

**REGULAR MEETING  
SHELDON TOWN BOARD  
September 20, 2017**

The Regular Meeting of the Sheldon Town Board held September 20, 2017 at the Sheldon Town Hall was called to order by Town Supervisor Brian Becker at 7:30 p.m.

Present: Supervisor Brian Becker  
Councilmen: Joe Meyer, Mike Armbrust, Jim Fontaine, Vince Kirsch  
Recording Secretary: Town Clerk Carol Zittel  
Absent: Hwy. Supt. David Ricketson  
Also Present: Attorney David Roach arrives at 8:30 p.m.; Wayne Abbott, Chairman of the Town Planning Board; members of the Town Park Committee; Bill & Michelle Snyder, proprietors of Windy Brew; several residents of Minkel Road; several neighbors of Bill and Michelle Snyder.  
A signed list of those present is on file in the Town Clerk's office.

**Minutes**

A motion was made by Jim Fontaine and seconded by Vince Kirsch that the minutes from the August 23, 2017 regular meeting and the August 24, 2017 special meeting be approved.  
Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

**Communications**

Town Clerk, Carol Zittel, reported on the following:

**#24 Dog Enumeration Complete**

The dog enumeration of the Varysburg side of Town is complete.

**#25 Hunting Licenses**

The Town Clerk has been busy selling hunting licenses.

**Reports**

Financial Reports were presented for the month of August 2017 from the Town Supervisor, Town Clerk and the Town Justice. The Town fund balance report was also distributed.

**Highway Superintendent's Report**

Supt. Ricketson was not present at tonight's meeting. He is attending Hwy. Supt. training this week.

**Supervisor's Report**

Supervisor Becker reported on the following:

**Wyoming County Bills**

County bills were \$4,277,568.11 for the month of August 2017.

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**NYSAC Conference**

Supervisor Becker attended the NYS Association of Counties conference in Albany. The Association continues to request more money from NYS for unfunded mandates.

**Proclamations for Ken Martin**

The Wyoming County Board of Supervisors awarded Ken Martin, Town Zoning Officer, with several proclamations for being named Grand Marshal of the Wyoming County Fair Parade. Mr. Martin was not present at tonight's meeting. Supervisor Becker will hand deliver the proclamations to Ken.

**Acceptance of Reports**

A motion was made by Vince Kirsch and seconded by Jim Fontaine to accept all reports as presented.

Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

**Old Business**

**Varysburg Park Rest Room Renovation**

The Town had budgeted \$20,000.00 for the park rest room renovation. The bid came in at \$33,139.00. Invenergy has offered to donate \$10,000.00 and some labor to the project. With modifications to the specifications, Steve Beechler Construction has lowered the cost to \$26,526.00. Councilman Kirsch went over the items that were removed from the original bid specifications with the Varysburg Park committee members present at tonight's meeting. The Town Park committee requested that one item be added back on to the bid specs, specifically the install of the auto touch faucets.

**Motion to Award Bid to Steve Beechler Construction for the Renovation of the Park Rest Rooms**

A motion was made by Mike Armbrust and seconded by Joe Meyer to accept the revised bid from Steve Beechler in the amount of \$26,526.00 plus the cost to add back in the auto touch faucets and to authorize the Town Supervisor to execute the contract.

Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

**Presentation from Wyoming County Real Property Tax Svcs.**

Mary Kern, County Assessor and James Kirsch, Director of Wyoming County Real Property Tax Services addressed the Board regarding Town of Sheldon assessment services.

Ms. Kern and Mr. Kirsch distributed an assessment report to the Town Board. The Town's equalization rate is 79%. Ms. Kern and Mr. Kirsch explained that farm land value is assessed very low in the Town. Regarding agricultural assessment applications, Ms. Kern and Mr. Kirsch explained that their office is very proactive in mailing out applications to all farmers with 15 acres or more of worked land. Ms. Kern reported that the net change in assessed value in the Town increased by \$2.3 million in 2017 compared to 2016. Ms. Kern explained that this increase is attributed to eight years of zoning permits that were not recorded by former town

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assessors. Councilman Kirsch and the entire Town Board thanked Mr. Kirsch and Ms. Kern for attending the meeting and for their hard work.

