systems.

C. However, the Town Board finds a need to properly site solar energy systems within the boundaries of the Town of Concord to protect residential, business areas and other land uses, to preserve the overall beauty, nature and character of the Town of Concord, 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 Town of Concord.

D. Upon adoption of this solar law the old local solar law 2017-1 is rescinded and superseded by this solar law.

1. The requirements of this local law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town of Concord after the effective date of this local law, excluding general maintenance and repair.
2. 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.
3. Modifications to the existing Solar Energy System that increase the Solar Energy System 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.
4. 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 codes ("Building Code"), the NYS Energy Conservation Code ("Energy Code"), and the Town of Concord Code.

E. Solar energy systems need to be regulated for removal when no longer utilized.

#### § 150-210. Definitions.

The following definitions shall apply to this chapter:

##### 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 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," "owner," or "operator" is used in this chapter, said term shall include any person acting as an applicant, owner or operator.

##### BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM

A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, photovoltaic roofing coverings and shingles, photovoltaic awnings, and shading over windows.

##### BUILDING-MOUNTED SOLAR ENERGY SYSTEMS

A solar energy system that is affixed to the side(s) of a building 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 energy primarily for on-site consumption.

##### CONCORD UNIFIED SOLAR PERMIT

This is the adopted Concord Unified Solar Permit (USP), form, instructions, and online guidance which is promulgated by NYSERDA and/or other New York State agencies and provides for the expedited permitting process for certain classes of private solar energy systems which are 25kW or less in capacity. The Concord USP allows for private roof-mounted and ground-mounted designs.

##### GLARE

The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

##### GROUND-MOUNTED SOLAR ENERGY SYSTEM

A solar energy system that is 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 on-site consumption.

##### MICRO SOLAR ENERGY SYSTEM

A small consumer-grade solar photovoltaic system which is available for sale to the general public at normal retail outlet sources which is installed for private use and which

has a total output of 1,000 watts or less nameplate rating. This class of solar equipment must be for dedicated on-site purposes and not connected to the utility grid or interconnected with the utility power. An example of this system would be a solar array, and perhaps a battery, to power low-voltage driveway or garden lighting, a pond pump, and other similar standalone uses.

#### NET ENERGY METERING

Use of a net energy meter to measure the net amount of electricity supplied to the premises equipped with a solar energy system less the electricity provided by the solar energy system to the electric corporation (NYSEG for the case of Concord). Net metering shall be in accordance with the New York Public Service Law § 66-j. Net energy metering for a private solar energy system is allowed and permitted as long as the excess energy produced falls within the 110% of historical demand for the lot on which the private solar energy system is installed.

#### QUALIFIED SOLAR INSTALLER

A person or organization who has the skills and knowledge related to the construction and operation of solar energy systems and installation and who has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA) shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on the NYSERDA list of eligible installers may be deemed to be qualified solar installers if the Concord Code Enforcement Officer or the Concord Town Board determines such persons have training to perform the installation safely. Such training shall include the proper use of precautionary techniques and personal protective equipment as well as the skills and techniques necessary to distinguish exposed energized parts or other parts of electrical equipment on the site and to determine the nominal voltage of exposed live parts.

#### ROOFTOP-MOUNTED SOLAR ENERGY SYSTEM

Any solar energy system that is affixed to the roof of any legally permitted building or structure 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, potentially for multiple tenants, through a distribution system that is not available to the general public.

#### SOLAR EASEMENT

A right, whether or not stated in the form of restriction, easement, covenant, or conditions in any deed, will, or other instrument executed by or on behalf of any owner of land or solar skyspace for the purpose of ensuring adequate exposure of a solar energy system as defined herein. This is an agreement between cooperating individual landowners and does not involve, or include, the Town of Concord. Further, the Town shall not be responsible for enforcement of any solar easement agreements.

#### SOLAR ENERGY EQUIPMENT

Electrical energy storage devices such as batteries, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy under any provision of this chapter.

#### SOLAR ENERGY SYSTEM

An electrical generating system composed of a combination of both solar panels and solar energy equipment.

#### SOLAR PANEL

A photovoltaic device capable of collecting and converting solar energy into electrical energy. A solar panel consists of many solar/photovoltaic modules and a group of solar panels connected together is called a solar array. All of these devices, and combinations of these devices, are regulated by this local law.

#### SOLAR SKYSPACE

The space between a solar energy system panel and the sun which must remain unobstructed such that on any given clear day of the year, not more than 10% of the collectable solar insolation shall be blocked. The issuance of any permit by the Town of

Concord does not constitute, or imply, any solar skyspace rights, and the Town shall not be responsible for ensuring impermissible obstruction to the solar skyspace as a result of uses or development performed in accordance with Town Code.

USP

The abbreviation for the Concord Unified Solar Permit process, form, instructions, and implementation of the united solar permit process in the Town. Forms and details are available from the Concord Town Clerk and online at the Town's web site.

UTILITY-SCALE SOLAR ENERGY SYSTEM

(Also known as "large-scale solar energy system" or "solar farm," for example.) Any solar energy system that is ground-mounted and, when taken as a whole on a lot, is designed and intended to supply energy mainly into a utility grid for sale to the general public. This produced energy is also known as energy for "off-site sale or consumption."

§ 150-211. Solar energy system categories and permitting authority.

