

Senate Engrossed House Bill
decommissioning; solar and wind; standards

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2618

AN ACT

AMENDING TITLE 30, ARIZONA REVISED STATUTES, BY ADDING CHAPTERS 7 AND 8;
RELATING TO POWER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 30, Arizona Revised Statutes, is amended by adding
3 chapters 7 and 8, to read:

4 CHAPTER 7

5 SOLAR ENERGY POWER PLANTS

6 ARTICLE 1. GENERAL PROVISIONS

7 30-901. Local government; standards; conditions;
8 requirements; procedures

9 A. A CITY, TOWN OR COUNTY MAY ADOPT ZONING STANDARDS, SITE SPECIFIC
10 CONDITIONS AND PERMITTING REQUIREMENTS OR PROCEDURES FOR A SOLAR ENERGY
11 POWER PLANT THAT IS LOCATED IN THE CITY, TOWN OR COUNTY.

12 B. AN OWNER OR OPERATOR OF A SOLAR ENERGY POWER PLANT SHALL COMPLY
13 WITH THE APPLICABLE STANDARDS, CONDITIONS, REQUIREMENTS AND PROCEDURES FOR
14 A SOLAR ENERGY POWER PLANT THAT ARE ADOPTED BY THE CITY, TOWN OR COUNTY IN
15 WHICH THE SOLAR ENERGY POWER PLANT IS TO BE LOCATED.

16 30-902. Transfer or sale

17 A. THE TRANSFER OF A SOLAR ENERGY POWER PLANT OR SPECIAL USE PERMIT
18 OR THE SALE OF THE ENTITY OWNING THE SOLAR ENERGY POWER PLANT MAY NOT
19 OCCUR WITHOUT WRITTEN ACCEPTANCE BY THE TRANSFEREE OF THE TRANSFEROR'S
20 OBLIGATIONS UNDER THIS CHAPTER, INCLUDING THE OBLIGATION TO MAINTAIN AND
21 IMPLEMENT A DECOMMISSIONING AND SITE RESTORATION PLAN PURSUANT TO SECTION
22 30-904, TO MAINTAIN THE FINANCIAL ASSURANCE PRESCRIBED BY SECTION 30-905
23 AND TO MAINTAIN THE LIABILITY INSURANCE PRESCRIBED BY SECTION 30-906. A
24 TRANSFER OR SALE DOES NOT ELIMINATE THE LIABILITY OR RESPONSIBILITY OF A
25 TRANSFEROR OR OF ANY OTHER PARTY UNDER THIS CHAPTER FOR ACTS OR OMISSIONS
26 OF THE TRANSFEROR OR OTHER PARTY OCCURRING BEFORE THE TRANSFER OR SALE,
27 EXCEPT WHEN THE TRANSFEREE AND TRANSFEROR PROVIDE FOR THE TRANSFER OF
28 LIABILITY OR RESPONSIBILITY BY AGREEMENT.

29 B. FOR A TRANSFER OF UNIT OWNERSHIP, THE CITY, TOWN OR COUNTY MAY
30 REASSESS THE AMOUNT OF ANY FINANCIAL ASSURANCE REQUIRED UNDER SECTION
31 30-905 AND THE SOLAR ENERGY POWER PLANT OWNER OR OPERATOR SHALL REIMBURSE
32 ANY REASONABLE COSTS INCURRED BY THE CITY, TOWN OR COUNTY TO OBTAIN THE
33 REASSESSMENT.

34 C. A CITY, TOWN OR COUNTY MAY ESTABLISH A PROCEDURE FOR:

35 1. RECEIVING NOTICE OF A SALE AND TRANSFER OF OBLIGATIONS UNDER
36 THIS SECTION.

37 2. APPROVING A SALE AND TRANSFER OF OBLIGATIONS UNDER THIS SECTION.

38 D. IF A SOLAR ENERGY POWER PLANT OWNER SELLS A SOLAR ENERGY POWER
39 PLANT TO AN ENTITY DESCRIBED IN SECTION 30-905, SUBSECTION E OR F, THE
40 SOLAR ENERGY POWER PLANT OWNER SHALL PROVIDE WRITTEN NOTICE OF THE SALE TO
41 THE CITY, TOWN OR COUNTY. WITHIN FIFTEEN DAYS AFTER RECEIVING THE NOTICE,
42 THE CITY, TOWN OR COUNTY SHALL WAIVE THE REQUIREMENTS OF SECTION 30-905
43 AND RETURN OR RELEASE TO THE SOLAR ENERGY POWER PLANT OWNER ANY FINANCIAL
44 ASSURANCE PROVIDED TO THE CITY, TOWN OR COUNTY UNLESS OTHERWISE PROVIDED
45 BY AGREEMENT.

1 E. BEFORE OR IN CONJUNCTION WITH APPROVING A LAND USE OR ZONING
2 PERMIT APPLICATION FOR A SOLAR ENERGY POWER PLANT, A CITY, TOWN OR COUNTY
3 MAY ADOPT A PROCEDURE FOR WAIVING THE FINANCIAL ASSURANCE PRESCRIBED BY
4 SECTION 30-905 IF THE OWNER OR OPERATOR OF THE PLANNED SOLAR ENERGY POWER
5 PLANT SUBMITS THE FOLLOWING DOCUMENTATION IN CONJUNCTION WITH ITS
6 APPLICATION:

7 1. EVIDENCE THAT THE SOLAR ENERGY POWER PLANT IS BEING CONSTRUCTED
8 PURSUANT TO A BUILD-TRANSFER AGREEMENT WITH AN ENTITY DESCRIBED IN SECTION
9 30-905, SUBSECTION E OR F AND THE TRANSFER OF OWNERSHIP WILL OCCUR WITHIN
10 A REASONABLE TIME PERIOD, AS DETERMINED BY THE CITY, TOWN OR COUNTY, AFTER
11 THE DATE OF CONSTRUCTION OR OPERATION.

12 2. THE DOCUMENTATION PRESCRIBED BY SECTION 30-905, SUBSECTION E OR
13 F, AS APPLICABLE TO THE RELEVANT ENTITY.

14 30-903. Duty to maintain; cessation of use; abandonment;
15 damage; notification requirements

16 A. THE OWNER OR OPERATOR OF A SOLAR ENERGY POWER PLANT SHALL:

17 1. MAINTAIN THE PLANT IN GOOD CONDITION AND REPAIR.

18 2. EXCEPT DURING PERIODS OF REGULAR MAINTENANCE AND PLANNED
19 CURTAILMENTS, ENSURE THAT THE PLANT REMAINS FUNCTIONAL AND OPERATIONAL
20 UNTIL DECOMMISSIONING OF THE PLANT IS INITIATED PURSUANT TO THIS CHAPTER.

21 B. A CITY, TOWN OR COUNTY MAY ADOPT REASONABLE TIMELINES AND
22 REQUIREMENTS FOR THE CURE AND REPAIR OF VISIBLE DAMAGE OR DEFECTS TO A
23 VISIBLE COMPONENT OF A SOLAR ENERGY POWER PLANT AND FOR THE RESTORATION
24 AND REPAIR, REPLACEMENT OR REMOVAL OF ANY COMPONENT OF A SOLAR ENERGY
25 POWER PLANT THAT IS NONFUNCTIONAL OR INOPERABLE.

26 C. A CITY, TOWN OR COUNTY MAY ADOPT AND ENFORCE REASONABLE
27 PENALTIES AND PROCEDURES FOR THE VIOLATION OF OR NONCOMPLIANCE WITH ANY
28 TIMELINE OR REQUIREMENT THAT IS AUTHORIZED PURSUANT TO THIS SECTION,
29 INCLUDING INITIATING OR COMPLETING DECOMMISSIONING OR SITE RESTORATION AT
30 THE OWNER'S OR OPERATOR'S EXPENSE PURSUANT TO SECTION 30-904 IF THE OWNER
31 OR OPERATOR FAILS TO COMPLY WITH THE CITY'S, TOWN'S OR COUNTY'S REASONABLE
32 TIMELINES OR REQUIREMENTS.

33 D. A SOLAR ENERGY POWER PLANT OWNER OR OPERATOR SHALL NOT ABANDON A
34 SOLAR ENERGY POWER PLANT FOR ANY REASON, INCLUDING BANKRUPTCY OR FINANCIAL
35 INSOLVENCY. IF A SOLAR ENERGY POWER PLANT OWNER FILES FOR BANKRUPTCY OR
36 OTHERWISE BECOMES INSOLVENT, THE OWNER SHALL IMMEDIATELY PROVIDE WRITTEN
37 NOTICE OF THE BANKRUPTCY OR INSOLVENCY TO THE CITY, TOWN OR COUNTY WHERE
38 THE SOLAR ENERGY POWER PLANT IS LOCATED.

39 E. A CITY, TOWN OR COUNTY MAY ADOPT REASONABLE PROCEDURES FOR
40 DETERMINING WHEN A SOLAR ENERGY POWER PLANT HAS BEEN ABANDONED AND MAY
41 ADOPT REASONABLE TIMELINES AND PROCEDURES FOR INITIATING AND COMPLETING
42 THE DECOMMISSIONING AND SITE RESTORATION FOR A SOLAR ENERGY POWER PLANT
43 THAT HAS BEEN ABANDONED OR WHOSE OWNER HAS FILED FOR BANKRUPTCY OR
44 OTHERWISE BECOME INSOLVENT.