**Local Law 2-2017 – Solar Energy**

The Town Board held a public hearing on July 19, 2017 regarding proposed Local Law 2-2017 entitled: A Local Law establishing necessary local controls with respect to solar installations reflecting the town's requirements for safe and sustainable practices.

A motion was made by Mike Armbrust and seconded by Vince Kirsch to adopt Local Law 2-2017 entitled: A Local Law establishing necessary local controls with respect to solar installations reflecting the town's requirements for safe and sustainable practices.

Meyer – Aye

Armbrust – Aye

Fontaine – Aye

Kirsch - Aye

Becker - Aye

**Motion carried. The Law is attached in full to the end of these minutes.**

**Opening of Public Hearing – Special Use Permit – Windy Brew**

At 8:10 p.m. a motion was made by Jim Fontaine and seconded by Vince Kirsch to open the public hearing on the special use permit request of Michelle Snyder, owner of Windy Brew, to operate a brewery at her residence at 733 Route 20A, Strykersville, NY 14145. Ms. Snyder and her husband Bill were present at tonight's meeting along with several neighbors who spoke in support of the brewery. Supervisor Becker explained that the Board will be hearing comments tonight and will take these comments to the Town Planning Board. The Town Board will meet at a future date to make a determination on whether to issue the special use permit, and if issued, what parameters will be attached to such a permit. Supervisor Becker also distributed a copy of a letter from Don Roberts, Code Enforcement Officer for the Wyoming County Fire & Building Codes Dept. that was sent to the Snyder's advising them of certain fire and building codes that need to be corrected.

Chairman of the Town Planning Board, Wayne Abbott, was present at tonight's meeting to explain the on-going process that has led to tonight's public hearing. Mr. Abbott explained the following:

- In April 2016 the Town Planning Board issued a Home Occupation Major business permit to Michelle Snyder. Ms. Snyder had originally applied to the Town Planning Board for a permit to run a brewery that would allow people to come to the brewery in groups of no more than four people to sample home brewed beer, make their own brewed beer and return at a later date to pick up their product.
- When it was realized that their business had expanded to something bigger than what they had originally applied for, the Town Planning Board asked Ms. Snyder to return to the Planning Board to complete a special use permit application.
- Windy Brew is a business operating in an agricultural/residential neighborhood. Town Zoning Law prohibits businesses in these districts unless the appropriate permit, in this case, a special use permit, has been issued.

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Supervisor Becker noted the following:

- Windy Brew is located on Route 20A on a major thoroughfare. The Town wants to be sure it is going through the proper process in granting a permit.

Supervisor Becker then opened the floor to comments:

- Judi Laird from Varysburg commented that she is “happy to have it here. I’m thrilled to have it here.”
- Mr. Ed Redden commented: “I’ve lived here 59 years and I had reservations at first. At 8:00 p.m. they shut down when they are supposed to. I appreciate it that you (Mr. and Mrs. Snyder) are keeping your word on the hours.”
- Scott Gardner, President and CEO, of the Wyoming County Chamber of Commerce, attended the meeting stating “to advocate on behalf of Windy Brew. From our point of view, tourism is the fourth largest industry in the County and we are glad they are here. They have done tremendous things by adding another brewery to our beer trail and we are able to bring more people here. It has been a tremendous asset. As a past Zoning Board of Appeals chairman in Warsaw, I understand why we have these things (zoning regulations) and I hope that we can advocate to make this work.”
- Paul Gusman of Varysburg said: “I agree with Scott Gardner, it brings business to the area.”
- Chris George, resident of Route 20A: “I haven’t heard any bad comments. Everyone likes to buy local, stay local.”

There were other positive comments from those in attendance. Hearing all comments, the Town Board continued with the rest of the meeting agenda.

**Varysburg Water District – DASNY/Senator Gallivan Funding**

Supervisor Becker received a grant disbursement agreement from DASNY regarding the \$50,000.00 in funding for the Varysburg Water District. Supervisor Becker explained the following:

- The water district meters are old and need replacing
- 25% of the meters don’t work
- Only 65% of customers have their meters read consistently
- This funding will be used to purchase new meters
- The cost to purchase and install 100 meters will be approx. \$50,000.00
- Supervisor Becker has a contact at the Erie County Dept. of Water who said we may be able to piggyback off their bid

**Alternate Planning Board Member**

Supervisor Becker has not heard back from the resident who may be interested in the alternate planning board member position. He noted he hasn’t “heard a definite no response.”