A. For purposes in the Town of Concord, the following categories of solar energy systems are considered and the general permitting characteristics are indicated below, further defined by sections of the Zoning Chapter 150 for use within the Town, including setbacks and other restrictions on solar energy system placement, operation, orientation, and other factors as defined elsewhere in the Code.

(1) Concord classifies the systems as private or utility-scale, and defines specific cases which differ in permitting methods as listed in the overview below. Further:

(a) The Concord Unified Solar Permit (USP) will be utilized for limited private roof- and ground-mounted systems having capacity of 25kW or smaller.

(b) The Concord building permit is required in accordance with the provisions of Chapter 150, Zoning.

(c) The Concord special use permit is required in accordance with the provisions of Chapter 150, Zoning, as well as the specific provisions of this solar energy system Chapter 150, as defined herein.

B. The purpose of the overview below is to give the applicant a high-level look at the varied cases for solar energy systems in the Town of Concord. The variations in this overview will make the review of the specific zoning and permitting details clearer. The summary is:

(1) Micro solar energy systems: This category, as defined, is considered incidental to the permitting process and is allowed in all zoning districts as long as the installation location is consistent with the placement for accessory structures and accessory use, and complies with all setbacks for the underlying zoning district. These systems, as defined, are standalone low-voltage systems available from retail stores and similar outlets. No formal permitting is necessary for these consumer systems, but coordination with the Concord Code Enforcement Officer with respect to placement on the parcel, consistent with zoning setbacks, is required.

(2) Private rooftop-mounted solar energy systems of 25kW or less capacity: This category, as defined, is permitted in all zoning districts, and will be processed using the Concord Unified Solar Permit (USP) process for installations which are deemed as eligible according to the Town of Concord's adopted USP application process. Installations which do not qualify as eligible under the rules of the USP process will be processed via a special use permit and building permit.

(3) Private rooftop-mounted solar energy systems greater than 25kW capacity: This category is permitted in all zoning districts and does not qualify as eligible under Concord's Unified Solar Permit rules. These installations will be processed via a special use permit and building permit procedure and are subject to zoning restrictions, and other factors which may be required as conditions of the special use permit approval.

(4) Private ground-mounted solar energy systems of 25kW or less capacity: This category, as defined, is permitted in all zoning districts and will be processed using the Concord Unified Solar Permit (USP) process for all installations which are deemed as eligible according to the Town of Concord's adopted USP application process. Installations which, for any reason, do not qualify as eligible under the rules of the USP process will be processed via a special use permit and building permit procedure, and are subject to zoning restrictions as to placement, and other factors which may be required as conditions of the special use permit approval, for example, as indicated in Subsection B(5) below.

(5) Private ground-mounted solar energy systems greater than 25kW capacity: This category is permitted only in Concord's Agricultural (Ag) and Commercial (C) Zoning Districts, and do not qualify as eligible under the Concord's Unified Solar Permit rules. Therefore, these installations will be processed via the special use permit and building permit procedure and are subject to zoning restrictions as to placement, and other factors which may be required as conditions of the special use permit approval.

(6) Utility-scale solar energy system of any capacity: This category is permitted only in Concord's Agricultural and Commercial Zoning Districts, subject to conditions and zoning restrictions, and allowed only via an approved special use permit and subsequent building permit, with conditions and inspections as determined and defined by the Zoning and the Concord Code Enforcement Officer. Any special use permit approval may include other factors as determined by the Town Board as conditions of the permit approval.

(7) Building-mounted solar energy systems of any capacity: This category is permitted in all zoning districts and will be processed in accordance with a special use permit and building permit process. They do not qualify as eligible under Concord's Unified Solar Permit procedures.

(8) Building-integrated solar energy systems of any capacity: This category is permitted in Concord in all zoning districts but since they are highly integrated in nature, and related to the initial construction of buildings, they will be processed in accordance with Concord's building permitting procedures and New York State law; however, since the integration of these systems into the design of the building is structural in nature, the applicant must supply suitable design documents and drawings certified and sealed by a New York State professional engineer (PE) or a New York State registered architect (RA) as part of the building permit process. Normal building permit reviews, approvals, inspections and all required electrical inspections shall apply.

#### § 150-212. Use districts.

Use districts where allowed. Subject to the provisions of this article, solar energy systems shall be allowed as follows:

A. Rooftop-mounted, building-mounted, and building-integrated solar energy systems are permitted in all zoning districts in the Town. For the case of rooftop-mounted systems, permitting rules are based upon capacity. Any rooftop system greater than 25kW capacity will require a special use permit.

B. Ground-mounted solar energy systems of 25kW capacity or less, subject to permitting rules, are allowed as accessory structures in all zoning districts of the Town subject to the restrictions of Zoning[1] and this chapter.

[1] See Ch. 150, Zoning.

C. Ground-mounted solar energy systems greater than 25kW capacity are permitted as accessory structures in Agricultural (Ag) and Commercial (C) Zoning Districts of the Town subject to the restrictions of Zoning and this chapter and require a special use permit.

D. Utility-scale solar energy systems are only permitted in Agricultural (Ag) and Commercial (C) Zoning Districts upon approval of a special use permit and building permit and subject to placement and other restrictions as defined by this chapter and Zoning.[2]

[2] See Ch. 150, Zoning.

E. Any inconsistent provisions of the Zoning Law[3] which purport to or may be interpreted to allow solar energy systems in other districts are hereby superseded.

[3] See Ch. 150, Zoning.

F. The provisions of this article apply to solar electricity generation. Direct or indirect solar water heating systems are not covered by these regulations.