1 F. NOTWITHSTANDING ANY TIMELINE OR PROCEDURE THAT A CITY, TOWN OR
2 COUNTY ADOPTS PURSUANT TO THIS SECTION, A CITY, TOWN OR COUNTY SHALL NOT
3 INITIATE DECOMMISSIONING OR SITE RESTORATION UNDER SUBSECTION E OF THIS
4 SECTION UNLESS THE CITY, TOWN OR COUNTY PROVIDES NOTICE AND AN OPPORTUNITY
5 FOR A HEARING TO THE FOLLOWING:

- 6 1. THE LANDOWNER WHERE THE SOLAR ENERGY POWER PLANT IS LOCATED.
- 7 2. ALL APPLICABLE CREDITORS AND PARTIES TO THE RELEVANT BANKRUPTCY
8 PROCEEDING.

9 30-904. Decommissioning and site restoration plan;
10 requirements; certification

11 A. BEFORE A CITY, TOWN OR COUNTY MAY APPROVE A LAND USE OR ZONING
12 PERMIT APPLICATION FOR A SOLAR ENERGY POWER PLANT, THE SOLAR ENERGY POWER
13 PLANT OWNER OR OPERATOR SHALL PROVIDE THE CITY, TOWN OR COUNTY WHERE THE
14 SOLAR ENERGY POWER PLANT IS LOCATED WITH A DECOMMISSIONING AND SITE
15 RESTORATION PLAN AS PRESCRIBED IN THIS SECTION.

16 B. A CITY, TOWN OR COUNTY MAY ADOPT PROCEDURES FOR REVIEWING AND
17 APPROVING A DECOMMISSIONING AND SITE RESTORATION PLAN THAT A SOLAR ENERGY
18 POWER PLANT OWNER OR OPERATOR SUBMITS TO THE CITY, TOWN OR COUNTY. THE
19 PROCEDURES MAY INCLUDE REQUIREMENTS FOR RECEIVING OR REVIEWING PUBLIC
20 COMMENTS OR CONDUCTING ONE OR MORE PUBLIC MEETINGS OR HEARINGS.

21 C. A CITY, TOWN OR COUNTY MAY ESTABLISH THE MINIMUM COMPONENTS OF A
22 DECOMMISSIONING AND SITE RESTORATION PLAN. THE MINIMUM COMPONENTS SHALL
23 INCLUDE ALL OF THE FOLLOWING:

24 1. A BRIEF NARRATIVE THAT DESCRIBES HOW THE SOLAR ENERGY POWER
25 PLANT WILL BE DECOMMISSIONED AND HOW THE SITE WILL BE RESTORED AND THAT IS
26 CONSISTENT WITH THE MINIMUM DECOMMISSIONING AND SITE RESTORATION STANDARDS
27 AND PROCEDURES ADOPTED BY THE CITY, TOWN OR COUNTY PURSUANT TO SUBSECTIONS
28 F AND G OF THIS SECTION.

29 2. AN ESTIMATE OF THE COST OF DECOMMISSIONING THE SOLAR ENERGY
30 POWER PLANT AND RESTORING THE SOLAR ENERGY POWER PLANT SITE. THE ESTIMATE
31 SHALL BE MADE BY A PERSON WHOM THE CITY, TOWN OR COUNTY DEEMS QUALIFIED TO
32 ESTIMATE DECOMMISSIONING AND SITE RESTORATION COSTS FOR THE SOLAR ENERGY
33 POWER PLANT.

34 3. A DESCRIPTION OF THE FINANCIAL RESOURCES THAT THE SOLAR ENERGY
35 POWER PLANT OWNER OR OPERATOR WILL USE TO ACCOMPLISH DECOMMISSIONING AND
36 RESTORATION AND THAT COMPLY WITH SECTION 30-905.

37 D. A SOLAR ENERGY POWER PLANT OWNER OR OPERATOR SHALL DECOMMISSION
38 A SOLAR ENERGY POWER PLANT AND RESTORE A SOLAR ENERGY POWER PLANT SITE AS
39 DESCRIBED IN THE DECOMMISSIONING AND SITE RESTORATION PLAN THAT IS
40 APPROVED BY THE CITY, TOWN OR COUNTY WHERE THE SOLAR ENERGY POWER PLANT IS
41 LOCATED UNLESS THE CITY, TOWN OR COUNTY DETERMINES IN WRITING THAT A
42 PROVISION OF THE PLAN IS NOT NECESSARY.

43 E. A CITY, TOWN OR COUNTY MAY ADOPT AND ENFORCE MINIMUM STANDARDS
44 AND PROCEDURES FOR THE DECOMMISSIONING OF A SOLAR ENERGY POWER PLANT THAT
45 IS SUBJECT TO A LAND USE OR ZONING PERMIT AUTHORIZED PURSUANT TO THIS

1 CHAPTER. THE MINIMUM STANDARDS AND PROCEDURES SHALL COVER ALL OF THE
2 FOLLOWING:

3 1. THE REMOVAL OF ALL ABOVEGROUND COMPONENTS, INCLUDING SOLAR
4 ARRAYS, TRANSFORMERS, BATTERY ENERGY STORAGE SYSTEMS, ABOVEGROUND
5 COLLECTION CABLES AND POLES.

6 2. THE REMOVAL OF ALL FOUNDATIONS, BURIED PROJECT COMPONENTS AND
7 COLLECTION LINES TO A DEPTH DETERMINED BY THE CITY, TOWN OR COUNTY, UNLESS
8 THE CITY, TOWN OR COUNTY AUTHORIZES A LESSER DEPTH IN WRITING OR, IF THE
9 SOLAR ENERGY POWER PLANT IS LOCATED ON PRIVATE LAND, THE LANDOWNER AGREES
10 TO A LESSER DEPTH AND THE EXISTENCE OF THE REMAINING FOUNDATIONS OR BURIED
11 PROJECT COMPONENTS ARE DISCLOSED IN WRITING AND RECORDED WITH THE COUNTY
12 RECORDER IN THE COUNTY WHERE THE LAND IS LOCATED.

13 3. THE COMPLETION OF ALL REMOVAL ACTIVITIES AFTER DECOMMISSIONING
14 INITIATION WITHIN A TIME PERIOD THAT IS DESIGNATED BY THE CITY, TOWN OR
15 COUNTY, UNLESS THE CITY, TOWN OR COUNTY AUTHORIZES A LONGER TIME PERIOD IN
16 WRITING.

17 F. A CITY, TOWN OR COUNTY MAY ADOPT AND ENFORCE MINIMUM STANDARDS
18 AND PROCEDURES FOR THE RESTORATION OF A SOLAR ENERGY POWER PLANT SITE THAT
19 IS SUBJECT TO A LAND USE OR ZONING PERMIT AUTHORIZED PURSUANT TO THIS
20 CHAPTER. THE MINIMUM STANDARDS AND PROCEDURES SHALL COVER ALL OF THE
21 FOLLOWING:

22 1. THE REASONABLE MINIMIZATION OR FILLING OF ANY GROUND
23 DISTURBANCES AND RESTORATION OF THE SITE'S GROUND CONTOURS AND GRADING TO
24 ITS ORIGINAL GROUND CONTOURS AND GRADING, AS DETERMINED BY THE CITY, TOWN
25 OR COUNTY WHERE THE SITE IS LOCATED.

26 2. THE REASONABLE RESTORATION AND REESTABLISHMENT OF DISTURBED
27 ON-SITE SOILS, VEGETATION AND GROUND COVERS TO A CONDITION THAT IS
28 CONSISTENT WITH OR SUPPORTS THE RETURN OF THE SITE OVER TIME TO ITS
29 NATURAL UNDEVELOPED CONDITION, AS DETERMINED BY THE CITY, TOWN OR COUNTY
30 WHERE THE SITE IS LOCATED, WHICH MAY INCLUDE PLANTING ONE OR MORE
31 SITE-SPECIFIC NATIVE PLANTS OR SPECIES OF ONE OR MORE SIZES, VARIETIES OR
32 MATURITIES PER SQUARE AREA. IRRIGATION IS NOT REQUIRED.

33 3. THE ADEQUATE RESTORATION, RETENTION OR REMOVAL OF OTHER
34 IMPROVEMENTS, INCLUDING PAVED ROADS, ACCESS ROADS, FENCING, DRAINAGE
35 IMPROVEMENTS, WELLS AND OTHER RESIDUAL MINOR IMPROVEMENTS, AS DETERMINED
36 BY THE CITY, TOWN OR COUNTY WHERE THE SITE IS LOCATED.

37 4. THE REMOVAL AND REMEDIATION OF ANY HAZARDOUS MATERIALS AND
38 WASTE.

39 5. THE COMPLETION OF ALL SITE RESTORATION ACTIVITIES AFTER
40 DECOMMISSIONING COMPLETION WITHIN A TIME PERIOD THAT IS DESIGNATED BY THE
41 CITY, TOWN OR COUNTY UNLESS THE CITY, TOWN OR COUNTY AUTHORIZES IN WRITING
42 A LONGER TIME PERIOD.