**Bartz Rd. – Stop Ahead Sign Request**

Supervisor Becker met with County Hwy. Supt. Todd Gadd. Supervisor Becker reported the following: Mr. Gadd obtained reports on accidents for the last several years. Some accidents

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were due to the intersection. He found that there was plenty of sight distance to the stop signs but agreed they could get lost for a second within the electric poles. He also found the stop sign in the south bound lane was a little further off the road than he would like. Mr. Gadd suggested stop ahead signs in both directions and checking with Town Hwy. Supt. Ricketson about his plowing needs before moving the stop sign closer to the road.

**Bio-Solids – Human Waste Solid Law**

Supervisor Becker noted that the Town Attorneys David DiMatteo and David Roach, feel it is in the best interest of the Town to shelve the bio-solid law for the moment.

A motion was made by Vince Kirsch and seconded by Jim Fontaine to table the bio-solid law until the Town Attorney's office suggests otherwise.

Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

**Sunset Drive Property Complaints**

There have been numerous complaints about the upkeep of a property on Sunset Drive. Tonight, the Town Clerk received a phone call from a resident on Sunset Drive and was informed that the lawn has been mowed, however, it now looks like a hay field has just been chopped.

**New Business**

**Cemetery Damage – Pioneer Cemetery**

Supervisor Becker and the Town Clerk were notified of damage to the barrier wall at the Pioneer Cemetery on Perry Rd. The wall was laid eight years ago by 77 Construction. The possibility of the highway department repairing the wall was raised. The Town Board asked Supervisor Becker to get more information on how the wall was damaged and what it will entail to fix before proceeding.

**Minkel Road**

At 8:30 p.m. Attorney David Roach arrived and Supervisor Becker opened the floor to comments from the residents of Minkel Road. The residents were present to discuss complaints against the owner of 1185 Minkel Road. The following points were raised:

- The owner of the property at 1185 Minkel Road does not have a residence at the property. It is just land and a barn – no one lives at the address.
- Since May 2017, on certain weekends, the owner brings out friends to shoot guns, blow up explosives and ride ATV's at all hours of the night
- There are sometimes up to 12 people present at these gatherings, however this past weekend there were only 3
- Attorney Roach asked if these gatherings are advertised on facebook or in a public fashion to which the residents responded "no"
- The shooting occurs in a barn at times
- There is a shooting target set up on a bank which is closer than 500 ft from the road
- A DEC officer was called and said that nothing can be done unless they see them doing it (shooting too close to a road)

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- By the time law enforcement arrives to calls, they are “no longer in the act”
- Attorney Roach explained that the Town Board does not have the authority to enforce State laws
- Attorney Roach states that “this is a nuisance complaint and there is nothing here for the board to act upon.”
- A resident states that they shoot as early as 8am on a Saturday
- In response to Councilman Armbrust asking if neighboring land is posted. The residents respond “yes”
- In response to Councilman Kirsch asking if photos of trespassing have been captured. The residents respond “no” but the NYS Police suggested that trail cams be purchased.
- In response to a resident asking if there is a noise ordinance, David Roach responds “no”
- A resident asks if these concerns are a legitimate reason to call the Sheriff’s office to which Mr. Roach responds “yes, continue to call the police and get a description”
- Councilman Armbrust comments that a noise ordinance is almost impossible. He asks: How do you measure it? How do you enforce it?
- It was asked if there is something the Board can do to lower the speed limit on Minkel. Supervisor Becker responds that the Town cannot change speed limits. It is up to the State of NY.
- Supervisor Becker notifies those in attendance that he has been assured that there will be additional law enforcement on our Town side roads, specifically on Minkel Road
- A sample noise ordinance was given to the Town Board by a Town resident
- Mr. Roach reiterates that the police should be called and that this is a private nuisance case. They may be able to file a suit.
- A resident from Minkel Road read a letter that details a list of complaints against the owner of 1185 Minkel Road. The Town Clerk will keep a copy of the letter on file in the Town Clerk’s office.
- Supervisor Becker ended the discussion by saying that the Board hears their concerns. He asks that they keep documenting everything and that in the meantime the Board will look into zoning noise ordinances.