#### § 150-213. General regulations.

General regulations. The placement, construction, and major modification of all solar energy systems within the boundaries of the Town of Concord shall be permitted only as follows:

A. All proposed solar energy systems are required to follow at least the minimum standards set forth by the New York State Building Codes and all specifications for such systems must be accompanied by a set of drawings stamped by a New York State-certified engineer or registered architect and code review checklist.

B. All solar energy systems (except small standalone consumer systems with a capacity of 1,000 watts or less) are required to obtain a building permit from the Town of Concord Building Department.

C. All permitted solar energy systems are required to be installed by a qualified solar installer.

D. Ground-mounted and roof-mounted solar energy systems capable of producing 25kW of energy or less require a building permit from the Town of Concord Building Department and in some cases, based upon eligibility, may qualify for processing under Concord's Unified Solar Permitting (USP) process and building permit procedures. If the system does not qualify for processing by the USP method, then a special use permit and building permit is required. The Concord Code Enforcement Officer should be consulted during initial planning of an installation of this category and a review of all USP forms and guidance should be done prior to submittal of any permitting by the applicant.

E. Ground-mounted and roof-mounted solar energy systems capable of producing more than 25 kW of energy are not eligible for consideration via the Concord Unified Solar Permit (USP) process and will require the approval of a special use permit and conditions, and also require site plan approval from the Town Board, as well as an approved building permit from the Concord Code Enforcement Officer.

F. Building-mounted solar energy systems, regardless of capacity, will require a special use permit and building permit from the Town of Concord Building Department.

G. Utility-scale solar energy systems (and all ground-mounted solar energy systems over 25 kW) shall be subject to all provisions of this article and permitted only in the approved zoning districts. [Agricultural (Ag) and Commercial (C) only]. These systems shall require approval of a special use permit and also site plan approval from the Concord Town Board, and an approved building permit from Concord's Code Enforcement Officer. The New York State SEQRA process is needed for these systems as required by law.

H. Solar energy systems, unless part of a utility-scale solar energy system, shall be permitted only to provide power for use by owners, lessees, tenants, residents or other occupants of the premises/parcel on which they are erected, but nothing contained in this provision shall be construed to prohibit sale of excess power, from time to time, through a net metering arrangement in accordance with New York Public Service Law § 66-j.

I. Nothing in this article shall be interpreted as to limit the applicant's implementation of net energy metering in conjunction with suitable approvals and coordination with the applicable local electrical utility engineering departments; applicant shall retain utility approvals for file and for Code Enforcement Officer review, if determined necessary by the Town of Concord as related to Public Service Law § 66-j or applicable state of federal statute.

J. All solar energy systems existing on the effective date of this article shall be allowed to continue usage as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance shall comply with all the requirements of this chapter.

K. No solar energy system shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.

L. Permits by an applicant may include technology, innovations, or methods not specifically defined by this solar energy system article. For those cases, the solar energy system's permitting shall be processed via the special use permit procedure as defined by this article.

M. The Town of Concord reserves the right, by local laws, to provide that no exemption pursuant to the provisions of New York State Real Property Tax Law (RPTL) § 487 shall be applicable within its jurisdiction.

N. Any applications (including variance applications) pending for solar energy systems on the effective date of this article shall be subject to the provisions of this article.

O. This article shall take precedence over any inconsistent provisions of the Zoning Law of the Town of Concord.<sup>[1]</sup>  
 [1] See Ch. 150, Zoning.

P. This article shall not apply to any lot owned by a municipality.

**§ 150-214. General criteria.**

A. Rooftop-mounted solar energy systems shall meet the maximum height requirements of the underlying zoning district. All proposed installations must be accompanied with a set of drawings stamped by a New York State-licensed engineer or registered architect verifying the structural integrity of the building and a New York State Code Compliance checklist. Further, for the cases of a pitched roof and flat roof, the following conditions shall be enforced:

(1) Pitched roof: solar energy panels shall not be more than three feet higher than the finished roof to which they are mounted.

(2) Flat roof: the maximum height of a solar energy panel at its highest pitch shall be no more than eight feet above the parapet wall.

B. Building-mounted solar energy systems (non-rooftop) shall not be more than 18 inches from the building wall and in no instance shall any part of the system extend beyond the eave line or top of a parapet wall. All proposed installations must be accompanied by a set of drawings sealed by a New York State-licensed professional engineer or registered architect, verifying the structural integrity of the building and with the New York State Code Compliance checklist. The approval of any building-mounted systems shall be by the special use permit and building permit method as they are not eligible for consideration under Concord's Unified Solar Permit method regardless of capacity of the system.

C. Building-integrated solar energy systems shall be designed and sealed by a New York State professional engineer (PE) or registered architect (RA) and will be reviewed under

the building permit process as applicable, by the Concord Code Enforcement Officer. This category is not eligible for Concord's Unified Solar Permit process. These systems are considered structural in nature and need complete design approval by a New York State PE or RA as noted.

D. Private ground-mounted solar energy systems shall be subject to the following requirements:



(1) The location of said solar energy system shall be placed no closer than two times the standard setback requirements for an accessory building/structure of the zoning district in which it is located.

(2) The location of said solar energy system shall be only located in the side or rear yard; no ground-mounted solar energy system shall be permitted in front yards.

(3) The height of said solar energy system shall not exceed 15 feet when oriented at maximum tilt.