43 G. IF A SOLAR ENERGY POWER PLANT OWNER OR OPERATOR FAILS TO
44 COMPLETE DECOMMISSIONING AND SITE RESTORATION WITHIN THE TIME PERIOD
45 PRESCRIBED BY THE CITY, TOWN OR COUNTY PURSUANT TO THIS SECTION, AFTER

1 PROVIDING REASONABLE NOTICE TO THE LANDOWNER, THE CITY, TOWN OR COUNTY MAY
2 ENTER THE SITE TO INITIATE OR COMPLETE DECOMMISSIONING OR SITE RESTORATION
3 PURSUANT TO THE DECOMMISSIONING AND SITE RESTORATION PLAN.

4 H. A CITY, TOWN OR COUNTY SHALL ADOPT A PROCEDURE FOR CERTIFYING
5 WHEN DECOMMISSIONING AND SITE RESTORATION ACTIVITIES HAVE BEEN COMPLETED,
6 FOR RECEIVING NOTIFICATION RELATED TO THE COMPLETION AND FOR RELEASING A
7 SOLAR ENERGY POWER PLANT OWNER'S OR OPERATOR'S FINANCIAL ASSURANCE
8 DESCRIBED IN SECTION 30-905.

9 I. NOTWITHSTANDING SUBSECTION H OF THIS SECTION, IF A SOLAR ENERGY
10 POWER PLANT OWNER OR OPERATOR COMPLETES ALL DECOMMISSIONING AND SITE
11 RESTORATION ACTIVITIES PURSUANT TO THIS SECTION AND NOTIFIES THE CITY,
12 TOWN OR COUNTY IN WRITING THAT ALL DECOMMISSIONING AND SITE RESTORATION
13 ACTIVITIES HAVE BEEN COMPLETED, WITHIN NINETY DAYS AFTER THE DATE OF THE
14 NOTICE:

15 1. THE OWNER OR OPERATOR IS RELEASED FROM ANY OBLIGATION PRESCRIBED
16 IN THIS CHAPTER.

17 2. THE CITY, TOWN OR COUNTY SHALL RETURN OR RELEASE ANY REMAINING
18 OWNER'S OR OPERATOR'S FINANCIAL ASSURANCE DESCRIBED IN SECTION 30-905.

19 J. THE OWNER OR OPERATOR OF A SOLAR ENERGY POWER PLANT SHALL
20 PROVIDE A COPY OF THE DECOMMISSIONING AND SITE RESTORATION PLAN TO THE
21 CORPORATION COMMISSION, STATE LAND DEPARTMENT AND DEPARTMENT OF
22 ENVIRONMENTAL QUALITY ON REQUEST.

23 30-905. Financial assurance; cost estimate update; estimated
24 salvage value; waiver

25 A. BEGINNING ON A DATE DETERMINED BY THE CITY, TOWN OR COUNTY WHERE
26 A SOLAR ENERGY POWER PLANT IS LOCATED, A SOLAR ENERGY POWER PLANT OWNER OR
27 OPERATOR SHALL CONTINUOUSLY MAINTAIN FINANCIAL ASSURANCE, IN A FORM
28 DETERMINED BY THE CITY, TOWN OR COUNTY, WHICH MAY INCLUDE A BOND IN AN
29 AMOUNT THAT IS NOT LESS THAN THE TOTAL ESTIMATED COST TO DECOMMISSION THE
30 SOLAR ENERGY POWER PLANT AND RESTORE THE SOLAR ENERGY POWER PLANT SITE AS
31 PRESCRIBED IN SECTION 30-904, AS DETERMINED BY THE CITY, TOWN OR COUNTY
32 WHERE THE SOLAR ENERGY POWER PLANT IS LOCATED AND THAT IS REASONABLY BASED
33 ON THE ESTIMATE PROVIDED PURSUANT TO SECTION 30-904.

34 B. A CITY, TOWN OR COUNTY MAY REQUIRE A SOLAR ENERGY POWER PLANT
35 OWNER OR OPERATOR TO UPDATE THE COST ESTIMATE PROVIDED PURSUANT TO SECTION
36 30-904, SUBSECTION C, PARAGRAPH 2 OR ADOPT PROCEDURES FOR THE OWNER OR
37 OPERATOR OF A SOLAR ENERGY POWER PLANT TO SUBMIT UPDATED COST ESTIMATES TO
38 THE CITY, TOWN OR COUNTY BASED ON A SCHEDULE OR TIMELINE THAT IS
39 ESTABLISHED BY THE CITY, TOWN OR COUNTY. A CITY, TOWN OR COUNTY THAT
40 ADOPTS REQUIREMENTS OR PROCEDURES MAY REASSESS THE AMOUNT OF ANY FINANCIAL
41 ASSURANCE REQUIRED UNDER SUBSECTION A OF THIS SECTION AND, BASED ON THE
42 MOST RECENT COST ESTIMATE RECEIVED BY THE CITY, TOWN OR COUNTY, MAY MODIFY
43 OR ADJUST THE AMOUNT REQUIRED PURSUANT TO THIS SECTION.

44 C. A CITY, TOWN OR COUNTY MAY ADOPT PROCEDURES FOR AN OWNER OR
45 OPERATOR OF A SOLAR ENERGY POWER PLANT TO SUBMIT WITH THE COST ESTIMATE

1 PROVIDED PURSUANT TO SECTION 30-904, SUBSECTION C, PARAGRAPH 2 OR AN
2 UPDATED COST ESTIMATE DESCRIBED IN SUBSECTION B OF THIS SECTION, AND FOR
3 THE CITY, TOWN OR COUNTY TO CONSIDER DURING THE CALCULATION OF THE AMOUNT
4 OF FINANCIAL ASSURANCE REQUIRED PURSUANT TO SUBSECTION A OF THIS SECTION,
5 THE ESTIMATED SALVAGE VALUE OF THE SOLAR ENERGY POWER PLANT EQUIPMENT AT
6 THE TIME OF DECOMMISSIONING. IF THE CITY, TOWN OR COUNTY ADOPTS THE
7 PROCEDURES, THE CITY, TOWN OR COUNTY MAY ESTABLISH MINIMUM REQUIREMENTS
8 FOR DETERMINING HOW THE SALVAGE VALUE SHOULD BE ESTIMATED AND WHO SHOULD
9 BE DEEMED QUALIFIED TO MAKE THE ESTIMATES. A CITY, TOWN OR COUNTY THAT
10 HAS ADOPTED THE PROCEDURES MAY ALLOW A FINANCIAL ASSURANCE REQUIRED
11 PURSUANT TO THIS SECTION TO BE NOT LESS THAN THE TOTAL ESTIMATED COST OF
12 DECOMMISSIONING THE SOLAR ENERGY POWER PLANT AND RESTORING THE SOLAR
13 ENERGY POWER PLANT SITE, NET OF THE ESTIMATED SALVAGE VALUE AT THE TIME OF
14 DECOMMISSIONING.

15 D. A CITY, TOWN OR COUNTY THAT HAS ADOPTED THE PROCEDURES
16 AUTHORIZED IN SUBSECTION C OF THIS SECTION MAY WAIVE THE FINANCIAL
17 ASSURANCE REQUIRED PURSUANT TO THIS SECTION IF THE CITY, TOWN OR COUNTY
18 DETERMINES, BASED ON THE MOST RECENT COST ESTIMATE SUBMITTED TO AND
19 APPROVED BY THE CITY, TOWN OR COUNTY PURSUANT TO THIS SECTION, THAT THE
20 ESTIMATED SALVAGE VALUE OF THE SOLAR ENERGY POWER PLANT AT THE TIME OF
21 DECOMMISSIONING IS SUFFICIENT TO COVER THE ESTIMATED COST OF
22 DECOMMISSIONING THE SOLAR ENERGY POWER PLANT AND RESTORING THE SOLAR
23 ENERGY POWER PLANT SITE. A SOLAR ENERGY POWER PLANT OWNER OR OPERATOR
24 THAT SUBMITS AN ESTIMATED SALVAGE VALUE TO A CITY, TOWN OR COUNTY PURSUANT
25 TO THIS SECTION IS NOT GUARANTEED A WAIVER OF FINANCIAL ASSURANCE BUT THE
26 CITY, TOWN OR COUNTY THAT HAS ADOPTED THE PROCEDURES SHALL CONSIDER THE
27 ESTIMATED SALVAGE VALUE WHEN DETERMINING THE AMOUNT OF FINANCIAL ASSURANCE
28 TO BE REQUIRED PURSUANT TO THIS SECTION.