**Closing of Public Hearing – Windy Brew**

The Board asked if there were any more comments regarding Windy Brew. Mr. Ron Barvian, resident of Route 20A, commented that the traffic on Route 20A has increased significantly in recent years and that the “traffic that Windy Brew is bringing is nothing.”

At 9:00 p.m. a motion was made by Joe Meyer and seconded by Jim Fontaine to close the public hearing on the issuance of a special use permit to Michelle Snyder to operate a brewery at her residence at 733 Route 20A, Strykersville.

Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

Wayne Abbott, commented that the Planning Board went “through the proper process and the Planning Board agrees this should go through.” Mr. Abbott explains that the permit, if granted, can be re-examined each year and that “the Town Board can put on any stipulations they want.”

Mr. & Mrs. Snyder and many others left the meeting at this time.

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**Deputy Town Clerk Appointment**

A motion was made by Vince Kirsch and seconded by Joe Meyer to appoint Whitney Kehl as the Deputy Town Clerk in replacement of Elizabeth Foy, who is now attending Cornell University.

Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

**Budget Workshop**

A motion was made by Vince Kirsch and seconded by Mike Armbrust to set the date for the budget workshop for October 3, 2017 at 7:30 p.m. at the Sheldon Town Hall.

Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

**2018-2019 County Snow and Ice Contract**

A motion was made by Vince Kirsch and seconded by Jim Fontaine to authorize the Town Supervisor to sign the 2018-2019 snow and ice contract with the Wyoming County Highway Department.

Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

**Contract with Wyoming County Fire & Building Codes for Zoning Officer Services**

A motion was made by Jim Fontaine and seconded by Mike Armbrust to authorize the Town Supervisor to execute the contract with Wyoming County Fire & Building Codes to take over Town Zoning Officer responsibilities.

Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

**Schedule Public Hearing – Harris Corners Fire Dept.**

A motion was made by Joe Meyer and seconded by Jim Fontaine to schedule the public hearing for the Harris Corners Fire Contract on October 4, 2017 at 7:30 p.m. at the Harris Corners Fire Hall.

Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

**Schedule Public Hearing – Strykersville Ambulance Contract**

A motion was made by Jim Fontaine and seconded by Vince Kirsch to schedule the public hearing for the Strykersville Ambulance Contract on October 18, 2017 at 8:00 p.m. at the Sheldon Town Hall.

Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

**Schedule Public Hearing – Special Use Permit – Adam Almeter Automotive Repair Shop**

A motion was made by Vince Kirsch and seconded by Jim Fontaine to schedule the public hearing on October 18, 2017 at 8:15 p.m. for the special use permit request of Adam Almeter of 495 Centerline Road to operate an automotive repair shop at his residence.

Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

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**Schedule Public Hearing - Local Law – Tax Cap Override**

A motion was made by Joe Meyer and seconded by Vince Kirsch to schedule a public hearing for a proposed law to override the tax cap for October 18, 2017 at 8:30 p.m.

Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

**Time Warner/Spectrum Contract**

A motion was made by Mike Armbrust and seconded by Joe Meyer to authorize the Town Clerk to reach out to the Time Warner/Spectrum representative to set up a convenient time for the Town Board to meet with him to discuss the renewal of the franchise agreement.

Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

**Establishment of an Employee Benefit Accrued Liability Reserve Fund**

The EBALR fund was based on the accumulated sick time as of 8/21/17 of 3193 hours x \$22.41 per hour = \$71,555 x 75% = \$53,666

**TOWN OF SHELDON - ESTABLISHING AN EMPLOYEE BENEFIT ACCRUED LIABILITY RESERVE FUND UNDER § 6-p OF NEW YORK STATE GENERAL MUNICIPAL LAW**

A motion was made by Vince Kirsch and seconded by Mike Armbrust to adopt the following resolution to set up an EBALR fund:

WHEREAS, the Town Supervisor, following the Best Practices for Local Government Fiscal Management Guide, recommends the creation of a Reserve Fund to cover the exposure of accrued employee benefits payable to employees on termination of employment whether by retirement or otherwise; now, therefore, be it

RESOLVED, that pursuant to § 6-p of New York State General Municipal Law, as amended, the Town Board does hereby authorize and establish a Reserve Fund to be known as “Employee Benefit Accrued Liability Reserve Fund” in the initial amount of \$50,000.00 with the purpose of this Reserve Fund to accumulate monies to finance the cash payment of the monetary value of accrued and accumulated unused and unpaid sick leave, personal leave, holiday leave, vacation time, time allowances granted in lieu of overtime compensation and any other forms of payment for accrued but unliquidated time earned by municipal employees and payable to municipal employees upon termination of service, whether by retirement or otherwise, as authorized by ordinance, local law, or collective bargaining agreement or section six of the civil service law for which expenditures may be made pursuant to subsection 2 of New York State General Municipal Law § 6-p; and be it further RESOLVED, that such fund shall be known as the “Employee Benefit Accrued Liability Reserve Fund”; and be it further

RESOLVED, that out of the surplus monies of the Highway Fund (DA909) the sum of \$50,000.00 be and hereby is appropriated for the Employee Benefit Accrued Liability Reserve Fund and the Town Supervisor is hereby authorized to direct the Town Bookkeeper to transfer the surplus funds in the sum of \$50,000.00 to the Employee Benefit Accrued Liability Reserve Fund as established herein; and be it further

RESOLVED, that there may be paid into such fund such amounts as may be provided therefore by budgetary appropriations, amounts from any other fund authorized by New York State

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General Municipal Law by resolution subject to permissive referendum and such other funds as may be legally appropriated; and be it further

RESOLVED, that the Town Supervisor as the Chief Fiscal Officer and the Town Bookkeeper are hereby directed to deposit and secure the monies of this Reserve Fund in a manner provided by § 10 of New York State General Municipal Law. The Chief Fiscal Officer may invest the monies in the Reserve Fund in the manner provided by § 11 of New York State General Municipal Law consistent with the Investment Policy of the Town of Sheldon.

Any interest earned or capital gains realized on the monies that are deposited or invested shall accrue to and become part of the Reserve Fund and the Chief Fiscal Officer shall account for the Reserve Fund in a manner, which maintains the separate identity of the cash and investments of the Reserve Fund; and be it further

RESOLVED, that except as otherwise provided by § 6-p of New York State General Municipal Law, expenditures from this Reserve Fund shall be made only for any accrued employee benefit payment due an employee of the Town of Sheldon upon termination of the employees service, provided however, that the Town of Sheldon shall not make an expenditure from such fund for any employee benefit for which the Town of Sheldon has established a Reserve Fund under any other provision of law; be it further

RESOLVED, that except as hereby provided by subsection 7 of § 6-p of New York State General Municipal Law, expenditures from this Fund shall be made solely for the purposes which this Reserve Fund is established. No expenditures shall be made from this Reserve Fund without approval of this Town Board.

Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

**Budget Transfers**

A motion was made by Jim Fontaine and seconded by Mike Armbrust to approve the following budget transfers:

Transfer \$100,000.00 from General Money Market A1083 to Highway Money Market DA1083 for Sept. 2017 bills and payrolls

Transfer \$2239.16 from Hazardous Mitigation Fund HG9901.9 to General Money Market A5031 to close out funds in Hazardous Mitigation account

Transfer \$7500.00 from SW1-8320.4 Source of Supply, Power and Pumping to SW1-1320.4 Auditor

Transfer \$90.00 from A1640.4 Central Garage Contractual to A3610.4 Examining Boards – BAR Contractual

Transfer \$50,000.00 from Highway Fund DA909 Fund Balance to DA230 Cash, Special Reserves (EBALR)

Ayes: (5) Becker, Fontaine, Meyer, Armbrust, Kirsch Nays: (0) Motion Carried.

**Bills:**

Supervisor Becker confirmed that the Board had a chance to review the bills.