(4) The total surface area of said solar energy system on a lot shall not exceed 800 square feet per acre in R1, R2, R-RB, RE, RM, R12, and R-AG.

(5) The total surface area of a non-utility-scale solar energy system on a lot situated in Agriculture (Ag) or Commercial (C) Use District shall not exceed 5% of the total square footage of the entire lot.

(6) The minimum lot size allowed for a utility-scale solar energy system shall be 15 acres.



(7) The total surface area of a utility-scale solar energy system situated in an Agricultural (Ag) Use District, on a lot which is greater than 15 acres, is determined by the size of the parcel, as indicated below:

(a) For parcels greater than 15 acres and less than 50 acres, a utility-scale solar energy system shall not exceed 40% of the total square footage of the entire lot.

(b) For parcels 50 acres or greater, a utility-scale solar energy system shall not exceed 30% of the total square footage of the entire lot.

(8) The total surface area of a utility-scale solar energy system, on a lot which is greater than 15 acres, situated in a Commercial (C) Use District, shall not exceed 10% of the total square footage of the entire lot.

E. Site plan requirements for ground-mounted solar energy systems. If site plan approval is required by this article for a ground-mounted solar energy system, or if a site plan is requested by the Code Enforcement Officer, for any ground-mounted solar energy system, the applicant shall be required to submit a site plan in accordance with the Town of Concord's site plan requirements and also drawn in sufficient detail as set forth below:



(1) Plans and drawings of the solar energy system installation signed by a New York State-certified professional engineer or registered architect 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 ground, on the site and adjacent to the site; and clearly showing the direction of surface water flow from the site.

(2) Property lot lines and the location and dimensions of all existing structures and uses within 500 feet of the solar panels.

(3) Any proposed fencing and/or screening for said project.

(4) Any such additional information as may be required by the Town's professional engineer or consultant, the Town Planning Board, the Town Board, the Town Attorney, the Code Enforcement Officer, or other Town entity.

(5) A public hearing on said site plan may be waived by the Town Board.

F. Solar storage batteries. When solar storage batteries are included as part of any solar energy system, they shall be placed in a secure container or enclosure meeting the requirements of the New York State Building Code.

G. All solar energy systems shall adhere to all applicable federal, state, county and Town of Concord laws, regulations, and building, plumbing, electrical, and fire codes.

H. Any solar energy system shall be accessible for all emergency service vehicles and personnel complying with the requirements of the New York State Building Code.

I. All structures and devices used to support solar collectors shall be nonreflective and/or painted a subtle color or earth-tone color.

J. The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists.

K. The development and operation of a 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 Concord or other federal or state regulatory agencies.

L. Artificial lighting of any solar energy system shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.

M. If the use, or functional capability, of an approved solar energy system which required a special use permit is discontinued, the owner or operator shall notify the Code Enforcement Officer 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 Code Enforcement Officer of this in writing at such time and obtain any necessary approvals within one year; otherwise it shall be automatically deemed abandoned.

N. Any solar energy system to be used strictly for agricultural use purposes, in accordance with New York State Agriculture and Markets Law, may have some of the requirements of this article waived by the Code Enforcement Officer or Town Board.

## Article II, Special Use Permit Requirements

### § 150-215. Special use permit requirements.

Certain applicants for solar energy systems will be required to proceed via the Concord special use permit procedures and process in order for the solar energy conversion system to be considered for approval and building permit approval. Applications under this article shall be made as described in this section. Applicants for a special use permit to place, construct, and make a major modification to a utility-scale solar energy system, or other solar energy conversion system which is required to proceed via the special use permit method, within the boundaries of the Town of Concord shall submit 12 sets of the following information to the Town Board, who shall first present it to the Concord Planning Board and/or a professional engineer or consultant for an initial review, and then onto the Planning Board for review and issuance of an advisory recommendation for consideration by the Town Board. The Planning Board may make such additional referrals to experts, consultants, or applicable engineering professionals as it deems appropriate. No such application shall be deemed filed until any required application fee has been paid by the applicant. For applicants using the special use permit process, the following information shall be contained in the application:

A. A completed State Environmental Quality Review Act (SEQRA) long form environmental assessment form (EAF). Compliance with the appropriate SEQRA action type should be confirmed prior to submission.

B. Other necessary permit information for a complete, non-piecemeal, submission is:

(1) 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.

(2) Documentation of access to the project site(s), including, but not limited to location of all access roads, gates, and parking areas.

(3) Documentation of the clearing, grading, stormwater and erosion control plans.

(4) Utility interconnection data, a copy of written notification to the utility of the proposed interconnection and any related agreements for the purchase of electricity.

(5) 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.

(6) A property owner who has installed, or intends to install, a utility-scale solar energy system or private solar energy system may choose to negotiate with other property owners in the vicinity for any necessary solar skyspace easements. The issuance of a special use permit by the Town does not constitute solar skyspace rights, and the Town shall not be responsible for ensuring impermissible obstruction to the solar skyspace as a result of uses or development performed in accordance with Town Code.

C. A site plan in accordance with the Town of Concord's site plan requirements and drawn in sufficient detail as follows:

(1) Plans and drawings of the solar energy system installation signed by a professional engineer (PE) registered in New York State or a registered architect (RA) 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 ground, on the site and adjacent to the site;

(2) Property lot lines and the location and dimensions of all existing structures and uses within 500 feet of the solar panels;

(3) Proposed fencing and/or screening for said project;

(4) Any such additional information as may be required by the Town's Planning Board, a Town professional engineer or consultant, the Concord Town Board, the Town Attorney, the Town Code Enforcement Officer, or other Town entity.

