

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
*(Select one:)*

of Osceola

FILED  
STATE RECORDS  
DEC 27 2023

DEPARTMENT OF STATE

Local Law No. 3 of the year 2023

A local law Osceola Zoning Law  
*(Insert Title)*

Be it enacted by the Osceola Town Board of the  
*(Name of Legislative Body)*

County  City  Town  Village  
*(Select one:)*

of Osceola

as follows:

## ARTICLE 1. INTRODUCTION

### Section 110. Enacting Clause

Pursuant to the authority conferred by Article 16 of the Town Law and Articles 2 and 3 of Municipal Home Rule Law of the State of New York, the Town Board of the Town of Osceola hereby adopts and enacts the following law.

### Section 120. Title

This law shall be known as "The Town of Osceola Zoning Law."

### Section 130. Purpose

The purposes of this zoning law are to provide for orderly growth in accordance with a comprehensive plan; to lessen congestion in the streets; to secure safety from fire, flood and other dangers; to provide adequate light and air; to make

provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access

to sunlight necessary therefor; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; and to

promote the health, safety, and general welfare of the public. This zoning law has been made with reasonable consideration, among other things, as to the character of each zone and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town

of Osceola.

### Section 140. Applicability

This law, and any amendment thereto, shall apply on its effective date to all uses which have not been substantially commenced, and structures which have not been substantially constructed, regardless of the status of permits or certificates. ~~If additional space is needed, attach pages the same size as this sheet, and number each.)~~

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2023 of the (County)(City)(Town)(Village) of Osceola was duly passed by the Osceola Town Board on December 13 2023, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_ above.

Heather Hillbrandt  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 12/16/2023

(Seal)

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### **Section 130. Purpose**

The purposes of this zoning law are to provide for orderly growth in accordance with a comprehensive plan; to lessen congestion in the streets; to secure safety from fire, flood and other dangers; to provide adequate light and air; to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; and to promote the health, safety, and general welfare of the public. This zoning law has been made with reasonable consideration, among other things, as to the character of each zone and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town of Osceola.

### **Section 140. Applicability**

This law, and any amendment thereto, shall apply on its effective date to all uses which have not been substantially commenced, and structures which have not been substantially constructed, regardless of the status of permits or certificates of occupancy issued pursuant to the New York State Uniform Fire Prevention and Building Code.

### **Section 150. Previous Laws**

This law shall replace and supersede the Town of Osceola Land Use Law, Local Law No. 1 of 1978, as subsequently amended.

## **ARTICLE 2. DEFINITIONS**

### **Section 210. General**

Except where specifically defined herein, all words used in this law carry their customary meanings. Words in the present tense include the future, words in the singular include the plural and the plural the singular, and the word "shall" is intended to be mandatory.

### **Section 220. Specific Definitions**

**Accessory Apartment:** A second dwelling unit located on the same lot as a principal single-family dwelling, located either within the principal dwelling or within an accessory building, which is subordinate to the principal dwelling in terms of size, location, and appearance. Such a dwelling is an accessory use to the principal dwelling.

**Accessory Building:** A building which is an accessory structure.

**Accessory Equipment:** Any equipment serving or being used in conjunction with a Utility-Scale Solar Energy System. The term includes utility or transmission equipment, power supplies, generators, batteries, equipment buildings, and storage sheds, shelters or similar structures.

**Accessory Structure:** A structure incidental and subordinate to the principal structure and located on the same lot with such principal structure. Where an accessory structure is attached to the principal structure in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the main structure.

**Accessory Use:** A use incidental and subordinate to the principal use and located on the same lot with such principal use.

**Agriculture:** The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of normal agricultural activities.

**Agricultural and Wood Processing:** A facility for the bulk processing of agricultural or animal products such as a cheese factory, slaughterhouse, or sawmill.

**Agricultural Structure:** A structure used for agricultural purposes.

**Alteration:** The increase in ground coverage or height of a structure.

**Apartment, Accessory:** See Accessory Apartment.

**Battery(ies):** A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge and store energy electrochemically. For the purpose of this law, batteries utilized in consumer products are excluded from these requirements.

**Battery Energy Storage Management System:** An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

**Battery Energy Storage System:** One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 battery energy storage system as follows:

Tier 1 battery energy storage systems have an aggregate energy capacity less than or equal to 600 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.

Tier 2 battery energy storage systems have an aggregate energy capacity greater than 600 kWh or are comprised of more than one storage battery technology in a room or enclosed area.

**Blade Glint:** The intermittent reflection of the sun off the surface of the blades of one or more wind turbines.

**Building:** Shelter having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or property.

**Building, Accessory:** See Accessory Building.

**Building-Integrated Photovoltaic (BIPV) System:** A solar system that consists of integrating photovoltaic modules into the building structure, such as the roof or the facade, which does not alter relief of the roof.

**Campground:** Land commercially held open to the public for five or more cabins, recreational camping vehicles and/or tents.

**Certificate of Compliance:** A certification by the enforcement officer that a lot, structure, or use of land has been developed in conformity with an approved zoning permit and/or complies with the provisions of this law, and may be occupied and used for the purposes specified in such zoning permit and/or certificate of compliance.

**Commercial Use:** Land use activities involving the sale of goods or services carried out for profit.

**Commissioning:** A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

**Conservation Area:** Such areas include natural areas protected by law, such as wetlands that meet the definition in the Clean Water Act 33 USC Sec. 1251 et seq.; water bodies; riparian buffers; populations of endangered or threatened species, or habitat for such species; cemeteries, and burial grounds; important historic sites; other significant natural features and scenic viewsheds; and existing trails or corridors that connect the tract to neighboring areas.

**Coverage:** The percentage of a lot area covered by a building area.

**Day Care Home, Family:** Any use defined as a Family Day Care Home in Section 390 of Social Services Law.

**Day Care Home, Group:** Any use defined as a Group Day Care Home in Section 390 of Social Services Law.

**dB(A):** A-weighted decibels, abbreviated dBA [or dBa, or dB(a)], is an expression of the relative loudness of sounds in air as perceived by the human ear. With A-weighting, the decibel levels of low frequencies are reduced compared to the middle and high frequencies (A-weighted energy equivalent sound level). Unless specified otherwise, in this law dBA means LAeq (energy equivalent sound level).

**Dedicated-Use Building:** A building that is built for the primary intention of housing battery energy storage system equipment that is classified as Group F-1 occupancy as defined in the International Building Code, and complies with the following:

- a. The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
- b. No other occupancy types are permitted in the building.
- c. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test and repair the battery energy storage system and other energy systems.
- d. Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage systems, provided the following:
  - (1) The areas do not occupy more than 10 percent of the building area of the story in which they are located.