29 E. IN LIEU OF MAINTAINING THE FINANCIAL ASSURANCE REQUIRED UNDER
30 THIS SECTION, A SOLAR ENERGY POWER PLANT OWNER OR OPERATOR THAT IS A CITY,
31 TOWN, COUNTY OR OTHER LOCAL GOVERNMENTAL ENTITY OR POLITICAL SUBDIVISION
32 OF THIS STATE MAY DEMONSTRATE FINANCIAL CAPABILITY OF MEETING THE COSTS OF
33 DECOMMISSIONING THE SOLAR ENERGY POWER PLANT AND RESTORING THE SITE AS
34 PRESCRIBED IN SECTION 30-904 BY SUBMITTING BOTH OF THE FOLLOWING:

35 1. A LETTER THAT IS SIGNED BY THE CHIEF FINANCIAL OFFICER OF THE
36 CITY, TOWN, COUNTY OR OTHER LOCAL GOVERNMENTAL ENTITY OR POLITICAL
37 SUBDIVISION OF THIS STATE STATING THAT THE CITY, TOWN, COUNTY OR OTHER
38 LOCAL GOVERNMENTAL ENTITY OR POLITICAL SUBDIVISION IS FINANCIALLY CAPABLE
39 OF MEETING THE COSTS OF DECOMMISSIONING THE SOLAR ENERGY POWER PLANT AND
40 RESTORING THE SITE AS PRESCRIBED IN SECTION 30-904.

41 2. A STATEMENT SPECIFYING THE DETAILS OF THE FINANCIAL ARRANGEMENTS
42 THAT THE CITY, TOWN, COUNTY OR OTHER LOCAL GOVERNMENTAL ENTITY OR
43 POLITICAL SUBDIVISION OF THIS STATE WILL USE TO MEET THE ESTIMATED
44 DECOMMISSIONING AND SITE RESTORATION COSTS.

1 F. IN LIEU OF MAINTAINING THE FINANCIAL ASSURANCE REQUIRED UNDER
2 THIS SECTION, A SOLAR ENERGY POWER PLANT OWNER OR OPERATOR THAT IS A
3 PUBLIC SERVICE CORPORATION REGULATED BY THE CORPORATION COMMISSION MAY
4 DEMONSTRATE FINANCIAL CAPABILITY OF MEETING THE COSTS OF DECOMMISSIONING
5 THE SOLAR ENERGY POWER PLANT AND RESTORING THE SITE AS PRESCRIBED IN
6 SECTION 30-904 BY SUBMITTING BOTH OF THE FOLLOWING:

7 1. AN ORDER ISSUED BY THE CORPORATION COMMISSION STATING THAT THE
8 CORPORATION COMMISSION HAS ADOPTED A FINANCIAL ASSURANCE REQUIREMENT FOR
9 THE PUBLIC SERVICE CORPORATION THAT IS SUBSTANTIALLY SIMILAR TO THE
10 REQUIREMENT ESTABLISHED IN SUBSECTION A OF THIS SECTION AND APPROVING A
11 PROCESS OR MECHANISM FOR COVERING THE ESTIMATED COST OF DECOMMISSIONING
12 THE SOLAR ENERGY POWER PLANT AND RESTORING THE SITE AS PRESCRIBED IN
13 SECTION 30-904.

14 2. A STATEMENT SPECIFYING THE DETAILS OF THE FINANCIAL ARRANGEMENTS
15 OR MECHANISMS THAT THE CORPORATION COMMISSION HAS APPROVED TO ENSURE THAT
16 THE PUBLIC SERVICE CORPORATION MEETS THE ESTIMATED DECOMMISSIONING AND
17 SITE RESTORATION COSTS.

18 G. A CITY, TOWN OR COUNTY MAY USE THE FINANCIAL ASSURANCE REQUIRED
19 BY THIS SECTION TO COVER THE COST OF INITIATING OR COMPLETING
20 DECOMMISSIONING OR SITE RESTORATION AS DESCRIBED IN THE DECOMMISSIONING
21 AND SITE RESTORATION PLAN AS AUTHORIZED PURSUANT TO PROCEDURES ADOPTED BY
22 THE CITY, TOWN OR COUNTY PURSUANT TO SECTION 30-903, SUBSECTION B OR E OR
23 IF THE SOLAR ENERGY POWER PLANT OWNER OR OPERATOR FAILS TO COMPLETE
24 DECOMMISSIONING AND SITE RESTORATION AS DESCRIBED IN SECTION 30-904,
25 SUBSECTION G.

26 30-906. Liability insurance required; notice of cancellation;
27 certificate of insurance

28 A. A SOLAR ENERGY POWER PLANT OWNER OR OPERATOR SHALL MAINTAIN A
29 COMMERCIAL GENERAL LIABILITY INSURANCE POLICY THAT RESULTS IN COVERAGE OF
30 ANY REASONABLE LIABILITY TO THIRD PARTIES FOR REAL OR PERSONAL INJURIES OR
31 DAMAGES ARISING FROM THE SOLAR ENERGY POWER PLANT OWNER'S OR OPERATOR'S
32 ACTIONS OR NEGLIGENCE RELATED TO THE CONSTRUCTION, OPERATION, MAINTENANCE
33 OR DECOMMISSIONING OF THE SOLAR ENERGY POWER PLANT OR THE RESTORATION OF
34 THE SOLAR ENERGY POWER PLANT SITE.

35 B. A SOLAR ENERGY POWER PLANT OWNER OR OPERATOR SHALL IMMEDIATELY
36 PROVIDE WRITTEN NOTICE OF ANY CANCELLATION OF THE INSURANCE POLICY
37 DESCRIBED IN SUBSECTION A OF THIS SECTION TO THE CITY, TOWN OR COUNTY
38 WHERE THE SOLAR ENERGY POWER PLANT IS LOCATED.

39 C. TO THE EXTENT THAT A CONTRACTUAL RELATIONSHIP EXISTS BETWEEN A
40 SOLAR ENERGY POWER PLANT OWNER OR OPERATOR AND THE CITY, TOWN, OR COUNTY
41 WHERE THE SOLAR ENERGY POWER PLANT IS LOCATED, THE CITY, TOWN OR COUNTY
42 WHERE THE SOLAR ENERGY POWER PLANT IS LOCATED MAY REQUIRE THE SOLAR ENERGY
43 POWER PLANT OWNER OR OPERATOR TO MAINTAIN, WHEN REQUIRED BY THE CONTRACT,
44 COMMERCIAL GENERAL LIABILITY INSURANCE COVERAGE WITH RESPECT TO THE SOLAR
45 ENERGY POWER PLANT THAT NAMES THE CITY, TOWN OR COUNTY AS AN ADDITIONAL

1 INSURED. WHEN A CITY, TOWN OR COUNTY IS NAMED AS AN ADDITIONAL INSURED,
2 THE SOLAR ENERGY POWER PLANT OWNER OR OPERATOR SHALL PROVIDE A CERTIFICATE
3 OF INSURANCE DEMONSTRATING COVERAGE ON WRITTEN REQUEST FROM THE CITY, TOWN
4 OR COUNTY.

5 D. A CITY, TOWN OR COUNTY THAT APPROVES A PERMIT, STANDARD,
6 CONDITION, REQUIREMENT OR DECOMMISSIONING AND SITE RESTORATION PLAN FOR A
7 SOLAR ENERGY POWER PLANT PURSUANT TO THIS CHAPTER IS NOT LIABLE OR
8 RESPONSIBLE FOR ANY DAMAGES, ANY REAL OR PERSONAL INJURIES OR ANY ACTS OR
9 OMISSIONS RELATED TO OR RESULTING FROM THE CONSTRUCTION, OPERATION,
10 MAINTENANCE OR DECOMMISSIONING OF THE SOLAR ENERGY POWER PLANT OR THE
11 RESTORATION OF THE SOLAR ENERGY POWER PLANT SITE BASED SOLELY ON THE FACT
12 THAT THE CITY, TOWN OR COUNTY WHERE THE SOLAR ENERGY POWER PLANT IS
13 LOCATED ISSUED THE APPROVAL. THE CITY, TOWN OR COUNTY SHALL NOT BE NAMED
14 AS AN ADDITIONAL PARTY OR DEFENDANT IN ANY CAUSE OF ACTION THAT IS BASED
15 SOLELY ON ANY APPROVAL DESCRIBED IN THIS SUBSECTION.

16 30-907. Applicability of chapter

17 A. THIS CHAPTER APPLIES TO ANY SOLAR ENERGY POWER PLANT THAT IS THE
18 SUBJECT OF AN INITIAL LAND USE OR ZONING PERMIT APPLICATION IF THE
19 APPLICATION IS BOTH:

20 1. SUBMITTED TO A CITY, TOWN OR COUNTY WHERE THE SOLAR ENERGY POWER
21 PLANT IS LOCATED.

22 2. SUBMITTED FOR THE FIRST TIME FOR THE SOLAR ENERGY POWER PLANT ON
23 OR AFTER THE EFFECTIVE DATE OF THIS SECTION.

24 B. THIS CHAPTER DOES NOT APPLY TO A SOLAR ENERGY POWER PLANT THAT
25 IS THE SUBJECT OF AN INITIAL LAND USE OR ZONING PERMIT APPLICATION IF THE
26 APPLICATION IS BOTH:

27 1. SUBMITTED TO A CITY, TOWN OR COUNTY WHERE THE SOLAR ENERGY POWER
28 PLANT IS LOCATED.

29 2. SUBMITTED FOR THE FIRST TIME FOR THE SOLAR ENERGY POWER PLANT
30 BEFORE THE EFFECTIVE DATE OF THIS CHAPTER.