D. Decommissioning plan: To ensure the proper removal of large utility-scale solar energy systems, a decommissioning plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a special permit under this section. The decommissioning plan must specify that after the utility-scale solar energy system can no longer be used, it shall be removed by the applicant or any subsequent owner. The plan shall demonstrate how the removal of all infrastructures and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a registered New York State professional engineer or a professional solar decommissioning contractor regularly engaged in the work scope involved for the decommissioning plan. Cost estimates shall take inflation into account. Removal of utility-scale solar energy systems must be completed in accordance with the

decommissioning plan. If the utility-scale solar energy system is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover the costs to the municipality.

**§ 150-216. Special use permit criteria.**

Special use permits issued for utility-scale solar energy systems shall meet the following conditions and restrictions:

A. Maximum lot area: The maximum lot area used by the utility-scale solar energy system shall be 40 acres.

B. Setbacks: In addition to the setback requirements of the underlying zoning district, any utility-scale solar energy system shall adhere to the following setbacks:

(1) A minimum 200 feet from all property lot lines bordering a residential (R1, R2, R-RB, RE, RM, R12, and R-AG) use district.

(2) For utility-scale solar energy systems installed in Agricultural (Ag) and Commercial (C) use district the location of said solar energy system shall be placed no closer than the setback distances as below from each property boundary for the parcel on which the system is installed:

(a) From road frontage: 100 feet from edge of right-of-way.

(b) From side property boundaries: 30 feet from boundary.

(c) From rear property boundary: 80 feet from boundary.

(3) If parcel/lot is in Agricultural (Ag) Zoning, but is shown on the current Town of Concord Zoning Map as a parcel/lot which has the first 300 feet of depth from the road frontage zoned as R1, R2, RE, RM, R12, R-AG or R-RB, then no portion or component of the utility-scale solar energy system may be located within that frontage zoning (R1, R2, R-RB, RE, RM, R12, and R-AG) except for any existing overhead or proposed buried electrical wire infrastructure associated with the solar energy system as proposed by the applicant.

(4) From railroads: A minimum of 100 feet from any railroad (measured from the railroad right-of-way).

(5) From an inactive railroad's rail bed right-of-way corridor that is part of the rail-banking system: A minimum of 100 feet from any railroad roadbed in the rail-banking system (as measured from the rail bed's right-of-way).

(6) From schools, public parks: A minimum of 750 feet from all property lot lines bordering a school or public park.

C. Maximum overall height. The height of a utility-scale solar energy system shall not exceed 15 feet when oriented at maximum tilt.

D. There shall only be allowed one utility-scale solar energy system per lot.

E. If a utility-scale solar energy system is situated on a parcel/lot which is at the edge of a zoning boundary (for example, the last parcel in an Ag Zoning District which abuts to a residential parcel (R1, R2, RE, R-RB, RM, R12, and R-AG) district, then additional screening via retaining existing trees, suitable vegetation, plantings, or the topography, shall be included in the site plan so as to screen the boundary parcel from the visual impact of the solar energy system.

F. All utility-scale solar energy systems, if located within 1,000 feet of a public or private airfield/airport must, at the time of special use permit submission include results of the Federal Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic

Control Tower (if any) and for the final approach aircraft flight paths, consistent with the current policy of the FAA for Review of Solar Energy Projects, and any similar regulatory mandates which include private airfields near the solar energy system's area.

G. A utility-scale solar energy system shall adhere to all applicable federal, state, county and Town of Concord laws and regulations, and all building, plumbing, electrical, and fire codes. The applicant is also required to obtain all necessary formal regulatory approvals and/or permits from any federal, state, county, or local agency having jurisdiction and approval requirements related to the completion of a utility-scale solar energy system.

H. Development and operation of a utility-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 Concord, or other federal or state regulatory agencies.

I. The design, construction, operation, and maintenance of a utility-scale solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists.

J. All structures and devices used to support solar collectors shall be nonreflective and/or painted a subtle or earth-tone color.

K. All transmission lines and wiring associated with a utility-scale solar energy system shall be buried or utilize existing overhead transmission line structures and include necessary encasements in accordance with the National Electric Code and Town 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.

L. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.

M. Artificial lighting of utility-scale 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.

N. All utility-scale solar energy systems shall be enclosed by fencing, of a minimum height of six feet, to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing.

O. Any signage used to advertise the solar energy facility shall be in accordance with the Town's signage regulations.

P. A berm, landscape screen, or other opaque enclosure or any combination thereof acceptable to the Town capable of screening the site may be required along any property line that abuts an existing residence.

Q. After completion of a utility-scale solar energy system, the applicant shall provide a post-construction certification from a professional engineer (PE), registered in New York State, that the project complies with applicable codes and industry practices, and that it has been constructed and is operating according to the design plans.

R. Clearing, grading, stormwater and erosion control:

(1) It has been determined that much of the soil type classification within the Town of Concord consists of highly and moderately erodible soils types; therefore, erosion control and prevention are a critical component of any solar energy system project. Therefore, the Town will require formal documentation that any proposed solar energy project will not cause a negative impact on the Town's soil resources. This is especially true for large utility-scale solar energy systems; therefore, Concord requires a determination that erosion will be addressed in any development for solar energy systems.