- (2) A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

**Dwelling:** A building or portion thereof which is used exclusively for residential purposes, including one-family, two-family, and multi-family dwellings and mobile homes, but not including hotels, motels, boarding houses, and bed and breakfast inns.

**Dwelling, Multi-family:** A building or a portion thereof used for occupancy by three or more families living independently of each other and containing three or more dwelling units.

**Dwelling, One-family:** A detached building designed to be used as living quarters by one family.

**Dwelling, Seasonal:** A seasonal recreational dwelling for which the use and occupancy does not require access to a snow-plowed public road.

**Dwelling, Two-family:** A building containing only two dwelling units, and occupied by only two families.

**Dwelling Unit:** A complete self-contained residential unit, with living, sleeping, cooking and sanitary facilities within the unit, for use by one family.

**Electrical Transmission Tower:** An electrical transmission structure used to support high voltage overhead power lines. The term shall not include any utility pole.

**Energy Code:** The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

**Energy Cooperative:** An electrical distribution system using alternative energy sources such as, but not limited to, solar energy systems and designed to supply energy needs to designated users.

**Enforcement Officer:** Any person appointed or established through intermunicipal agreement by the town board to enforce the provisions of this law.

**Essential Facilities:** The operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers; electrical or gas transmission facilities and substations; water treatment, storage and transmission facilities; pumping stations; and similar facilities.

**Excavation, Major:** Any area of land used for the purpose of extracting stone, sand, gravel or soil for sale, as an industrial or commercial operation, which is intended for the extraction of more than 1,000 tons or 750 cubic yards, whichever is less, of a mineral from the earth during twelve successive calendar months, but does not include the process of grading a lot preparatory to the construction of a building which has an approved permit.

**FAA:** The Federal Aviation Administration or successor agency.

**Facility Area:** The cumulative land area occupied during the commercial operation of a solar energy generating facility. This shall include all areas and equipment within the facility's perimeter boundary – including the solar energy system, onsite interconnection equipment, onsite electrical energy storage equipment, and any other associated equipment – as well as any site improvements beyond the facility's perimeter boundary such as access roads, permanent parking areas, or other permanent improvements. The facility area shall not include site

improvements established for impact mitigation purposes, including but not limited to vegetative buffers and landscaping features.

**Family:** One or more persons living, sleeping, cooking or eating on the same premises as a single housekeeping unit.

**Fire Code:** The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

**Ground-Mounted Solar Energy Systems:** A solar energy system that is affixed to the ground either directly or by supporting structures or other mounting devices and that is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered ground-mounted solar energy systems for the purposes of this local law.

**Height:** The vertical distance of building measured from the mean of the highest and lowest exposed part of the foundation to the highest point of the roof.

**Home Occupation:** A nonresidential activity conducted for financial gain within a dwelling unit and is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and does not include any of the following characteristics:

1. one or more nonresidents are employed;
2. total floor area of the business exceeds 400 square feet;
3. the business is open to off-road customers or client traffic;
4. there is a lighted sign of any size, or any sign exceeds six square feet in area per side.

**Infrasound:** Low frequency sounds that are not ordinarily audible by humans.

**Junkyard:** As defined by the County of Lewis Junkyard Law, Local Law No. 5 of 1987, as amended, and is incorporated in this local law by this reference.

**Landfill:** A disposal site in which refuse and earth, or other suitable cover material, are deposited and compacted in alternative layers of specified depth in accordance with an approved plan.

**Lot:** A designated parcel or tract of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.

**Lot Area:** The total horizontal area included within the lot lines of a lot. No part of the area within a public right-of-way shall be included in the computation of lot area.

**Lot Depth:** The distance between the road centerline and the rear lot line.

**Lot Frontage:** The distance between the boundaries of a lot measured at their points of intersection with the public and/or private road line.

**Lot Line:** A line of record bounding a lot which divides one lot from another lot or from a public or private road.

**Lot of Record:** A lot for which a valid conveyance has been recorded in the Office of the County Clerk prior to the effective date of the Town of Osceola Subdivision Law; or is either part of a subdivision plat approved by the planning board and filed in the county clerk's office, or was exempt from the Town of Osceola Subdivision Law at the time of recording with the county clerk.

**LWEF (Large Wind Energy Facility):** A WEF that has a rated capacity of 100 kW or more.

**LWEF Accessory Equipment:** Any equipment serving or being used in conjunction with a LWEF. The term includes utility or transmission equipment, power supplies, generators, batteries, equipment buildings, and storage sheds, shelters or similar structures.

**Meteorological Measuring Device:** An instrument, such as an anemometer, that measures wind speed, exclusive of small portable devices such as those widely available to consumers for private use. This is often on a tower, typically located at hub-height of the anticipated turbines.

**Metes-and-Bounds:** A method of describing the boundaries of land by directions and distances from a known point of reference.

**Mineral Soil Groups 1-4 (MSG 1-4):** Soils recognized by the New York State (NYS) Department of Agriculture and Markets as having the highest value based on soil productivity and capability, in accordance with the uniform statewide land classification system developed for the NYS Agricultural Assessment Program.

**Mobile Home:** A factory-manufactured dwelling unit built on or after June 15, 1976, and conforming to the requirements of the Department of Housing and Urban Development (HUD), Manufactured Home Construction and Safety Standards, 24 CFR Part 3208, 4/1/93, transportable in one or more sections, which in the traveling mode, is 8 feet (2438 mm) or more in width or 40 feet (12192 mm) or more in length, or, when erected on site, is 320 square feet (29.7 m<sup>2</sup>) minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. The term "mobile home" shall also include any structure that meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Federal Department of Housing and Urban Development and complies with the standards established under the national Manufactured Housing Construction and Safety Act of 1974, as amended. The term "mobile home" shall not include any self-propelled recreational vehicle.

**Mobile Home Park:** A parcel or tract of land where five or more mobile homes are parked or where space is reserved for parking five or more mobile homes.

**Nationally Recognized Testing Laboratory (NRTL):** A US Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

**NEC:** National Electric Code.

**Net-Metering:** 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 at the end of the month.

**NFPA:** National Fire Protection Association.

**Nonconformity:** A lot of record, structure, or use of land which lawfully existed prior to the enactment of this law, or conformed to the regulations of the zone in which it was located prior to the amendment of this law; which does not conform to the regulations of the zone in which it is located following the enactment or amendment of this law.

**Non-Dedicated-Use Building:** All buildings that contain a battery energy storage system and do not comply with the dedicated use-building requirements.