31 C. THIS CHAPTER APPLIES ONLY TO A GROUND-MOUNTED SOLAR ENERGY
32 SYSTEM THAT IS FIFTY-ONE KILOWATTS OR MORE AND THAT IS LOCATED OR PROPOSED
33 TO BE LOCATED ON VACANT OR AGRICULTURAL LAND. THIS CHAPTER DOES NOT APPLY
34 TO A SOLAR ENERGY SYSTEM THAT IS MOUNTED ON A RESIDENTIAL, COMMERCIAL OR
35 INDUSTRIAL ROOF OR STRUCTURE THAT HAS A PRIMARY PURPOSE TO PROVIDE SHADE
36 OR SHELTER OVER LANDS THAT HAVE BEEN DEDICATED, IMPROVED OR ZONED FOR A
37 PURPOSE OTHER THAN TO GENERATE SOLAR ELECTRIC ENERGY.

38 CHAPTER 8

39 WIND ENERGY POWER PLANTS

40 ARTICLE 1. GENERAL PROVISIONS

41 30-1001. Local government; standards; conditions;
42 requirements; procedures

43 A. A CITY, TOWN OR COUNTY MAY ADOPT ZONING STANDARDS, SITE SPECIFIC
44 CONDITIONS AND PERMITTING REQUIREMENTS OR PROCEDURES FOR A WIND ENERGY
45 POWER PLANT THAT IS LOCATED IN THE CITY, TOWN OR COUNTY.

1 B. AN APPLICANT FOR A WIND ENERGY POWER PLANT SHALL COMPLY WITH THE
2 REQUIREMENTS AND PROCEDURES FOR A WIND ENERGY POWER PLANT THAT ARE ADOPTED
3 BY THE CITY, TOWN OR COUNTY IN WHICH THE WIND ENERGY POWER PLANT IS TO BE
4 LOCATED.

5 30-1002. Transfer or sale

6 A. THE TRANSFER OF A WIND ENERGY POWER PLANT OR SPECIAL USE PERMIT
7 OR THE SALE OF THE ENTITY OWNING THE WIND ENERGY POWER PLANT MAY NOT OCCUR
8 WITHOUT WRITTEN ACCEPTANCE BY THE TRANSFEREE OF THE TRANSFEROR'S
9 OBLIGATIONS UNDER THIS CHAPTER, INCLUDING THE OBLIGATION TO MAINTAIN AND
10 IMPLEMENT A DECOMMISSIONING AND SITE RESTORATION PLAN PURSUANT TO SECTION
11 30-1004, TO DEMONSTRATE AND MAINTAIN THE FINANCIAL ASSURANCE PRESCRIBED BY
12 SECTION 30-1005 AND TO MAINTAIN THE LIABILITY INSURANCE AS PRESCRIBED BY
13 SECTION 30-1006. A TRANSFER OR SALE MAY NOT ELIMINATE THE LIABILITY OR
14 RESPONSIBILITY OF A TRANSFEROR OR OF ANY OTHER PARTY UNDER THIS CHAPTER
15 FOR ACTS OR OMISSIONS OF THE TRANSFEROR OR OTHER PARTY OCCURRING BEFORE
16 THE TRANSFER OR SALE, EXCEPT WHEN THE TRANSFEREE AND TRANSFEROR PROVIDE
17 FOR THE TRANSFER OF LIABILITY OR RESPONSIBILITY BY AGREEMENT.

18 B. FOR A TRANSFER OF UNIT OWNERSHIP, THE CITY, TOWN OR COUNTY MAY
19 REASSESS THE AMOUNT OF ANY FINANCIAL ASSURANCE REQUIRED UNDER SECTION
20 30-1005 AND THE WIND ENERGY POWER PLANT OWNER OR OPERATOR SHALL REIMBURSE
21 ANY REASONABLE COSTS INCURRED BY THE CITY, TOWN OR COUNTY TO OBTAIN THE
22 REASSESSMENT.

23 C. A CITY, TOWN OR COUNTY MAY ESTABLISH A PROCEDURE FOR:

24 1. RECEIVING NOTICE OF A SALE AND TRANSFER OF OBLIGATIONS UNDER
25 THIS SECTION.

26 2. APPROVING A SALE AND TRANSFER OF OBLIGATIONS UNDER THIS SECTION.

27 D. IF A WIND ENERGY POWER PLANT OWNER SELLS A WIND ENERGY POWER
28 PLANT TO AN ENTITY DESCRIBED IN SECTION 30-1005, SUBSECTION E OR F, THE
29 WIND ENERGY POWER PLANT OWNER SHALL PROVIDE WRITTEN NOTICE OF THE SALE TO
30 THE CITY, TOWN OR COUNTY. WITHIN FIFTEEN DAYS AFTER RECEIVING THE NOTICE,
31 THE CITY, TOWN OR COUNTY SHALL WAIVE THE REQUIREMENTS OF SECTION 30-1005
32 AND RETURN OR RELEASE TO THE WIND ENERGY POWER PLANT OWNER ANY FINANCIAL
33 ASSURANCE PROVIDED TO THE CITY, TOWN OR COUNTY UNLESS OTHERWISE PROVIDED
34 BY AGREEMENT.

35 E. BEFORE OR IN CONJUNCTION WITH APPROVING A LAND USE OR ZONING
36 PERMIT APPLICATION FOR A WIND ENERGY POWER PLANT, A CITY, TOWN OR COUNTY
37 MAY ADOPT A PROCEDURE FOR WAIVING THE FINANCIAL ASSURANCE PRESCRIBED BY
38 SECTION 30-1005 IF THE OWNER OR OPERATOR OF THE PLANNED WIND ENERGY POWER
39 PLANT SUBMITS THE FOLLOWING DOCUMENTATION IN CONJUNCTION WITH ITS
40 APPLICATION:

41 1. EVIDENCE THAT THE WIND ENERGY POWER PLANT IS BEING CONSTRUCTED
42 PURSUANT TO A BUILD-TRANSFER AGREEMENT WITH AN ENTITY DESCRIBED IN SECTION
43 30-1005, SUBSECTION E OR F AND THE TRANSFER OF OWNERSHIP WILL OCCUR WITHIN
44 A REASONABLE TIME PERIOD, AS DETERMINED BY THE CITY, TOWN OR COUNTY, AFTER
45 THE DATE OF CONSTRUCTION OR OPERATION.

1 2. THE DOCUMENTATION PRESCRIBED BY SECTION 30-1005, SUBSECTION E OR
2 F, AS APPLICABLE TO THE RELEVANT ENTITY.

3 30-1003. Duty to maintain; cessation of use; abandonment;
4 damage; notification requirements

5 A. THE OWNER OR OPERATOR OF A WIND ENERGY POWER PLANT SHALL:

6 1. MAINTAIN THE PLANT IN GOOD CONDITION AND REPAIR.

7 2. EXCEPT DURING PERIODS OF REGULAR MAINTENANCE AND PLANNED
8 CURTAILMENTS, ENSURE THAT THE PLANT REMAINS FUNCTIONAL AND OPERATIONAL
9 UNTIL DECOMMISSIONING OF THE PLANT IS INITIATED PURSUANT TO THIS CHAPTER.

10 B. A CITY, TOWN OR COUNTY MAY ADOPT REASONABLE TIMELINES AND
11 REQUIREMENTS FOR THE CURE AND REPAIR OF VISIBLE DAMAGE OR DEFECTS TO A
12 VISIBLE COMPONENT OF A WIND ENERGY POWER PLANT AND FOR THE RESTORATION AND
13 REPAIR, REPLACEMENT OR REMOVAL OF ANY COMPONENT OF A WIND ENERGY POWER
14 PLANT THAT IS NONFUNCTIONAL OR INOPERABLE.

15 C. A CITY, TOWN OR COUNTY MAY ADOPT AND ENFORCE REASONABLE
16 PENALTIES AND PROCEDURES FOR THE VIOLATION OF OR NONCOMPLIANCE WITH ANY
17 TIMELINE OR REQUIREMENT THAT IS AUTHORIZED PURSUANT TO SUBSECTION A OR B
18 OF THIS SECTION, INCLUDING INITIATING OR COMPLETING DECOMMISSIONING OR
19 SITE RESTORATION AT THE OWNER'S OR OPERATOR'S EXPENSE PURSUANT TO SECTION
20 30-1004 IF THE OWNER OR OPERATOR FAILS TO COMPLY WITH THE CITY'S, TOWN'S
21 OR COUNTY'S REASONABLE TIMELINES OR REQUIREMENTS.

22 D. A WIND ENERGY POWER PLANT OWNER OR OPERATOR SHALL NOT ABANDON A
23 WIND ENERGY POWER PLANT FOR ANY REASON, INCLUDING BANKRUPTCY OR FINANCIAL
24 INSOLVENCY. IF A WIND ENERGY POWER PLANT OWNER FILES FOR BANKRUPTCY OR
25 OTHERWISE BECOMES INSOLVENT, THE OWNER SHALL IMMEDIATELY PROVIDE WRITTEN
26 NOTICE OF THE BANKRUPTCY OR INSOLVENCY TO THE CITY, TOWN OR COUNTY WHERE
27 THE WIND ENERGY POWER PLANT IS LOCATED.