A motion was made by Jim Fontaine and seconded by Joe Meyer that the

General Bills #234 to #257 for a Total of \$12,628.27, the

Highway Bills #131 to #143 for a Total of \$116,134.71, the

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Trust & Agency Bills #27 to #30 for a Total of \$527.70, the Varysburg Water District Bills #40 to #45 for a Total of \$7,657.91 Lighting District Bills for a Total of \$779.94, and the Capital Project – Hazardous Mitigation Project Bills #12 to #12 for a Total of \$55,795.28 be paid.

Ayes: (5) Becker, Kirsch, Fontaine, Meyer, Armbrust      Nays: (0)      Motion Carried.

**Varysburg Fire Extension and Dissolution Legal Ad Fees**

A motion was made by Brian Becker and seconded by Jim Fontaine to bill the Varysburg Fire District for the legal ads purchased for the dissolution and extension public hearings. The legal ad bills were over \$300.00.

Ayes: (5) Becker, Kirsch, Fontaine, Meyer, Armbrust      Nays: (0)      Motion Carried.

**Comments from the Floor**

Councilman Armbrust asked about the recent audit of the Town offices by the NYS Comptroller's office. Supervisor Becker responded that he and Katie Chmura, Town Bookkeeper, will meet with the Comptroller's representative on September 29, 2017 to hear her preliminary findings.

**Trees on Perry Road**

Ms. MaryAnn Bartz of Bartz Road, commented that the roads on Perry Road near Bartz Road need to be trimmed. Councilman Fontaine agreed that the trees could use trimming and suggested that the County be contacted. Supervisor Becker will contact the County Highway Dept.

**Adjournment**

At 9:35 p.m. a motion was made by Vince Kirsch and seconded by Joe Meyer to adjourn the September 20, 2017 meeting of the Sheldon Town Board.

Ayes: (5) Becker, Kirsch, Fontaine, Meyer, Armbrust      Nays: (0)      Motion Carried.

**TOWN OF SHELDON**

**LOCAL LAW NO. 2 OF 2017**

**A LOCAL LAW ESTABLISHING NECESSARY LOCAL CONTROLS  
WITH RESPECT TO SOLAR INSTALLATIONS REFLECTING THE  
TOWN'S REQUIREMENTS FOR SAFE AND SUSTAINABLE  
PRACTICES**

SECTION 1. TITLE

SECTION 2. LEGISLATIVE FINDINGS AND PURPOSES

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SECTION 3. DEFINITIONS

SECTION 4. APPLICABILITY

SECTION 5. PERMITTING

SECTION 6: SAFETY

SECTION 7. SEVERABILITY

SECTION 8. EFFECTIVE DATE

**§ \_\_-1. Title.**

The Town Board of the Town of Sheldon does hereby establish the solar energy equipment law that shall be known as “Town of Sheldon Local Law Number 2 of 2017.

**§ \_\_-2. Legislative Findings and Purposes.**

- A. The use of solar energy equipment for the purpose of providing electricity and for heating and-cooling is a national priority and is a necessary component of the Town of Sheldon’s current and long-term sustainability agenda. Solar energy is a renewable and nonpolluting energy resource that can prevent fossil fuel emissions and reduce the town’s energy load. Energy generated from solar energy equipment can be used to offset energy demand on the grid when excess solar power is generated.
  
- B. The purpose of this law is to balance the potential impact on neighbors when solar collectors may be installed near their property while preserving the rights of property owners to install solar collectors without excess regulation. Installation of solar energy equipment shall be approved through the Town of Sheldon zoning process and the County of Wyoming building permit process. This law does not override agriculture exemptions that are currently in place.

**§ \_\_\_\_\_-3. Definitions.**

**BUILDING-INTEGRATED SOLAR COLLECTOR**

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Solar energy equipment that is integrated into the building structure such as the wall or the façade and which does not alter the relief of the wall or the facade.

**GROUND-MOUNTED SOLAR COLLECTOR**

Solar energy equipment that is directly installed on or affixed to the ground and is not attached or affixed to an existing structure. All freestanding pole-mounted solar collectors are ground-mounted.

**LARGE-SCALE SOLAR COLLECTOR**

A ground-mounted solar collector for electric energy generation principally for off-site energy consumption.