**Nonresidential Use:** A use which does not contain a dwelling unit.

**Occupied Community Building:** Any building in Occupancy Group A, B, E, I, R, as defined in the International Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels and houses of worship.

**Parking Lot:** A tract of land used for the temporary parking of motor vehicles when such use is not accessory to any other use.

**Permit, Zoning:** See Zoning Permit

**Plat:** A map of a subdivided tract of land showing the boundaries and location of individual properties and roads.

**Planning Board:** The Town of Osceola Planning Board.

**Public Utilities:** Telephone exchange and dial centers or repeater stations; electrical or gas substations; water treatment or storage facilities; pumping stations; sewage facilities; and similar facilities operated or maintained by municipal agencies or public utilities.

**Principal Structure:** A structure through which the principal use of the lot on which it is located is conducted.

**Principal Use:** The primary or predominant use of any lot.

**Recreational Camping Vehicle:** Any enclosed motor vehicle or trailer used or designed to be used for recreational travel and temporary living and/or sleeping purposes including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers, and over-night trailers.

**Religious Facility:** Included church, temple, parish house, convent, seminary and retreat house.

**Retail Gasoline Outlet:** Any establishment that sells gasoline to the public. This includes service stations, convenience stores, car washes or any other facility that sells gasoline.

**Residential Use:** A use containing a dwelling unit.

**Road:** A thoroughfare dedicated and accepted by a municipality for public use or legally existing on any map of a subdivision filed in the manner provided by law.

**Road, Private:** A private way which affords the principal means of access to abutting property.

**Road Line:** The right-of-way line of a road as dedicated by a deed or record. Where the width of the road is not established, the road line shall be considered to be 25 feet from the centerline of the road pavement.

**Roof-Mounted Solar Energy System:** A solar energy system that is affixed to the roof or other structure, either directly or by means of support structures or other mounting devices. Solar energy systems constructed over a parking lot are considered building-mounted solar energy systems.

**SEQRA:** The New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

**Setback:** The distance between a lot line, road centerline or the mean high water line of a body of water and a particular development feature of a lot such as a building, structure, on-site sewage system component, or parking area.

**Shadow Flicker:** The visual effect that results when the blades of an operating wind energy turbine pass between direct and indirect light from the sun and an observer, and cast an observable, moving shadow on a person or property in the vicinity.

**Sign:** Any device affixed to or painted or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business, but not including any flag, badge or insignia of any government agency, school or religious group, or of any civic, charitable, religious, patriotic, fraternal or similar organization, nor any official traffic control device. Each display surface shall be considered to be a sign.

**Sign, Advertising:** A sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located, or to which it is affixed and only incidentally on the premises if at all.

**Sign, Directional:** A sign which directs attention to the location of a commodity, service or other business sold or offered elsewhere than upon the premises where such sign is located.

**Site:** Any area of land to be used, developed, or built upon as a unit.

**Small-Scale Solar Energy System:** Any solar energy system that cumulatively on a lot meets all of the following provisions:

- a. Is an accessory use or structure designed and intended to generate energy primarily for a principal use located on site;
- b. has a nameplate capacity of up to 25 kW AC. Small-scale solar energy systems located on a farm operation (as per NYS Agriculture and Markets Law Section 301(11) definition of that term) can produce up to 110% of the farm's needs.

**Social Institution:** Includes public or private meeting hall or place of assembly, not operated primarily for profit.

**Solar Access:** Space open to the sun and clear of overhangs or shade, including the orientation of streets and lots to the sun, so as to permit the use of a solar energy system on individual properties.

**Solar Collector:** A solar or photovoltaic cell, plate, panel, film, array, reflector or other structure affixed to the ground, a building or other structure, that harnesses solar radiation to directly or indirectly generate thermal, chemical, electrical or other usable energy, or that reflects or concentrates solar radiation to a solar or photovoltaic cell, plate, panel, film, array, reflector or other structure that directly or indirectly generates thermal, chemical, electrical or other usable energy.

**Solar Energy System:** Any solar collector panel(s), film(s), shingle(s) or other solar energy devices(s), or solar structural component(s), mounted on a building or on the ground and including other appurtenant structures and facilities, whose primary purpose is to provide for the collection, storage, and distribution of solar, or radiant, energy received from the sun and used for heating or cooling, for water heating, and/or generation of electricity. A solar energy system may be ground-mounted (i.e., placed on top of the ground surface) or roof-mounted (i.e., placed on or as an integral part of a building).

**Solar Panel:** A photovoltaic device capable of collecting for the direct conversion of solar energy into electricity.

**Solar Skyspace:** The space between a solar collector and the sun through which solar radiation passes.

**Solar Thermal System:** A system that directly heats water or other liquid using sunlight.

**Structure:** Anything constructed or erected, the use of which requires location on the ground, or attachment to something located on the ground.

**Structure, Accessory:** See Accessory Structure.

**Structure, Principal:** See Principal Structure.

**Telecommunication Tower:** A structure on which transmitting and/or receiving antenna(e) are located.

**Use:** The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained.

**Use, Accessory:** See Accessory Use.

**Use, Principal:** See Principal Use.

**Utility-Scale Solar Energy System:** Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, designed and intended to supply energy principally into a utility grid for sale and/or use to the general public OR with a nameplate capacity greater than 25 kW AC.

**Variance:** Any departure from the strict letter of this law granted by the zoning board of appeals as it applied to a particular piece of property.

**Vehicle and Engine Service and Repair:** A building, or portion of a building, arranged, intended, or designed to be used for making commercial repairs to motor vehicles and engines.

**Waste Transfer Facility:** A commercial facility for the collection and temporary storage of solid or liquid wastes for shipment to a final disposal point, which is not accessory to a farm operation.

**Wetland:** Those areas that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands also include any lands or water that are defined as wetlands according to the New York State Freshwater Wetlands Act, Section 24-0107(1) and are mapped pursuant to 6 NYCRR Part 664, and are filed with the County Clerk.

**WEF (Wind Energy Facility):** An electricity-generating facility, whose primary purpose is to supply electricity. This consists of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and/or facilities.

**Wind Turbine:** A wind energy conversion system that converts wind energy into electricity through the use of a

wind turbine generator. Such a system might include a nacelle, rotor, tower, pad transformer, and other appurtenant structures and/or facilities.

**Wind Power Generating Facility, Minor:** Wind generating facilities with generate original power on-site that are erected and use primarily for private use as an accessory use of the property.

**Wind Turbine Height:** The distance measured from the lowest adjacent grade to the highest point of the structure, including any attachments, such as a lightning protection device or a turbine rotor or tip of the turbine blade when it reaches its highest elevation.