(2) Before the Town of Concord shall issue a clearing, grading, stormwater, or building permit

for a utility-scale solar energy system, the applicant shall prepare an acceptable New York State Pollutant Discharge Elimination System (SPDES), filed and issued in accordance with Environmental Conservation Law, which fully defines the measures to be taken during and after the construction phase(s) of the solar energy system as required by law. When the permit coverage is received by the applicant, a copy should be filed within five days with the Concord Code Enforcement Officer for review.

(3) Before the Town of Concord shall issue a clearing, grading, stormwater or building permit for a utility-scale solar energy system, the applicant shall submit a complete New York State stormwater pollution prevention plan (SWPPP) to the Town for review and approval by the Planning Board and/or their designated consultant or professional engineer, the Concord Environmental Board, the Concord Code Enforcement Officer whom will all supply advisory recommendations to the Town Board when they determine approval status.

(4) The applicant's SWPPP shall minimize 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.

(5) To assist in processing, if not mandated elsewhere, the SWPPP should include a copy of the filed New York State Environmental Quality Review Act (SEQRA) document(s), so that efficient review of both submittals may be done by the Town's advisory boards as well as the Town Board.

### Article III. Maintenance, Procedures and Fees

#### § 150-217. Maintenance, procedures and fees.

A. Time limit on completion. Upon receipt of any required approval by the Concord Town Board, the applicant shall have six months to apply for a building permit. After issuance of a building permit, the applicant shall have six months to begin the project and 12 months to complete the project.

B. Upon receipt of any required approval by the Concord Town Board, the applicant shall have 12 months to begin the project before those approvals lapse. Prior to the lapse of any approvals the applicant may, for just cause, apply by written request to the Town Board for an extension to this timeline.

C. Inspections. Upon reasonable notice, the Concord Code Enforcement Officer, or his designee, may enter a lot on which a solar energy system has been approved for the purpose of compliance verification 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 shall be inspected annually by a New York State-licensed professional engineer that has been approved by the Town or at any other time, upon a determination by the Town's Code Enforcement Officer that damage may have occurred. A copy of the inspection report shall be submitted to the Town Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder.

D. General complaint process. During construction, the Town Code Enforcement Officer can issue a stop order at any time for any violations of a special use 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.

E. 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 Code Enforcement Officer shall also have the right to request documentation from the owner of a solar energy system regarding the system's usage at any time.

F. 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 Town Board or the solar energy system has been deemed inoperative or abandoned by the Code Enforcement Officer for a period of more than 365 consecutive days at the owner's expense. If the owner does not dismantle and remove said solar energy system as required, the Town Board 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.

G. Determination of abandonment or inoperability. A determination of the abandonment or inoperability of a solar energy conversion system shall be made by the Town Code Enforcement Officer, who after suitable review shall provide the owner with written notice by personal service or certified mail. Any appeal by the owner about the Code Enforcement Officer's determination of abandonment or inoperability shall be filed with the Town of Concord Zoning Board of Appeals within 30 days of the Code Enforcement Officer's formal notification. This notification shall include a written determination, and the Zoning Board of Appeals shall hold a hearing on same. The filing of an appeal does not stay the following expiration 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.

H. Application and annual fees.

(1) Utility-scale solar energy system. An applicant shall pay an initial application fee of \$2,500 or such other amount as the Town Board may from time to time determine by resolution, payable at the time of filing of the applicant's special permit and site plan application, to cover the cost of processing and reviewing the application. If approved, the owner shall pay an annual fee of \$1,000, or such other amount as the Town Board may from time to time determine by resolution, to cover the cost of processing and reviewing the annual inspection report and for ongoing and annual costs for administration, inspections and enforcement.

(2) Site plan application for ground-mounted solar energy systems. An applicant shall pay the standard site plan review fee as determined from time to time by resolution of the Town Board.

(3) Fee for issuance of a building permit. In addition to any special use permit or site plan review application fee, or utility-scale annual fee, an applicant shall pay a building permit fee for a:

(a) Building-mounted, building-integrated, ground-mounted, or rooftop-mounted solar energy system: As listed on the Town of Concord Fees and Fines Schedule or such other amount as the Town Board may from time to time determine by resolution.

(b) Utility-scale solar energy systems. As listed on the Town of Concord Schedule of Fees and Fines or such other amount as the Town Board may from time to time determine by resolution.

I. Prior to the issuance of a building permit, the applicant shall document that all applicable federal, state, county, and local permits have been obtained.

J. Special use permits for a utility-scale solar energy system granted under this article shall be issued only following a public hearing held as required for special use permits under the New York State Town Law.

K. The Town Board may:

(1) For utility-scale solar energy systems, grant a special use permit, deny a special use permit, or grant a special use permit with written stated conditions. Denial of

a special use permit shall be by written decision based upon substantial evidence and advisory recommendations considered by the Town Board. Upon issuance of a special use permit, the applicant shall obtain a building permit for the utility-scale solar energy system.

(2) For all other non-utility-scale solar energy systems (includes roof-mounted and ground-mounted systems not eligible for processing via the Concord Unified Solar Permit method), and all systems larger than 25kW in capacity, which require approval of a special use permit, or when review is required by the Town Board pursuant to this article, the Town Board may grant site plan and/or special use permit approval, deny site plan and/or special use permit approval, or grant site plan and/or special use permit approval with written stated conditions. Denial of site plan and/or special use permit approval shall be by written decision based upon substantial evidence considered by the Town Board. Upon issuance of a site plan approval and/or special use permit approval, the applicant shall obtain a Concord building permit for the ground-mounted solar energy system that was not eligible for processing via the Concord Unified Solar Permit method.