28 E. A CITY, TOWN OR COUNTY MAY ADOPT REASONABLE PROCEDURES FOR
29 DETERMINING WHEN A WIND ENERGY POWER PLANT HAS BEEN ABANDONED AND MAY
30 ADOPT REASONABLE TIMELINES AND PROCEDURES FOR INITIATING AND COMPLETING
31 THE DECOMMISSIONING AND SITE RESTORATION FOR A WIND ENERGY POWER PLANT
32 THAT HAS BEEN ABANDONED OR WHOSE OWNER HAS FILED FOR BANKRUPTCY OR
33 OTHERWISE BECOME INSOLVENT.

34 F. NOTWITHSTANDING ANY TIMELINE OR PROCEDURE THAT A CITY, TOWN OR
35 COUNTY ADOPTS PURSUANT TO THIS SECTION, A CITY, TOWN OR COUNTY SHALL NOT
36 INITIATE DECOMMISSIONING OR SITE RESTORATION UNDER SUBSECTION E OF THIS
37 SECTION UNLESS THE CITY, TOWN OR COUNTY PROVIDES NOTICE AND AN OPPORTUNITY
38 FOR A HEARING TO THE FOLLOWING:

39 1. THE LANDOWNER WHERE THE WIND ENERGY POWER PLANT IS LOCATED.

40 2. ALL APPLICABLE CREDITORS AND PARTIES TO THE RELEVANT BANKRUPTCY
41 PROCEEDING.

42 30-1004. Decommissioning and site restoration plan;
43 requirements; certification

44 A. BEFORE A CITY, TOWN OR COUNTY MAY APPROVE A LAND USE OR ZONING
45 PERMIT APPLICATION FOR A WIND ENERGY POWER PLANT, THE WIND ENERGY POWER

1 PLANT OWNER OR OPERATOR SHALL PROVIDE THE CITY, TOWN OR COUNTY WHERE THE
2 WIND ENERGY POWER PLANT IS LOCATED WITH A DECOMMISSIONING AND SITE
3 RESTORATION PLAN AS PRESCRIBED IN THIS SECTION.

4 B. A CITY, TOWN OR COUNTY MAY ADOPT PROCEDURES FOR REVIEWING AND
5 APPROVING A DECOMMISSIONING AND SITE RESTORATION PLAN THAT A WIND ENERGY
6 POWER PLANT OWNER OR OPERATOR SUBMITS TO THE CITY, TOWN OR COUNTY. THE
7 PROCEDURES MAY INCLUDE REQUIREMENTS FOR RECEIVING OR REVIEWING PUBLIC
8 COMMENTS OR CONDUCTING ONE OR MORE PUBLIC MEETINGS OR HEARINGS.

9 C. A CITY, TOWN OR COUNTY MAY ESTABLISH THE MINIMUM COMPONENTS OF A
10 DECOMMISSIONING AND SITE RESTORATION PLAN. THE MINIMUM COMPONENTS SHALL
11 INCLUDE ALL OF THE FOLLOWING:

12 1. A BRIEF NARRATIVE THAT DESCRIBES HOW THE WIND ENERGY POWER PLANT
13 WILL BE DECOMMISSIONED AND HOW THE SITE WILL BE RESTORED AND THAT IS
14 CONSISTENT WITH THE MINIMUM DECOMMISSIONING AND SITE RESTORATION STANDARDS
15 AND PROCEDURES ADOPTED BY THE CITY, TOWN OR COUNTY PURSUANT TO SUBSECTIONS
16 F AND G OF THIS SECTION.

17 2. AN ESTIMATE OF THE COST OF DECOMMISSIONING THE WIND ENERGY POWER
18 PLANT AND RESTORING THE WIND ENERGY POWER PLANT SITE. THE ESTIMATE SHALL
19 BE MADE BY A PERSON WHOM THE CITY, TOWN OR COUNTY DEEMS QUALIFIED TO
20 ESTIMATE DECOMMISSIONING AND SITE RESTORATION COSTS FOR THE WIND ENERGY
21 POWER PLANT.

22 3. A DESCRIPTION OF THE FINANCIAL RESOURCES THAT THE WIND ENERGY
23 POWER PLANT OWNER OR OPERATOR WILL USE TO ACCOMPLISH DECOMMISSIONING AND
24 RESTORATION AND THAT COMPLY WITH SECTION 30-1005.

25 D. A WIND ENERGY POWER PLANT OWNER OR OPERATOR SHALL DECOMMISSION A
26 WIND ENERGY POWER PLANT AND RESTORE A WIND ENERGY POWER PLANT SITE AS
27 DESCRIBED IN THE DECOMMISSIONING AND SITE RESTORATION PLAN THAT IS
28 APPROVED BY THE CITY, TOWN OR COUNTY WHERE THE WIND ENERGY POWER PLANT IS
29 LOCATED UNLESS THE CITY, TOWN OR COUNTY DETERMINES IN WRITING THAT A
30 PROVISION OF THE PLAN IS NOT NECESSARY.

31 E. A CITY, TOWN OR COUNTY MAY ADOPT AND ENFORCE MINIMUM STANDARDS
32 AND PROCEDURES FOR THE DECOMMISSIONING OF A WIND ENERGY POWER PLANT THAT
33 IS SUBJECT TO A LAND USE OR ZONING PERMIT AUTHORIZED PURSUANT TO THIS
34 CHAPTER. THE MINIMUM STANDARDS AND PROCEDURES SHALL COVER ALL OF THE
35 FOLLOWING:

36 1. THE REMOVAL OF ALL ABOVEGROUND COMPONENTS, INCLUDING TURBINES,
37 BLADES, NACELLES, TOWERS, TRANSFORMERS, BATTERY ENERGY STORAGE SYSTEMS,
38 ABOVEGROUND COLLECTION CABLES AND POLES.

39 2. THE REMOVAL OF ALL FOUNDATIONS, BURIED PROJECT COMPONENTS AND
40 COLLECTION LINES TO A DEPTH DETERMINED BY THE CITY, TOWN OR COUNTY, UNLESS
41 THE CITY, TOWN OR COUNTY AUTHORIZES A LESSER DEPTH IN WRITING OR, IF THE
42 WIND ENERGY POWER PLANT IS LOCATED ON PRIVATE LAND, THE LANDOWNER AGREES
43 TO A LESSER DEPTH AND THE EXISTENCE OF THE REMAINING FOUNDATIONS OR BURIED
44 PROJECT COMPONENTS ARE DISCLOSED IN WRITING AND RECORDED WITH THE COUNTY
45 RECORDER IN THE COUNTY WHERE THE LAND IS LOCATED.

1 3. THE COMPLETION OF ALL REMOVAL ACTIVITIES AFTER DECOMMISSIONING
2 INITIATION WITHIN A TIME PERIOD THAT IS DESIGNATED BY THE CITY, TOWN OR
3 COUNTY, UNLESS THE CITY, TOWN OR COUNTY AUTHORIZES A LONGER TIME PERIOD IN
4 WRITING.

5 F. A CITY, TOWN OR COUNTY MAY ADOPT AND ENFORCE MINIMUM STANDARDS
6 AND PROCEDURES FOR THE RESTORATION OF A WIND ENERGY POWER PLANT SITE THAT
7 IS SUBJECT TO A LAND USE OR ZONING PERMIT AUTHORIZED PURSUANT TO THIS
8 CHAPTER. THE MINIMUM STANDARDS AND PROCEDURES SHALL COVER ALL OF THE
9 FOLLOWING:

10 1. THE REASONABLE MINIMIZATION OR FILLING OF ANY GROUND
11 DISTURBANCES AND RESTORATION OF THE SITE'S GROUND CONTOURS AND GRADING TO
12 ITS ORIGINAL GROUND CONTOURS AND GRADING, AS DETERMINED BY THE CITY, TOWN
13 OR COUNTY WHERE THE SITE IS LOCATED.

14 2. THE REASONABLE RESTORATION AND REESTABLISHMENT OF DISTURBED
15 ON-SITE SOILS, VEGETATION AND GROUND COVERS TO A CONDITION THAT IS
16 CONSISTENT WITH OR SUPPORTS THE RETURN OF THE SITE OVER TIME TO ITS
17 NATURAL UNDEVELOPED CONDITION, AS DETERMINED BY THE CITY, TOWN OR COUNTY
18 WHERE THE SITE IS LOCATED, WHICH MAY INCLUDE PLANTING ONE OR MORE
19 SITE-SPECIFIC NATIVE PLANTS OR SPECIES OF ONE OR MORE SIZES, VARIETIES OR
20 MATURITIES PER SQUARE AREA. IRRIGATION IS NOT REQUIRED.

21 3. THE ADEQUATE RESTORATION, RETENTION OR REMOVAL OF OTHER
22 IMPROVEMENTS, INCLUDING PAVED ROADS, ACCESS ROADS, FENCING, DRAINAGE
23 IMPROVEMENTS, WELLS AND OTHER RESIDUAL MINOR IMPROVEMENTS, AS DETERMINED
24 BY THE CITY, TOWN OR COUNTY WHERE THE SITE IS LOCATED.

25 4. THE REMOVAL AND REMEDIATION OF ANY HAZARDOUS MATERIALS AND
26 WASTE.