**Wholesale Business:** A commercial activity characterized by the sale of merchandise to retail, manufacturing, institutional or other wholesale establishments in bulk, including on-premise storage and distribution facilities.

**Wood Processing:** See Agricultural and Wood Processing.

**Yard, Front:** The space within and extending the full width of the lot from the front lot line to the part of the principle building which is nearest to such front lot line.

**Yard, Rear:** A space within and extending the full width of the lot from the rear lot line to the part of the principle building which is the nearest to such lot line.

**Yard, Side:** The space within the lot extending the full distance from the front yard to the rear yard and from the side lot line to the part of the principle building which is nearest to such lot line.

**Zoning Board of Appeals:** A board appointed by the town board pursuant to Section 267 of the Town Law to hear and decide appeals of this law.

**Zoning Permit:** A permit issued by the enforcement officer certifying that all plans for the use and development of land comply with the regulations of this law, and granting permission to commence development activities in conformity with the conditions of the approved permit.

## ARTICLE 3. ESTABLISHMENT OF ZONES

### Section 310. Types of Zones

For the purpose of this law, the Town of Osceola is hereby divided into the following zones:

H	-	Hamlet
RR	-	Rural Residential
A	-	Agriculture
F-1	-	Forest
F-2	-	Core Forest

### Section 320. Zoning Map

Said zones are shown, defined and bounded on the map accompanying this law entitled "Zoning Map," dated August 13, 2014 and filed in the office of the town clerk, which map and all explanatory matter thereon is by this reference incorporated into this law.

**Section 330. Interpretation of Zone Boundaries**

Where uncertainty exists with respect to the boundaries of the various zones, as shown on the zoning map, the following rules shall apply:

1. Where the designation on the zoning map indicates a boundary approximately upon a road, the centerline of the road shall be construed to be the boundary.
2. Where the designation on the zoning map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary.
3. Distances shown on the zoning map are perpendicular distances from road centerlines measured to the zone boundary, which boundaries in all cases where distances are given are parallel to the road centerline.
4. In other cases the zone boundary shall be determined by the use of the scale on the zoning map.

**Section 340. Metes-and-Bounds Descriptions**

In the event that a metes-and-bounds description has been filed for a zone change or a variance as required by this law, such metes-and-bounds description may be used in lieu of other provisions of this section.

**Section 350. Divided Lots**

Where a zone boundary divides a lot of record at the time such boundary is adopted, the zone requirements of the least restrictive portion of such lot shall extend 50 feet into the more restrictive portion of the lot, provided the least restrictive portion of the lot has frontage on a road.

**Section 360. Special Areas**

"Special Areas" are designated on the zoning map pursuant to the provisions of the Tug Hill Reserve Act, Chapter 486 of the New York State Laws of 1992. All governmental agencies, boards, commissions, and authorities, prior to final action on a proposed development or review of a proposed development within a designated special area which would directly affect the special area and would change the basic nature of Tug Hill, shall consult with the town board about said development.

## ARTICLE 4. ZONE REGULATIONS

### Section 410. Allowed Uses

Land uses shall be allowed in the various zones according to the following table.

- P = Zoning permit required  
 S = Site plan review required  
 SP = Special use approval and site plan review required  
 NONE = Allowed without permit being required  
 -- = Not allowed in this district

Land Use	H Hamlet	RR Rural Residential and A Agriculture	F-1 Forest and F-2 Core Forest
Accessory Apartment	P	P	P
Accessory Structure	P	P	P
Agricultural and Wood Processing	--	S	S
Agricultural Structure	P	P	P
Battery Energy Storage System (Tier 1)	P	P	P
Battery Energy Storage System (Tier 2)	--	SP	SP
Campground	S	S	S
Commercial Use	S	S	S
Dwelling, Seasonal	P	P	P
Dwelling, Single-family	P	P	P
Dwelling, Multi-family	S	S	S
Excavation, Major	--	S	S
Home Occupation	NONE	NONE	NONE
Junkyard	--	NONE	--
Landfill	--	--	--
Large Wind Energy Facility (LWEF)	--	SP	SP
Manufacturing	S	S	S
Mobile Home Park	S	S	
Public Utilities	S	--	--
Religious Facility	S	S	S
Retail Gasoline Outlet	S	S	--
Small Scale Solar Energy System	P	P	P
Social Institution	P	P	P
Telecommunication Tower	SP	SP	SP
Utility Scale Solar Energy System	--	SP	SP
Vehicle/Engine Service and Repair Shop	--	S	--
Waste Transfer Facilities	--	--	--
Wholesale Business	S	S	--
Wind Power Generating System, Minor	P	P	P

**Section 420. Lot Area, Lot Dimensions, and Setbacks**

All lots areas, lot dimensions, and setbacks shall conform to the following standards for the zone in which it is located:

	<b>H Hamlet</b>	<b>RR Rural Residential and A Agriculture</b>	<b>F-1 Forest</b>	<b>F-2 Core Forest</b>
Lot frontage minimum	200 feet	200 feet	--	--
Lot depth minimum	250 feet	250 feet	--	--
Setback from centerline of county roads minimum	40 feet	75 feet	75 feet	75 feet
Setback from centerline of noncounty roads minimum	40 feet	40 feet	40 feet	40 feet
Setback from side and rear lot lines minimum	20 feet	20 feet	100 feet	100 feet
Lot area minimum	--	--	5 acres	40 acres
Setback from property lines of sewage and waste disposal components and wells	10 feet	50 feet	50 feet	50 feet

**Section 430. Prohibition of Waste Transfer Facilities and Landfills**

Waste transfer facilities and landfills are hereby prohibited within the town.

**ARTICLE 5. GENERAL REGULATIONS**

**Section 505. Signs**

1. One on-site advertising sign is permitted, not to exceed 32 square feet per side, and may be illuminated only during regular business hours.
2. Off-site directional signs are permitted, located within five miles of the use to which directions are indicated, not to be illuminated between 12 midnight and 6 a. m. and not to exceed 32 square feet per side.
3. Advertising signs unrelated to the premises are not permitted unless also serving as a directional sign and is located within five miles of the premises which it advertises.
4. No signs shall consist of lights that flash or move.
5. No sign shall be higher than the principal building to which it is an accessory.
6. No sign shall project into public right-of-way.
7. All existing signs at the time this regulation is adopted shall be allowed to remain.