**ROOFTOP SOLAR COLLECTOR**

Solar energy equipment mounted on top of the structure of a roof either as a flush-mounted installation or as modules fixed to frames which can be tilted toward the south at an optimal angle.

**SOLAR COLLECTOR**

A photovoltaic cell, panel or array that relies on solar radiation as an energy source for the generation of electricity, or a thermal cell, panel or array that relies upon solar radiation as an energy source for the transfer of stored energy to heat air or water.

**SOLAR ENERGY EQUIPMENT**

Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected and converted into another form of energy and is stored, protected from unnecessary dissipation and distributed. Solar energy equipment includes solar thermal equipment and solar photovoltaic equipment, and all forms of solar collectors.

**SOLAR PHOTOVOLTAIC EQUIPMENT**

A device for the direct conversion of solar energy into electricity; equipment that produces electricity by the use of semiconductor devices, called photovoltaic cells, that generate electricity when light strikes them.

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**SOLAR THERMAL EQUIPMENT**

Equipment that directly heats water or other liquid using sunlight, and in which the heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

§ \_\_\_\_-4. **Applicability.**

- A. The requirements of this law shall apply to all solar energy equipment modified or installed after the effective date of this law. This law does not make inapplicable any existing requirement for zoning permits.
- B. Solar collector installations for which a valid building permit has been issued, or for which installation has commenced before the effective date of this law, shall not be required to meet the requirements of this law.
- C. Solar collectors shall be designed, erected and installed in accordance with the New York State Building Code and the Wyoming County building code to the extent those codes are applicable to the Town of Sheldon.
- D. Nothing contained in this law shall be construed to prohibit collective solar installations or the sale of excess power through a net metering arrangement in accordance with New York Public Service Law 66-j. Net metering is a billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage. Collective solar is an installation owned collectively through subdivision homeowner associations, other groups, and “adopt-a-solar-panel” or other similar arrangements.

§ \_\_\_\_-5. **Permitting.**

- A. **Rooftop solar collectors and building-integrated solar collectors** are permitted in all zoning districts subject to the following conditions:
  - 1. A zoning permit is required for installation.

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2. Equipment shall not exceed maximum height restrictions within any zoning district and is provided the same height exemptions granted to building-integrated or building-mounted mechanical devices or equipment.
  3. Installations of rooftop solar collectors must have three (3) feet of setback on all four sides.
  4. Installations of rooftop solar collectors and building-integrated solar collectors shall incorporate the following design requirements:
    - a. Equipment shall be installed inside walls and attic spaces where feasible in order to reduce their visual impact. If solar energy equipment is visible from a public right of way, it shall match the color scheme of the underlying structure.
    - b. Equipment facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of twenty-four (24) inches between the roof and highest edge of the equipment. A front yard is that portion of the lands not occupied by the principal building and comprising that part of the lands extending from the principal building facing the street.
    - c. Rooftop solar collectors affixed to a flat roof shall be placed below the line of sight from a public right of way.
- B. Building-integrated solar collectors** are permitted outright in all zoning districts. No separate zoning permit is required if the equipment is installed when the structure, of which the equipment is a part, is constructed.
- C. Ground-mounted solar collectors** are permitted as an accessory structure in all zoning districts. An accessory structure is a structure, the use of which is customarily incidental and subordinate to that of the principal building and is attached thereto, and is located on the same lot or premises as the principal building. Ground-mounted solar collectors are subject to the following conditions:
1. A zoning permit is required for installation.
  2. The location of the solar collectors must meet all applicable setback requirements for accessory structures in the applicable zoning district.

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3. The solar collectors must be installed in a side or rear yard.
4. The solar collectors may not exceed a height of fifteen (15) feet from the ground.
5. On-site electrical interconnection and distribution lines shall be placed underground.
6. Very small solar photovoltaic equipment for charging batteries (less than one kilowatt) do not require any permits.
7. Solar collectors shall be located in a manner that reasonably minimizes shading of property to the north while still providing adequate solar access for collectors. Solar access means space open to the sun and clear of overhangs or shade including the orientation of the streets and lots to the sun so as to permit the use of solar energy equipment on individual properties.