27 5. THE COMPLETION OF ALL SITE RESTORATION ACTIVITIES AFTER
28 DECOMMISSIONING COMPLETION WITHIN A TIME PERIOD THAT IS DESIGNATED BY THE
29 CITY, TOWN OR COUNTY UNLESS THE CITY, TOWN OR COUNTY AUTHORIZES IN WRITING
30 A LONGER TIME PERIOD.

31 G. IF A WIND ENERGY POWER PLANT OWNER OR OPERATOR FAILS TO COMPLETE
32 DECOMMISSIONING AND SITE RESTORATION WITHIN THE TIME PERIOD PRESCRIBED BY
33 THE CITY, TOWN OR COUNTY PURSUANT TO THIS SECTION, THE CITY, TOWN OR
34 COUNTY, AFTER PROVIDING REASONABLE NOTICE TO THE LANDOWNER, THE CITY, TOWN
35 OR COUNTY MAY ENTER THE SITE TO INITIATE OR COMPLETE DECOMMISSIONING AND
36 SITE RESTORATION PURSUANT TO THE DECOMMISSIONING PLAN.

37 H. A CITY, TOWN OR COUNTY SHALL ADOPT A PROCEDURE FOR CERTIFYING
38 WHEN DECOMMISSIONING AND SITE RESTORATION ACTIVITIES HAVE BEEN COMPLETED,
39 FOR RECEIVING NOTIFICATION RELATED TO THE COMPLETION AND FOR RELEASING A
40 WIND ENERGY POWER PLANT OWNER'S OR OPERATOR'S FINANCIAL ASSURANCE
41 DESCRIBED IN SECTION 30-1005.

42 I. NOTWITHSTANDING SUBSECTION H OF THIS SECTION, IF A WIND ENERGY
43 POWER PLANT OWNER OR OPERATOR COMPLETES ALL DECOMMISSIONING AND SITE
44 RESTORATION ACTIVITIES PURSUANT TO THIS SECTION AND NOTIFIES THE CITY,
45 TOWN OR COUNTY IN WRITING THAT ALL DECOMMISSIONING AND SITE RESTORATION

1 ACTIVITIES HAVE BEEN COMPLETED, WITHIN NINETY DAYS AFTER THE DATE OF THE
2 NOTICE:

3 1. THE OWNER OR OPERATOR IS RELEASED FROM ANY OBLIGATION PRESCRIBED
4 IN THIS CHAPTER.

5 2. THE CITY, TOWN OR COUNTY SHALL RETURN OR RELEASE ANY REMAINING
6 OWNER'S OR OPERATOR'S FINANCIAL ASSURANCE DESCRIBED IN SECTION 30-1005.

7 J. THE OWNER OR OPERATOR OF A WIND ENERGY POWER PLANT SHALL PROVIDE
8 A COPY OF THE DECOMMISSIONING AND SITE RESTORATION PLAN TO THE CORPORATION
9 COMMISSION, STATE LAND DEPARTMENT AND DEPARTMENT OF ENVIRONMENTAL QUALITY
10 ON REQUEST.

11 30-1005. Financial assurance; cost estimate update; estimated
12 salvage value; waiver

13 A. BEGINNING ON A DATE DETERMINED BY THE CITY, TOWN OR COUNTY WHERE
14 A WIND ENERGY POWER PLANT IS LOCATED, A WIND ENERGY POWER PLANT OWNER OR
15 OPERATOR SHALL CONTINUOUSLY MAINTAIN FINANCIAL ASSURANCE, IN A FORM
16 DETERMINED BY THE CITY, TOWN OR COUNTY, WHICH MAY INCLUDE A BOND IN AN
17 AMOUNT THAT IS NOT LESS THAN THE TOTAL ESTIMATED COST TO DECOMMISSION THE
18 WIND ENERGY POWER PLANT AND RESTORE THE WIND ENERGY POWER PLANT SITE AS
19 PRESCRIBED IN SECTION 30-1004, AS DETERMINED BY THE CITY, TOWN OR COUNTY
20 WHERE THE WIND ENERGY POWER PLANT IS LOCATED AND THAT IS REASONABLY BASED
21 ON THE ESTIMATE PROVIDED PURSUANT TO SECTION 30-1004.

22 B. A CITY, TOWN OR COUNTY MAY REQUIRE A WIND ENERGY POWER PLANT
23 OWNER OR OPERATOR TO UPDATE THE COST ESTIMATE PROVIDED PURSUANT TO SECTION
24 30-1004, SUBSECTION C, PARAGRAPH 2 OR ADOPT PROCEDURES FOR THE OWNER OR
25 OPERATOR OF A WIND ENERGY POWER PLANT TO SUBMIT UPDATED COST ESTIMATES TO
26 THE CITY, TOWN OR COUNTY BASED ON A SCHEDULE OR TIMELINE THAT IS
27 ESTABLISHED BY THE CITY, TOWN OR COUNTY. A CITY, TOWN OR COUNTY THAT
28 ADOPTS REQUIREMENTS OR PROCEDURES MAY REASSESS THE AMOUNT OF ANY FINANCIAL
29 ASSURANCE REQUIRED UNDER SUBSECTION A OF THIS SECTION AND, BASED ON THE
30 MOST RECENT COST ESTIMATE RECEIVED BY THE CITY, TOWN OR COUNTY, MAY MODIFY
31 OR ADJUST THE AMOUNT REQUIRED PURSUANT TO THIS SECTION.

32 C. A CITY, TOWN OR COUNTY MAY ADOPT PROCEDURES FOR AN OWNER OR
33 OPERATOR OF A WIND ENERGY POWER PLANT TO SUBMIT WITH THE COST ESTIMATE
34 PROVIDED PURSUANT TO SECTION 30-904, SUBSECTION C, PARAGRAPH 2 OR AN
35 UPDATED COST ESTIMATE DESCRIBED IN SUBSECTION B OF THIS SECTION, AND FOR
36 THE CITY, TOWN OR COUNTY TO CONSIDER DURING THE CALCULATION OF THE AMOUNT
37 OF FINANCIAL ASSURANCE REQUIRED PURSUANT TO SUBSECTION A OF THIS SECTION,
38 THE ESTIMATED SALVAGE VALUE OF THE WIND ENERGY POWER PLANT EQUIPMENT AT
39 THE TIME OF DECOMMISSIONING. IF THE CITY, TOWN OR COUNTY ADOPTS THE
40 PROCEDURES, THE CITY, TOWN OR COUNTY MAY ESTABLISH MINIMUM REQUIREMENTS
41 FOR DETERMINING HOW THE SALVAGE VALUE SHOULD BE ESTIMATED AND WHO SHOULD
42 BE DEEMED QUALIFIED TO MAKE THE ESTIMATES. A CITY, TOWN OR COUNTY THAT
43 HAS ADOPTED THE PROCEDURES MAY ALLOW A FINANCIAL ASSURANCE REQUIRED
44 PURSUANT TO THIS SECTION TO BE NOT LESS THAN THE TOTAL ESTIMATED COST OF
45 DECOMMISSIONING THE WIND ENERGY POWER PLANT AND RESTORING THE WIND ENERGY

1 POWER PLANT SITE, NET OF THE ESTIMATED SALVAGE VALUE AT THE TIME OF
2 DECOMMISSIONING.

3 D. A CITY, TOWN OR COUNTY THAT HAS ADOPTED THE PROCEDURES
4 AUTHORIZED IN SUBSECTION C OF THIS SECTION MAY WAIVE THE FINANCIAL
5 ASSURANCE REQUIRED PURSUANT TO THIS SECTION IF THE CITY, TOWN OR COUNTY
6 DETERMINES, BASED ON THE MOST RECENT COST ESTIMATE SUBMITTED TO AND
7 APPROVED BY THE CITY, TOWN OR COUNTY PURSUANT TO THIS SECTION, THAT THE
8 ESTIMATED SALVAGE VALUE OF THE WIND ENERGY POWER PLANT AT THE TIME OF
9 DECOMMISSIONING IS SUFFICIENT TO COVER THE ESTIMATED COST OF
10 DECOMMISSIONING THE WIND ENERGY POWER PLANT AND RESTORING THE WIND ENERGY
11 POWER PLANT SITE. A WIND ENERGY POWER PLANT OWNER OR OPERATOR THAT
12 SUBMITS AN ESTIMATED SALVAGE VALUE TO A CITY, TOWN OR COUNTY PURSUANT TO
13 THIS SECTION IS NOT GUARANTEED A WAIVER OF FINANCIAL ASSURANCE BUT THE
14 CITY, TOWN OR COUNTY THAT HAS ADOPTED THE PROCEDURES SHALL CONSIDER THE
15 ESTIMATED SALVAGE VALUE WHEN DETERMINING THE AMOUNT OF FINANCIAL ASSURANCE
16 TO BE REQUIRED PURSUANT TO THIS SECTION.