**Section 510. Parking**

All uses shall provide off-road parking for all vehicles parked during typical peak use periods. Parking should be designed to eliminate the need to back out onto the public road. Minimum standards, all of which must be met, are as follows:

1. One parking space for every three seats in a public meeting place.
2. One parking place for every employee at places of employment.
3. One parking space per 250 square feet in a commercial establishment.
4. One parking space for each dwelling unit.

**Section 515. Basic Performance Standard**

No use in any district shall cause a nuisance adversely affecting adjacent property. Objectionable noise, smoke, dust, air or water pollution, or any other nuisance must be restrained within property lines.

**Section 520. Height of Structures**

Chimneys, communication transmission towers, television and radio masts and antennae, water tanks, and spires shall not impair solar access to buildings or solar energy systems equipment. All transmission and reception towers, masts and antennae shall be set back from all property lines a distance at least equal to the height of the structure.

**Section 525. Recreational Camping Vehicles**

Recreational camping vehicles which are sited outside of campgrounds which are approved under Section 635 of this law, shall comply with the following:

1. The occupation of any motorized vehicles of any kind is prohibited unless it is designed and intended for that purpose;
2. The storage of more than two recreational camping vehicles on a single lot, unless on a recreational camping vehicle sales lot, is prohibited;
3. A recreational camping vehicle shall not be sited for occupancy for more than 180 days in a single calendar year outside of a campground, unless having an approved temporary permit pursuant to Section 1015 of this law;
4. All occupied recreational camping vehicles shall provide a plan demonstrating the availability of potable water and the disposal of waste water and sanitary sewage in compliance with all applicable Town, County and State laws;
5. Recreational camping vehicles shall not be located within front, side or rear yard setbacks, except for storage purposes;
6. No external modifications or additions, excluding a nonattachable roof structure, may be made to any recreational camping vehicle;
7. No more than one recreational camping vehicle may be sited for occupancy on a single lot for more than 30 consecutive days.

**Section 530. Streams and Ponds**

The following uses are prohibited within 100 feet of streams:

1. dumping of waste materials, junk, refuse or anything that would alter the quality of the water, or the character of the area;
2. construction of any principal or accessory uses or structures.

**Section 535. Wetlands**

Areas shown on the State of New York Department of Environmental Conservation maps as official freshwater wetland shall be regulated according to the provisions contained in article 24 of the New York State Environmental Conservation Law including subsequent amendments.

**Section 540. Flood Hazard Areas**

These areas are shown on the Flood Hazard Boundary Map or Flood Insurance Rate Map for the Town of Osceola, dated June 30, 1976, published by the Federal Insurance Administration. All activity in such areas shall conform to regulations of the National Flood Insurance Program published in Part 60 of Chapter I of Title 44 of the code of Federal Regulations, which Part is adopted herein by reference.

#### **Section 545. Special Areas**

Areas designated on the zoning map as Special Areas (SA) shall be protected by the following regulations. SA Areas shall be interpreted as being a buffer area of 200 feet on each side of the designated natural feature. The following uses are prohibited in these areas:

1. Construction of any principal or accessory uses or structures.
2. Dumping of junk, waste, etc.
3. Cutting of more than 50% of volume of timber, or log landings.
4. Mining.
5. Feed lots.
6. Chemical thinning.

#### **Section 550. Sewage and Waste Disposal Components and Wells**

All sewage and waste disposal components and wells shall be set back from property lines by 50 feet, minimum.

#### **Section 555. Dwellings per Lot**

There shall be no more than one dwelling on a single lot except for the placement of a temporary residence complying with the provisions of Section 1015 of this law, or upon special use approval. Such special use approval may be issued where it can be demonstrated that any future subdivision of the lot which would result in the dwellings being located on separate lots, can be accomplished in such a way that the resulting dwellings will have setbacks in accordance this law, the resulting lots will have areas and dimensions in accordance with this law, and all sewage disposal and wastewater systems will be in accordance with the NYS Sanitary Code.

#### **Section 560. Mobile Homes**

Mobile homes shall be used only for office or dwelling purposes, except upon issuance of a temporary zoning permit as provided for in Section 1015 of this law.

#### **Section 565. Accessory Apartments**

No more than one accessory apartment shall be allowed for each single-family dwelling unit. Each accessory apartment shall be a maximum of 500 square feet.

#### **Section 570. Minor Wind Power Generating Facilities**

Minor wind power generating facilities shall comply with the following:

1. The setback from road centerline shall be 50 feet, minimum, plus the height of the structure, including rotor radius;
2. The setback from side and rear property lines shall be 10 feet, minimum, plus the height of the structure, including rotor radius.
3. Maximum wind turbine height shall be 75 feet.

## **ARTICLE 6. REGULATIONS FOR SPECIFIC USES**

### **Section 610. Home Occupations**

1. Home occupations shall not cause noise or other disturbance, which is a nuisance to neighboring properties.
2. Home occupations shall not detract from the property's primary use as a dwelling.
3. Home occupations shall not exceed 400 square feet of the floor area of the dwelling.

### **Section 615. Junkyards**

All junkyards shall comply with the provisions of the County of Lewis Junkyard Law, otherwise known as Lewis County Local Law No. 5 of 1987, as amended. Nothing contained in this law shall be construed as to preempt the enforcement of the County of Lewis Junkyard Law by the County of Lewis in the Town of Osceola.

### **Section 620. Retail Gasoline Outlets**

1. Minimum lot frontage -- 250 feet.
2. Minimum lot area -- 62,500 square feet.
3. Minimum distance between pump islands and neighboring property lines -- 30 feet.
4. Entrance and exit driveways shall be located not nearer than 15 feet from any side or rear property line and shall be designed to avoid the necessity of any vehicle backing out into any public right-of-way.

### **Section 625. Vehicle and Engine Service and Repair Shop**

Entrance and exit driveways shall be located not nearer than 15 feet from any side or rear property line and shall be designed to avoid the necessity of any vehicle backing out into any public right-of-way.

### **Section 630. Mobile Home Parks**

#### **1. Park location and Conditions**

The site of a proposed mobile home park:

- a. shall be located where orderly development of a mobile home park can be undertaken in harmony with development of the surrounding area in terms of traffic generation, ease and safety of vehicular access to and circulation within the park, safety of pedestrian movement, location of structures, adequacy of off-street parking, placement and sizing of sewage treatment and water supply systems and other utilities, safety of fuel storage and supply, provision of open space, recreation facilities or areas, delivery of services and adequacy of landscaping and buffering;
- b. shall have generally level to gently rolling topography over an area of sufficient size to allow development of the mobile home park without significant alteration or disturbance of existing natural amenities or features such as stands of mature trees, stream courses, shorelines wetlands or bedrock outcroppings; and
- c. shall be essentially free from adverse, unsafe or unhealthful conditions including but not limited to flooding, ponding, poor drainage, erosion, slumping or other soil instability, breeding areas for insects or rodents, smoke, noise, odors, heat, glare, or toxic or volatile substances.

