

LOCAL LAW 12 OF 2021 ADDING
CHAPTER 178 TO THE SWEDEN TOWN CODE
CONCERNING ABANDONMENT AND
DECOMMISSIONING PLANS

Be it enacted by the Sweden Town Board, County of Monroe, State of New York
(hereinafter referred to as the Town Board), as follows:

SECTION 1. TITLE (§178-1)

This Local Law shall be referred to as "Local Law 12 of 2021 Adding Chapter 178 to the Sweden Town Code Concerning Abandonment and Decommissioning Plans".

SECTION 2. AUTHORIZATION (§178-2)

This Local Law is adopted pursuant to the New York State Constitution Article IX, Town Law §261-264 and Municipal Home Rule Law §10.

SECTION 3. PURPOSE AND INTENT (§178-3)

This Local Law is adopted to advance and protect the public health, safety, welfare and quality of life in the Town of Sweden (hereinafter referred to as Sweden) by creating decommissioning plan requirements relating to the installation of Wind Energy Conversion Systems, Solar Energy Systems and Battery Energy Storage Systems. Sweden feels it to be of paramount importance to provide clarity, options and rules in the process of decommissioning for removal of said Systems indentified hereinabove and for remediating the land.

SECTION 4. ABANDONMENT AND DECOMMISSIONING (§178-4)

A. Any Wind Energy Conversion Systems (Sweden Town Code §173), Solar Energy Systems (Sweden Town Code §174) and/or Battery Energy Storage Systems (Sweden Town Code §176) shall be considered abandoned after six (6) months without regular usage and/or electrical energy storage, at less than 20% of the approved capacity, consequently resulting in the

requirement that same be removed from the property. The Project Company/landowner, lessees and/or any successors in interest shall have an affirmative obligation to keep the Sweden Town Planning Board (hereinafter referred to as the Planning Board) apprised of such abandonment status in a timely fashion. Applications for extensions subsequent to an abandonment as described herein can be reviewed by the Planning Board to allow for an additional period of up to six (6) months after such abandonment.

B. Applications for any such System(s) shall include and be accompanied by a proposed decommissioning plan to be implemented upon abandonment and/or in conjunction with the removal of same and shall:

1. Include the identities of the landowner, the Project Company, lessees and /or any successors in interest including the name(s), mailing address(es), telephone number(s), email address(es) and written lease(s). At the time of decommissioning plan approval by the Planning Board, same is to be executed by the Planning Board Chairperson, the landowner, the Project Company, the lessees and/or any successors in interests acknowledging their approval and consent to same. The Planning Board shall be given at least a sixty (60) day advanced notice in writing concerning any successor in interest to the Project Company and/or landowner. The Planning Board shall grant written approval of any such successor in interest prior to same occurring and any successor in interest shall execute the decommissioning plan.

C. Applications for such System(s) shall include in any decommissioning plan:

1. An affirmative obligation and acknowledgement that after any System(s) can no longer be used and/or is abandoned it shall be removed in a timely fashion by the Project Company, the landowner, lessees and/or any successors in interest.

2. A detailed description of how the removal of infrastructure and the remediation of soil/vegetation is to be conducted in order to return the land to its original state prior to installation of the System(s), said information to include, but not be limited to, information concerning disconnection from the utility power grid, installation of applicable erosion and sediment controls, disconnection, collection and disposal of PV modules and disposal of same at an approved recycler or otherwise information concerning the remarketing of same, removal of any galvanized steel PV module supports and/or racking systems and disposal of same off site at an approved facility, removal of batteries/systems, removal of electrical/electronic devices and disposal of same at an approved off site facility, removal of concrete foundations and/or structures and disposal of same at an approved off site facility, removal of all fencing and disposal of same at an approved off site facility, removal of access roads (except those retained by the landowner and stormwater management activities), soil restoration and seeding in the proper form of crops to be planted by the landowners, removal of all erosion and sediment controls, procurement of any permits required including obtaining coverage under the most current NYS-SPDES General Permit for Stormwater Discharges from Construction Activity and filing of any notice of termination with the NYSDEC (including an expected time line for execution and completion of same).

3. A detailed cost estimate setting forth the projected expenses of executing any decommissioning plan shall be prepared and certified by a professional engineer or registered architect.

D. Absent notice of a proposed date of abandoning and/or written notice of extenuating circumstances as discussed hereinabove, any such System(s) shall be considered abandoned when it fails to operate for more than six (6) months without the written consent of the Planning

Board. If the System(s) is not removed in a timely fashion, or the proposed date of same, Sweden is allowed to enter the property and physically remove the installation and/or upon applying to a Court of appropriate jurisdiction to seek such access to the property for that purpose.

E. The decommissioning plan shall contain a requirement that the landowner, the Project Company, lessees and/or any successors in interest provide financial security, the character and/or form of which is in the sole discretion of the Town Board. The financial security amount is to ensure that sufficient funds are available to effectuate the conditions set forth in the decommissioning plan and restore landscaping consistent with the best interests of the landowner and/or Sweden in the event the Project Company/landowner fails to comply with decommissioning obligations. The amount of the financial security is to be at the sole discretion of the Planning Board, is to be annually reviewed for financial sufficiency and is subject to review and confirmation by the Town Board to the extent necessary for what is set forth in the first sentence of this subparagraph. The annual review process shall include providing financial documentation, financial statements or any other information requested by the Planning Board. The involvement of any successor in interest as described herein shall immediately and automatically trigger the aforesaid review process. The financial security shall be provided prior to issuance of any special use permit and any final site plan approval by the Planning Board. Sweden shall hold the financial security in the form and character mandated by the Town Board until such time as abandonment occurs, or if the project should not proceed for any reason prior to the start of construction and, if so, Sweden will promptly release all unused portions of said financial security back to the Project Company (with any accrued interest if applicable) and approval of the project shall be automatically rescinded.

F. A copy of the decommissioning plan shall be filed in the Monroe County Clerk's Office in the register of deeds and indexed by the landowner's name upon approval of same.

SECTION 5. ENFORCEMENT (§178-5)

Any violation of this Local Law shall be subject to the same civil and criminal penalties provided for in the Sweden Town Code (including any applicable zoning regulations) and/or the Laws of the State of New York.

SECTION 6. SEVERABILITY AND/OR VALIDITY (§178-6)

If any clause, sentence, paragraph, subdivision, section or part of this Local Law, or the application thereof to any person, individual, firm or corporation, or circumstance, shall be adjudged by a Court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Law, or in its application to the person, individual, firm or corporation, or circumstance, directly involved in the controversy in which said order or judgment shall be rendered.

SECTION 7. EFFECTIVE DATE (§178-7)

This Local Law shall take effect upon the date it is filed in the Office of the New York State Secretary of State in accordance with the Municipal Home Rule Law §27.

Dated: Brockport, New York
November 30, 2021