17 E. IN LIEU OF MAINTAINING THE FINANCIAL ASSURANCE REQUIRED UNDER
18 THIS SECTION, A WIND ENERGY POWER PLANT OWNER OR OPERATOR THAT IS A CITY,
19 TOWN, COUNTY OR OTHER LOCAL GOVERNMENTAL ENTITY OR POLITICAL SUBDIVISION
20 OF THIS STATE MAY DEMONSTRATE FINANCIAL CAPABILITY OF MEETING THE COSTS OF
21 DECOMMISSIONING THE WIND ENERGY POWER PLANT AND RESTORING THE SITE AS
22 PRESCRIBED IN SECTION 30-1004 BY SUBMITTING BOTH OF THE FOLLOWING:

23 1. A LETTER THAT IS SIGNED BY THE CHIEF FINANCIAL OFFICER OF THE
24 CITY, TOWN, COUNTY OR OTHER LOCAL GOVERNMENTAL ENTITY OR POLITICAL
25 SUBDIVISION OF THIS STATE STATING THAT THE CITY, TOWN, COUNTY OR OTHER
26 LOCAL GOVERNMENTAL ENTITY OR POLITICAL SUBDIVISION IS FINANCIALLY CAPABLE
27 OF MEETING THE COSTS OF DECOMMISSIONING THE WIND ENERGY POWER PLANT AND
28 RESTORING THE SITE AS PRESCRIBED IN SECTION 30-1004.

29 2. A STATEMENT SPECIFYING THE DETAILS OF THE FINANCIAL ARRANGEMENTS
30 THAT THE CITY, TOWN, COUNTY OR OTHER LOCAL GOVERNMENTAL ENTITY OR
31 POLITICAL SUBDIVISION OF THIS STATE WILL USE TO MEET THE ESTIMATED
32 DECOMMISSIONING AND SITE RESTORATION COSTS.

33 F. IN LIEU OF MAINTAINING THE FINANCIAL ASSURANCE REQUIRED UNDER
34 THIS SECTION, A WIND ENERGY POWER PLANT OWNER OR OPERATOR THAT IS A PUBLIC
35 SERVICE CORPORATION REGULATED BY THE CORPORATION COMMISSION MAY
36 DEMONSTRATE FINANCIAL CAPABILITY OF MEETING THE COSTS OF DECOMMISSIONING
37 THE WIND ENERGY POWER PLANT AND RESTORING THE SITE AS PRESCRIBED IN
38 SECTION 30-1004 BY SUBMITTING BOTH OF THE FOLLOWING:

39 1. AN ORDER ISSUED BY THE CORPORATION COMMISSION STATING THAT THE
40 CORPORATION COMMISSION HAS ADOPTED A FINANCIAL ASSURANCE REQUIREMENT FOR
41 THE PUBLIC SERVICE CORPORATION THAT IS SUBSTANTIALLY SIMILAR TO THE
42 REQUIREMENT ESTABLISHED IN SUBSECTION A OF THIS SECTION AND APPROVING A
43 PROCESS OR MECHANISM FOR COVERING THE ESTIMATED COST OF DECOMMISSIONING
44 THE WIND ENERGY POWER PLANT AND RESTORING THE SITE AS PRESCRIBED IN
45 SECTION 30-1004.

1 2. A STATEMENT SPECIFYING THE DETAILS OF THE FINANCIAL ARRANGEMENTS
2 OR MECHANISMS THAT THE CORPORATION COMMISSION HAS APPROVED TO ENSURE THAT
3 THE PUBLIC SERVICE CORPORATION MEETS THE ESTIMATED DECOMMISSIONING AND
4 SITE RESTORATION COSTS.

5 G. A CITY, TOWN OR COUNTY MAY USE THE FINANCIAL ASSURANCE REQUIRED
6 BY THIS SECTION TO COVER THE COST OF INITIATING OR COMPLETING
7 DECOMMISSIONING OR SITE RESTORATION AS DESCRIBED IN THE DECOMMISSIONING
8 AND SITE RESTORATION PLAN AS AUTHORIZED PURSUANT TO PROCEDURES ADOPTED BY
9 THE CITY, TOWN OR COUNTY PURSUANT TO SECTION 30-1003, SUBSECTION B OR E OR
10 IF THE WIND ENERGY POWER PLANT OWNER OR OPERATOR FAILS TO COMPLETE
11 DECOMMISSIONING AND SITE RESTORATION AS DESCRIBED IN SECTION 30-1004,
12 SUBSECTION G.

13 30-1006. Liability insurance required; notice of
14 cancellation; certificate of insurance

15 A. A WIND ENERGY POWER PLANT OWNER OR OPERATOR SHALL MAINTAIN A
16 COMMERCIAL GENERAL LIABILITY INSURANCE POLICY THAT RESULTS IN COVERAGE OF
17 ANY REASONABLE LIABILITY TO THIRD PARTIES FOR REAL OR PERSONAL INJURIES OR
18 DAMAGES ARISING FROM THE WIND ENERGY POWER PLANT OWNER'S OR OPERATOR'S
19 ACTION OR NEGLIGENCE RELATED TO THE CONSTRUCTION, OPERATION, MAINTENANCE
20 OR DECOMMISSIONING OF THE WIND ENERGY POWER PLANT OR THE RESTORATION OF
21 THE WIND ENERGY POWER PLANT SITE.

22 B. A WIND ENERGY POWER PLANT OWNER OR OPERATOR SHALL IMMEDIATELY
23 PROVIDE WRITTEN NOTICE OF ANY CANCELLATION OF THE INSURANCE POLICY
24 DESCRIBED IN SUBSECTION A OF THIS SECTION TO THE CITY, TOWN OR COUNTY
25 WHERE THE WIND ENERGY POWER PLANT IS LOCATED.

26 C. TO THE EXTENT THAT A CONTRACTUAL RELATIONSHIP EXISTS BETWEEN A
27 WIND ENERGY POWER PLANT OWNER OR OPERATOR AND THE CITY, TOWN OR COUNTY
28 WHERE THE WIND ENERGY POWER PLANT IS LOCATED, THE CITY, TOWN OR COUNTY
29 WHERE THE WIND ENERGY POWER PLANT IS LOCATED MAY REQUIRE THE WIND ENERGY
30 POWER PLANT OWNER OR OPERATOR TO MAINTAIN, WHEN REQUIRED BY THE CONTRACT,
31 COMMERCIAL GENERAL LIABILITY INSURANCE COVERAGE WITH RESPECT TO THE WIND
32 ENERGY POWER PLANT THAT NAMES THE CITY, TOWN OR COUNTY AS AN ADDITIONAL
33 INSURED. WHEN A CITY, TOWN OR COUNTY IS NAMED AS AN ADDITIONAL INSURED,
34 THE WIND ENERGY POWER PLANT OWNER OR OPERATOR SHALL PROVIDE A CERTIFICATE
35 OF INSURANCE DEMONSTRATING COVERAGE ON WRITTEN REQUEST FROM THE CITY, TOWN
36 OR COUNTY.

37 D. A CITY, TOWN OR COUNTY THAT APPROVES A PERMIT, STANDARD,
38 CONDITION, REQUIREMENT OR DECOMMISSIONING AND SITE RESTORATION PLAN FOR A
39 WIND ENERGY POWER PLANT PURSUANT TO THIS CHAPTER IS NOT LIABLE OR
40 RESPONSIBLE FOR ANY DAMAGES, ANY REAL OR PERSONAL INJURIES OR ANY ACTS OR
41 OMISSIONS RELATED TO OR RESULTING FROM THE CONSTRUCTION, OPERATION,
42 MAINTENANCE OR DECOMMISSIONING OF THE WIND ENERGY POWER PLANT OR THE
43 RESTORATION OF THE WIND ENERGY POWER PLANT SITE BASED SOLELY ON THE FACT
44 THAT THE CITY, TOWN OR COUNTY WHERE THE WIND ENERGY POWER PLANT IS LOCATED
45 ISSUED THE APPROVAL. THE CITY, TOWN OR COUNTY SHALL NOT BE NAMED AS AN

1 ADDITIONAL PARTY OR DEFENDANT IN ANY CAUSE OF ACTION THAT IS BASED SOLELY
2 ON ANY APPROVAL DESCRIBED IN THIS SUBSECTION.
3 30-1007. Applicability of chapter
4 A. THIS CHAPTER APPLIES TO ANY WIND ENERGY POWER PLANT THAT IS THE
5 SUBJECT OF AN INITIAL LAND USE OR ZONING PERMIT APPLICATION IF THE
6 APPLICATION IS BOTH:
7 1. SUBMITTED TO A CITY, TOWN OR COUNTY WHERE THE POWER PLANT IS
8 LOCATED.
9 2. SUBMITTED FOR THE FIRST TIME FOR THE WIND ENERGY POWER PLANT ON
10 OR AFTER THE EFFECTIVE DATE OF THIS SECTION.
11 B. THIS CHAPTER DOES NOT APPLY TO ANY WIND ENERGY POWER PLANT THAT
12 IS THE SUBJECT OF AN INITIAL LAND USE OR ZONING PERMIT APPLICATION IF THE
13 APPLICATION IS BOTH:
14 1. SUBMITTED TO A CITY, TOWN OR COUNTY WHERE THE WIND ENERGY POWER
15 PLANT IS LOCATED.
16 2. SUBMITTED FOR THE FIRST TIME FOR THE WIND ENERGY POWER PLANT
17 BEFORE THE EFFECTIVE DATE OF THIS CHAPTER.