#### **2. Site Requirements**

- a. Mobile home site. Each mobile home park shall be divided (exclusive of internal roads, open space or common areas) and marked off into mobile home sites numbered consecutively, the

number being conspicuously posted on each lot with such number to correspond to the lot shown on the site plan submitted. All sites shall have a minimum of 5,000 square feet.

- b. Setbacks and spacing
  - (1) All mobile homes, including expansions, extensions or other additions thereto, patios, porches or garages and all other structures in a mobile home park shall satisfy the following setback requirements. A detached structure accessory to and located on the same site with an individual mobile home shall be considered part of the mobile home for the purpose of spacing requirements.
    - (a) Minimum of 30 feet from the center line of any roadway internal to the mobile home park.
    - (b) All structures shall be set back a minimum of ten feet from all site lines.
  - (2) No mobile home site, internal roadway, parking lot, recreation area or storage facility for fuel, supplies or equipment shall be located within 30 feet of adjoining property external to the mobile home park.

### 3. Park Design Requirements

- a. Access. Each mobile home park shall provide for safe, legal means of access from one or more public roads as follows:
  - (1) Access roads shall meet the public roads at right angles and at compatible grades;
  - (2) Entrances shall be located directly opposite or at least 200 feet from the nearest intersection of public roads, if any, and at least 150 feet from any other entrances to the mobile home park, if any;
  - (3) Entrances shall have sufficient width to allow reasonable turning movements of vehicles with mobile homes attached and of service or delivery vehicles;
  - (4) Entrances shall be located to allow safe line-of-site distances to and from their points of intersection with the public road;
  - (5) Common entrance and access roads shall be required to serve any mobile home park having three or more mobile homes;
  - (6) At least two independent common entrance and access roads shall be required to serve any mobile home park having 20 or more mobile homes; and
  - (7) Access roads connecting mobile home park interior roads with the public access road shall meet the Town of Osceola Road Standards.
- b. Internal Roads
  - (1) Internal roads shall be privately owned and maintained and shall provide for the safe and convenient movement of vehicles, with or without mobile homes attached.
  - (2) All mobile home sites shall face on and be serviced by such internal roads.
  - (3) All roads shall be paved with a durable surface of either blacktop. Gravel or concrete and shall be designed, graded and leveled as to permit the safe passage of emergency vehicles and other vehicles at a speed of 15 miles per hour.
  - (4) Straight, uniform gridiron road patterns should be avoided unless they can be relieved by mobile home clustering, landscaping and an open space system.
  - (5) Cul-de-sacs shall be provided in lieu of closed end roads with turn around having and outside roadway character of at least 90 feet.
  - (6) All internal roads shall have a minimum 30 foot right-of-way.
- c. Recreational Areas and Open Space. Easily accessible and useable open spaces shall be provided in all mobile home parks. Such open space shall have a total area equal to at least 15% of the gross land area of the park and shall be fully maintained by the park owner. Part or all of such space shall be in the form of developed recreation areas to be usable for active recreation purposes.
- d. Walkways. A four foot wide hard surfaced pedestrian walkway shall be provided along at least five feet from each access road between the entrance to the public highway and either:
  - (1) the first mobile home unit or
  - (2) such location within the mobile home park as may be required to assure pedestrian safety.

- e. Water supply and sewage disposal systems shall be designed and constructed in compliance with all New York State Health department and Environmental Conservation department requirements and approvals. Proof of such compliance must be submitted prior to final approval.
- f. Garbage and refuse. All receptacles, including cans and dumpsters, shall be kept in a sanitary condition at all times. It shall be the responsibility of the park owner to ensure that garbage and rubbish shall be collected and properly disposed of outside of the mobile home park. Exterior property areas shall be maintained free from organic and inorganic material that might become a health, accident or fire hazard.
- g. Fuel Supply and Storage.
  - (1) General Requirements. All fuel oil supply systems, provided for mobile homes, service buildings and other structures shall be installed and maintained in conformity with the rules and regulations of the authority having jurisdiction when provided.
  - (2) Specific requirements.
    - (a) All fuel oil tanks shall be placed at rear of mobile home and not located less than five feet from any exit.
    - (b) It is recommended that a central fuel supply system be provided.
    - (c) Supports or standards for fuel storage tanks are to be of a non-combustible material.
  - (3) Liquefied Gas
    - (a) Such system shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.
    - (b) Systems shall have at least one accessible means for shutting off gas. This means shall be located outside of individual mobile home.
    - (c) All liquid propane gas piping shall be well supported and protected against mechanical injury.
    - (d) Storage tanks shall not be less than 100 pounds and must be located at rear of mobile home and no closer than five feet from any exit.
- h. Park Office. Owner or manager of a park shall maintain an office in the immediate vicinity of the park.
- i. Storage Facilities. Each mobile home park shall provide 125 cubic feet of secure storage space for each individual mobile home. Such facilities shall be located either on the individual mobile home site or be a permanent structure within the mobile home park which is easily accessible to the park residents at all times.
- j. Service Buildings. Service buildings, if provided, housing sanitation facilities and/or laundry shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations, and plumbing and sanitation systems. All service buildings and the grounds of the mobile home park shall be well lighted and maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.
- k. Fire Protection and Control. No open fires shall be permitted any place within the mobile home park with the exception of outdoor grills used for the preparation of foods.
- l. Screening. The entire mobile home park shall be screened from the view of adjacent properties and roadways by the planting of shrubbery. Such shrubbery shall be of a species suitable to the town board and shall mature to at least an eight foot height.

**4. Responsibilities of Park Operators and Park Occupants.**

- a. The person to whom a permit for a mobile home park is issued shall operate the park in compliance with the standards set forth in this law and shall provide adequate supervision to maintain the park, its common grounds, streets, facilities and equipment in good repair and in a clean and sanitary condition.
- b. The park operator shall place or supervise the placement of each mobile home pad which includes ensuring its stability by securing all tie downs and installing all utility connections.
- c. The park operator shall maintain a register containing the names of all occupants and the make, year and serial number, if any, of each mobile home. Such register shall be available to any authorized person inspecting the park.

- d. The park occupant shall be responsible for the maintenance of his mobile home and any appurtenances thereto, and shall keep all yard space on his site in a neat and sanitary condition.
- e. A list of operator and occupant responsibilities shall be posted in the park office or made available on request.
- f. Travel trailers shall not be used for residential purposes, whether permanently or temporarily, in any mobile home park.