L. Any changes or alterations (post-construction) to a utility-scale or any solar energy system which was not processed via the Concord Unified Solar Permit method shall be done only by amendment to the special use permit and/or site plan (if required) subject to all requirements of this Code at the time of the change or alteration is requested by the applicant.

M. Special use permits for utility-scale solar energy systems shall be assignable or transferable so long as they are in full compliance with this article and all the conditions, and the Code Enforcement Officer is notified in writing at least 15 days prior thereto.

N. 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 Town's Zoning Law.<sup>[1]</sup>

[1] See Ch. 150, Zoning.

#### Article IV. Revocation

##### § 150-218. Revocation.

Violations of any of the conditions of the special use permit, the approved site plan, or any other local, state or federal law, rules or regulations, 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 Concord Town Board holds a hearing on same.

##### § 150-219. Interpretation; conflict with other laws.

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.

##### § 150-220. 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.

Article V. Penalties for Offenses

§ 150-221. Penalties for offenses.

A. Any person or persons, association or corporation committing an offense against this chapter or any section or provision thereof is guilty of a violation punishable by a fine not exceeding \$250 or imprisonment for a period not exceeding 15 days for each such offense, or by both such fine and imprisonment.

B. This chapter may also be enforced by civil action or by proceedings by the Town of Concord.

C. Each week that a violation is permitted to exist shall constitute a separate offense.

§ 150-222. Fees.

All fees shall be determined by resolution of the Town Board.

Voting as follows:

Councilman Drozd	Aye
Councilman Krezmien	Aye
Councilman Snyder	Aye
Councilman Zittel	Aye
Supervisor Drake	Aye

The foregoing Resolution was thereupon declared duly adopted.

c) Craneridge Sewer Dechlorination Project – Supervisor Drake informed the Board that this dechlorination project came about because the Town received a letter from the New York State DEC stated that a Craneridge Sewer needs a mechanism put in place that gets the chlorine out of the sewage before it goes into Cazenovia Creek. The project consists of the addition of a tablet feed dichlorination system to reduce the total residual chlorine concentration in the effluent from the existing wastewater treatment plant. The project was designed to achieve compliance with the requirements in the SPDES permit (NY0036714) Schedule of Compliance. Ben Slotman of MDA Consulting Engineers estimated the cost to be less than \$5,000. The DEC requires implementation of the project and compliance with the permit limit for total residual chlorine by September 12, 2019. Motion by Councilman Zittel, seconded by Councilman Drozd, to authorize Supervisor Drake to proceed with the Craneridge Wastewater Treatment dichlorination project. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

d) Craneridge Sewer CMOM program – Supervisor Drake advised that the DEC has directed a study be done for Craneridge Sewer District and MDA Consulting Engineers has provided their proposal for engineering services related to preparing a Capacity, Management, Operations and Maintenance (CMOM) Program for the district. MDA would collect and review existing data and prepare the CMOM Program Report for submission to the DEC for their acceptance. The cost to collect and review the existing data is \$3,000 and the cost to prepare the CMOM Program Report is \$7,500 for a total of \$10,500. There is an option to prepare GIS for Collection System at a cost of \$3,500. The DEC requires completion by April 2020. Motion by Councilman Krezmien, seconded by Councilman Zittel, to authorize Supervisor Drake to sign the MDA Consulting Engineer Agreement dated April 25, 2019 in the amount of \$10,500. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

e) CIDA Resignation – Deborah King has submitted her resignation from the Concord IDA. The Board publicly thanked Mrs. King for her service. Motion by Councilman Snyder, seconded by Councilman Krezmien, to accept the resignation of Deborah King from the Concord IDA with regrets. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

f) CIDA Appointment – James M. Krezmien has agreed to replace Deborah King on the Concord IDA. Mrs. King’s term will expire December 2020. Motion by Councilman Drozd, seconded by Councilman Zittel, to appoint James M. Krezmien to the Concord IDA for the remainder of Deborah King’s term, December 2020. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

g) Title Change Senior Center Director – Supervisor Drake advised that it has been difficult for Senior Director Eschborn to keep her hours under the 19-hour limit. Bookkeeper Ciszak inquired with Erie County regarding the Civil Service position because of Director Eschborn’s extra hours. Erie County indicated that the Town could establish a new position of Recreation Specialist-Non-Competitive. This will allow Director Eschborn to work more hours as necessary. Motion by Councilman Drozd, seconded by Councilman Zittel to create the position of Recreational Specialist (Non-Competitive) and to appoint Eleanor Eschborn to fill that position. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

h) Building Permit Fees – Supervisor Drake asked that the following fees be added to the Town’s fee schedule:

Roof	\$ 50.00
Flood	\$ 75.00
Utility Scale Solar Initial Fee	\$2,500.00
Utility Scale Solar Annual Fee	\$1,000.00

The Planning Board had discussed roofing and recommended to the Town Board that the Town require a permit following NYS Code and that there be \$50 fee for the permit. Councilmen Drozd stated that personally he is against a roof permit fee. His thought is that in most cases homeowners are hiring contractors and already paying a significant amount of money. Councilman Snyder agreed. There was discussion about what the CEO would be inspecting on roof projects and the amount of CEO time required. Councilman Snyder noted that the CEO inspections for a roof would be much different than that of a building. Councilman Zittel believes that the permit process would protect the resident. Most towns have building permits and a fee for a roof and the requirement to provide insurance certificate. Councilman Krezmien noted that if the Planning Board made their recommendation, then the Town Board should do it. Discussed the fee being lower; just enough to cover the CEO mileage to inspect. Councilman Snyder suggested \$10. Councilman Zittel felt the \$50 fee was reasonable. After discussion, the Board agreed to table the Roof permit fee. Motion by Councilman Drozd, seconded by Councilman Zittel, to table the roof permit and permit fee of \$50. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried. Supervisor Drake will discuss this matter with CEO Singleton.