D. **Solar thermal equipment** is permitted in all zoning districts subject to the following condition:

1. A zoning permit is required for installation.

E. **Large-scale solar equipment** includes solar collectors for electric energy generation more than 50 percent of the output of which is for off-site energy consumption. A special use permit is required for large-scale solar equipment, and a special use permit may be issued only in an Industrial District and only subject to the following conditions:

1. The height of a solar collector at its highest point is limited to 15 feet.
2. On-site electrical interconnection and distribution lines shall be placed underground.
3. The lot size shall be a minimum of 10 acres, and the array may cover no more than 75 percent of the lot.
4. The solar equipment shall have a fence around the entire perimeter. The height and type of fencing shall be adequate to prevent unauthorized access under conditions

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existing at the lot location. Warning signs with the owner's contact information shall be placed at the entrance and on the perimeter of the fencing.

5. The Town encourages landscape screening and other methods of enhancing the appeal of large-scale solar collectors such as the use of earth berms or other screening that will harmonize with the character of the property and surrounding area.
6. The removal of existing vegetation shall be limited to the extent necessary for the maintenance of the solar installation.
7. Application requirements:
  - a. Name, address, and contact information of the applicant, property owner(s), and the agent submitting the proposed project.
  - b. Verification of utility notification. Foreseeable infrastructure upgrades shall be documented and submitted. Off-grid solar energy equipment is exempt from this requirement.
  - c. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted. Easements shall comply with New York Real Property Law 335-b.
  - d. Site plan approval is required.
  - e. Blueprints signed by a professional engineer or registered architect of the solar installation showing the layout of the solar energy equipment shall be submitted.
  - f. The equipment specification sheets shall be documented and submitted for all solar collectors, significant components, mounting and inverters that are to be installed.
  - g. A property operation and maintenance plan is required that describes continuing photovoltaic maintenance and property upkeep including mowing and trimming.
  - h. A decommissioning plan is required that includes removal of all infrastructure and the remediation of soil and vegetation back to its original state prior to construction. A cost estimate for completing the

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decommissioning plan shall be prepared by a professional engineer, taking inflation into account.

- i. A form of surety, through escrow, bond or equivalent, to cover the cost of decommissioning shall be established prior to the issuance of a permit. The amount of surety required by the municipality may not exceed 125 percent of the cost of decommissioning.

**§ \_\_\_\_-6. Safety.**

- A. Solar energy equipment shall be issued a zoning permit only if the Town of Sheldon Zoning Officer determines that the proposed solar energy equipment does not present any unreasonable safety risks, including, but not limited to, weight load; wind resistance; and ingress or egress in the event of fire or other emergency.
- B. Rooftop solar collectors and building-integrated solar collectors shall be designed to be and installed to be in conformance with the New York Uniform Fire Prevention and Building Code Standards that are applicable when the zoning permit is issued.
- C. If storage batteries are installed with solar energy equipment, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use. When they are no longer in use, they shall be disposed of in accordance with the federal, state, and county laws and local laws of the Town of Sheldon.
- D. All solar collector installations must be performed by a qualified solar installer if the installation is by other than the homeowner. A qualified solar installer is a person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and 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 or who are certified as solar installers by the North American Board of Certified Energy Practitioners shall be deemed to be qualified solar installers.
- E. Prior to operation, electrical connections must be inspected by the Wyoming County Code Enforcement Officer and by an electrical inspection person or agency as determined by the Town of Sheldon Zoning Officer in conformance with the New York State Building Code and other building codes applicable in the Town of Sheldon. Any connection to the public utility grid must be inspected by the appropriate public utility.

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- F. Prior to operation, the owner shall give written notice to the local Fire Company and First Response Team that a solar collector exists on the property.
  
- G. Solar energy equipment shall be maintained in good working order and shall be removed if not in use for more than twelve (12) months by removal of such equipment and mounting hardware within 90 days after the twelfth month.

**§ \_\_\_\_-7. Severability.**

If any section, part, sentence, or clause of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof.

**§ \_\_\_\_-8. Effective Date.**

This local law shall become effective immediately upon filing with the New York Department of State.