**Section 635. Campgrounds**

Campgrounds shall meet Part 7 of the New York Sanitary Code.

**Section 640. Major Excavations**

No person shall operate a major excavation without applying for a permit from the NYS Department of Environmental Conservation, as required by Title 27 of Article 23 of the Environmental Conservation Law.

**Section 645. Public Utilities**

- 1. The proposed installation in a specific location shall be necessary and convenient for the efficiency of the service or the satisfactory and convenient provision of service to the area in which the particular use is located.
- 2. The design of any building in connection with such facility shall conform to the general character of the area and shall not adversely affect the safe and comfortable enjoyment of property rights in the district in which it is to be located.
- 3. Adequate landscaping shall be provided to create a visual and sound buffer between such facilities and adjacent property.
- 4. All points of necessary access, or transformers, shall be placed in secure structures at ground level.
- 5. All major electrical transformer facilities or substations, if above ground, shall be secured by a fence. No transformer or associated switches shall be closer than 100 feet from any lot line.

**Section 650. Large Wind Energy Facilities (LWEF)**

- 1. **Special Use Approval Required**  
Special use approval shall be required for the construction and operation of any large wind energy facility (LWEF). Such facilities shall be permitted within the Town only in the Rural Residential, Agriculture, Forest, and Core Forest zones. Such facilities shall be subject to the substantive and procedural requirements of this Local Law, in addition to other applicable local, state, and federal laws.
- 2. **Anemometers or other meteorological towers**  
Temporary towers may be erected to use a meteorological measuring device to test the wind conditions on the proposed LWEF site. Such towers do not require approval of a LWEF Permit. However, each such temporary pole or tower shall comply with the dimensional requirements stipulated by the Town Board or the Town Board's designee. A copy of a FAA determination report as a result of filing the FAA Form 7460-1, "Notice of Proposed Construction or Alteration of an Object that may Affect the Navigable Airspace," shall be submitted prior to submission of any building permits for such a temporary tower. The temporary pole or tower may be any approved height, but it must be setback from all property lines, vacant or occupied dwelling units, rights-of-way, and access easements by a distance that is greater than 1.5 times its height. The temporary pole or tower may not have any signs; may not be illuminated (except as required by the FAA or Department of Defense); and must be completely

removed within two (2) years of the date that it is erected, unless the Town Board grants a single one (1) year extension.

**3. Permit Application**

Throughout the permit process, the applicant shall promptly notify the Town Board of any changes to the information contained in the permit application. Changes that do not materially alter the initial site plan may be administratively accepted. The permit application for a LWEF shall be an electronic digital filing that contains at least the following:

- a. Summary: A narrative overview of the LWEF, including its generating capacity.
- b. Inventory: A tabulation describing the:
  - (1) Specific number, types, and height of each wind turbine to be constructed, including their generating capacity.
  - (2) Dimensions and respective manufactures.
  - (3) Appurtenant structures and/or facilities.
- c. Vicinity Map: Identification of the property on which the proposed LWEF will be located.
- d. Site Plan: In addition to the requirements of Article 7 of this law, LWEF applications shall require the following site plan information:
  - (1) Planned location of each wind turbine.
  - (2) All property lines within two (2) miles of the property lines of the proposed site.
  - (3) Each turbine's setback distance from the closest LWEF boundary.
  - (4) Access road and turnout locations.
  - (5) Substation(s) and ancillary equipment, buildings, and structures, including permanent meteorological towers.
  - (6) Electrical cabling from the LWEF to the substation(s) and from the substation(s) to where the electricity will leave the site.
  - (7) Associated transmission lines.
  - (8) Conservation Areas, including natural areas protected by law, such as wetlands that meet the definition in the Clean Water Act; shoreland areas; water bodies; riparian buffers; populations of endangered or threatened species (federal or state), or habitat for such species; flyways; archaeological sites, cemeteries, and burial grounds; important local historic sites; existing healthy, native forests consisting of at least one acre of contiguous area; individual existing healthy trees that are at least 100 years old; other significant natural features and scenic view sheds; existing trails or corridors that connect the tract to neighboring areas.
  - (9) Location of all structures and properties within the geographical boundaries of any applicable setback.
  - (10) A landscaping plan that shows proposed screening and buffering of all buildings and other non-turbine structures on the site or sites.
- e. Misc: The Applicant shall provide the following information to the Town Board or Town Board's designee:
  - (1) Certification that the proposal is for an International Electrical Congress (IEC) Class S wind turbine that is designed to meet all NYS Building Codes.
  - (2) A "Stand-down Plan" for high wind conditions.

- (3) Fully Executed, copies of all pages of original leases/easements and agreements for this LWEF (not simply memorandums).
  - (4) An analysis to model shadow flicker in order to identify the distance to which effects may extend and predict the duration and timing of shadow flicker occurrence under real weather conditions.
  - (5) All manufacturing material and specifications for the model wind turbine selected, subject to an appropriate confidentiality agreement upon request.
  - (6) A fire protection emergency response plan including coordination with local emergency responders during construction and operation.
  - (7) Any other materials needed to satisfy the requirements of this permit.
- f. **Economic Impact Study:** The Town will hire independent experts (paid for from the Escrow Account: see Section 650.6) who will conduct a thorough, conservative assessment of the LWEF's net economic impact on the community. This will include possible reduced agricultural yields due to bat takings, property devaluations (and the commensurate loss in tax base), cost to community due to adverse health effects, higher cost of electricity, among other relevant considerations. This will be compared to any guaranteed incomes from the LWEF.
- g. **Air Space Impact:** For all portions of the LWEF more than 200 feet tall, the applicant shall provide a copy of a FAA determination as a result of filing the FAA Form 7460-1, "Notice of Proposed Construction or Alteration of an Object that may Affect the Navigable Airspace."
- If any portion of a LWEF will be located within forty (40) miles of any civilian or military airport runway, or heliport, the Applicant shall demonstrate compliance with all local county, state and federal airport related laws.
- The applicant shall establish to the satisfaction of the Town Board that the LWEF will not adversely impact the restricted air space in the area, particularly as it relates to the flight paths to and from Fort Drum Military Base.
- The applicant shall forward this application to the Commanding Officer of the Fort Drum Military Base, in order to provide for review and comment concerning any possible impacts on the operations and mission of the Fort Drum Military Base. These comments are separate from whatever is in the Department of Defense Clearinghouse documents. This application is not completed until such time as said review is finished and written comments are received.
- The applicant shall provide a narrative description of all risks to:
- (1) Civil air navigation (including civilian radar).
  - (2) Military air navigation routes, military air traffic control areas, military training routes, military special-use air space, military radar or other potentially affected military operations, and shall further include documentation that addresses any potential adverse impact on military operations and readiness as identified by the Department of Defense Clearinghouse and any remediation action agreed to by the applicant.
  - (3) NEXRAD weather radar systems.
  - (4) Hot air balloon rides available to the public within twenty (20) miles of the WEF.
- h. **Noise Impacts:** Applicant will provide a post-construction noise monitoring plan which shall, at a minimum, provide verification from a qualified party that at the WEF boundaries and at proximate residences, WEF noise does not exceed 35 dBA for more than five (5) consecutive