Supervisor Drake advised that the fee for Flood and Utility Scale Solar were fees associated with Local Law #1 of 2019 which was passed at the May 9<sup>th</sup> 2019 meeting and Local Law #2 of 2019 which was passed earlier this evening. Motion by Councilman Drozd, seconded by Councilman Snyder, to approve the Flood fee of \$75, the Utility Scale Solar Initial fee of \$2,500 and the Utility Scale Solar Annual fee of \$1,000. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

i) Fire Contract Team – Supervisor Drake advised that it is time to renegotiate the fire contracts with Springville, East Concord, Boston and Mortons Corners fire companies and requests that a Board member join him to form a team to meet with the fire companies for these negotiations. Councilman Drozd would like to be on the team. Discussion as to whether it would be a conflict for Councilman Drozd to be on the team since he is a member of the Springville Volunteer Fire Company. The other Board members are not members of any fire company. Town Attorney Attea stated that Councilman Drozd has a fiduciary duty to the Town but in support of Councilman Drozd being on the team, he would have extensive experience with the fire company and can balance that with factors from the Town to negotiate a fair agreement. Councilman

Krezmien agreed and feels that Councilman Drozd would be the best resource to Supervisor Drake. More firemen might be inclined to talk to Councilman Drozd. Motion by Councilman Krezmien, seconded by Councilman Zittel to appoint Councilman Drozd to be on the Fire Contract Team with Supervisor Drake. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

ITEM #7 EXECUTIVE SESSION

Supervisor Drake advised that the Board would go into Executive Session to discuss an employee issue. There will be action. Councilman Drozd asked Highway Superintendent Dains be included in the Executive Session. Motion by Councilman Krezmien, seconded by Councilman Snyder, to go into Executive Session at 8:10 p.m. to discuss an employee issue. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

Motion by Councilman Krezmien, seconded by Councilman Snyder, to come out of Executive Session at 8:24 p.m. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye. Carried.

Motion by Councilman Krezmien, seconded by Councilman Snyder, to authorize Supervisor Drake to contract with Special Counsel on the employee relations matter. Councilmen Krezmien, Zittel, Snyder & Drozd; Supervisor Drake, voting aye.

ITEM #8 CONSENT AGENDA

There was nothing for Consent Agenda.

ITEM #9 COUNCILMAN NOTES

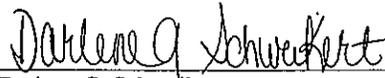
- a) Councilman Snyder attended an SYI meeting. Fundraising efforts are on-going. SYI has a very active Board and the merger between The Boys & Girls Club and SYI is moving forward.
- b) Councilman Snyder attended Dairy Fest over the weekend; it was a successful event.
- c) Councilman Drozd attended the last Library Board meeting for the summer. The meeting was routine business.
- d) Councilman Drozd attended the first concert in the Thursdays, Downtown series. There was a fantastic turn out with approximately 200-225 people in attendance. Councilman Drozd talked to the Food Truck vendors and other local vendors at the event and their feedback was positive. With the rain tonight, the concert this evening will be indoors at the Springville Center for the Arts.
- e) Councilman Zittel reminded the Board members that this weekend is the Springville Center for the Arts Gala. The Town Hall parking lot will be closed tomorrow to allow for set up.
- f) Councilman Krezmien attended the Memorial Service for one of the town's former highway employees, Gerald "Buck" Brown. During the Memorial Service, the speaker spoke about how much Buck enjoyed his time working at the highway department.
- g) Supervisor Drake noted that the Solarize Southtowns Kick Off Campaign event is scheduled for Thursday, June 20<sup>th</sup> at 5 p.m. at the UNOVA CoWorking Space located at 29 Mechanic Street during the Thursdays, Downtown Concert Series.
- h) Supervisor Drake attended the Solarize meeting and a vendor has been selected. The installed selected will install during the months November and December which is an important factor because a requirement of the plan is to have solar installed and hooked up by December 31<sup>st</sup>. The other vendor would not do installations once the weather became inclement.

i) Supervisor Drake advised that Senior Director Eschborn was planning on attending tonight's meeting but had a meeting with Cattaraugus County Senior Services. Director Eschborn wanted to let the Board know that the Center continues to grow with many new features. She is getting a lot of requests for Senior Services and is working with Erie County and Cattaraugus County to see if a representative could come out to the Center to discuss services available.

ITEM #10    MOTION TO ADJOURN

Motion by Councilman Zittel, seconded by Councilman Drozd, and passed unanimously, to adjourn the meeting at 8:29 p.m. in memory of:

Eric Allen Crossan  
Harold R. Cobo  
Brenda I. Willibey  
Kasie Rae Rockwell  
Cheryl L. Frank  
Frank Jared Kemsley



---

Darlene G. Schweikert  
Town Clerk