minutes during a representative range of operating and atmospheric conditions. Instrumentation to verify this shall meet ANSI or IEC Type I standards, and measurement procedures shall comply with relevant portions of ANSI SI2.9, Part 3. Each report will include the SCADA/ Power output data at the time of the testing.

- i. **Visual Impacts:** The applicant shall furnish a visual impact assessment to the Town Board, which shall include:
  - (1) Pictorial representations of "before and after" views from 360 degree viewpoints within two (2) miles of the proposed LWEF boundaries, including a drone perspective from the LWEF. These will include, but not be limited to, major roads; state and local parks; other public lands; historic districts; preserves and historic sites. The Town Board will provide guidance concerning the appropriate key sites. The applicant shall provide a map showing the locations of where the pictures were taken and the distance of each location from the proposed LWEF.
  - (2) If any portion of a proposed LWEF will be located within one (1) mile of the right-of-way of a Federal or State-designated Scenic Route/By-way, the applicant shall describe the proposed measures to be taken to minimize the visual impact of the proposed LWEF (including shadow flicker and blade glint) upon the Scenic Route/By-way.
  - (3) The applicant shall not install any lighting that exceeds the minimum required by the FAA. If approved by the FAA, on-demand lighting (AVWS) is required.
  
- j. **Impacts on Other Municipalities:** If the proposed LWEF is within two (2) miles of a neighboring municipality, the applicant shall provide written notification of this application to that municipality.
  
- k. **Applicant shall submit an emergency operations plan.** A copy of the approved emergency operations plan shall be given to the system owner, the local fire department and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials and emergency responders. The emergency operations plan shall include the following:
  - (1) Procedures for safe shutdown, de-energizing or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
  - (2) Procedures for inspection and testing of associated alarms, interlocks and controls.
  - (3) Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm notifying the fire department, evacuating personnel, de-energizing equipment and controlling and extinguishing the fire.
  - (4) Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
  - (5) Procedures for dealing with system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged equipment from the facility.
  - (6) Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.

- (7) Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.
- l. **Maintenance Plan:** The applicant shall detail the triennial, storm follow-up, and other actions that will be taken to keep the LWEF operating quietly, efficiently, and not polluting land, water, or air. This will include (but not be limited to) the minimization of: audible sounds, infrasound, vibrations, blade glint, and fluid leaks. The Applicant shall conduct preventive maintenance inspections at least once every year, and after any wind event defined as a tropical storm or Category 1 (or higher) hurricane. Each inspection shall look for such things as metal fatigue, nut loosening, and other potential failures that might impact the public health and safety. Such inspection reports shall be provided to the Town Board or the Town Board designee within thirty (30) days of the inspection.
- m. **Decommissioning Plan:** A description of how the structural and turbine materials will be disposed of, how the site will be restored, as well as:
  - (1) Anticipated life of the LWEF.
  - (2) Estimated decommissioning costs including contingency costs of at least 20% (in current dollars), as provided by an appropriately experienced licensed engineer.
  - (3) A verifiable means of determining if the decommissioning plan needs to be activated due to cessation of use, such as a letter from the electric utility stating that it will notify the Town Board within ten (10) business days if electricity is not received from any turbine within the LWEF for any thirty (30) consecutive days.
  - (4) Method for ensuring that funds will be available for decommissioning and restoration as set forth in Section 650.9.
- n. **Ancillary Materials:** Other relevant studies, reports, certifications, and approvals as may be reasonably requested by the Town to ensure compliance with this Local Law, or to protect the health, safety and well-being of the Town's citizens, or local ecosystems. The inputs of local citizens will be solicited in at least one (1) public hearing on this application.
- o. **Covenant:** The Applicant will execute an agreement, proposed by the Town Board, (and all of its successors and assigns) that it will comply with all the provisions of this Local Law, without reservation or qualification.

**4. Town Board Decision**

The approval by the Town Board shall be valid for a period of two (2) years. Prior to the expiration of such approval, the owner of the LWEF may submit one (1) approval extension application for up to an additional two (2) years. Such approval extension application shall be accompanied by a second application fee, as well as a letter explaining the reasons that would justify an approval extension.

**5. Dimensional Requirements**

To provide for at least minimal operational safety for persons and property located outside of a LWEF, all LWEFs shall comply with the minimums and maximums:

Setback from facility property lines: one mile  
 Maximum wind turbine height: 500 feet

\* Such minimum setbacks for a LWEF shall be measured from its outermost extension (whether blade tip, nacelle/turbine housing, or tower/pole edge) that is nearest the LWEF property line, public or private right-of-way, and access easement.

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\*\* Height is measured from the lowest adjacent grade to the highest point of the structure, including any attachments (such as a lightning protection device or a turbine rotor or tip of the turbine blade when it reaches its highest elevation). No portion of any wind turbine blade shall be closer than twenty-five (25) feet to any portion of the ground that surrounds any LWEF.

No LWEF wind turbine shall be permitted to be within five (5) miles of any operating or proposed radar facility (NEXRAD, military, commercial, etc.).

**6. Escrow Account**

The applicant shall pay to the Town a non-refundable application fee. The Town Board reserves the right to obtain engineering, economic impact, environmental impact, or other professional services to aid it in the review of any submitted LWEF application. These costs (and other expenses incurred by the Town) are reimbursable only from the escrow account, not the application fee.

- a. These LWEF-related oversight expenses include (but are not limited to) amounts required for building permits, licensing, re-licensing, and decommissioning - e.g. administration, engineering, expert health and wildlife evaluations, handling complaints, legal, etc. "Legal" includes reasonable attorney fees for the Town if the Town has to commence any proceeding against the applicant.
- b. Any escrow account interest shall stay with the account and be considered new principle.
- c. This escrow account will be set up by the applicant at the time of the LWEF permit application. This escrow account will held be at a financial institution approved by the Town Board, solely in the name of the Town, to be managed by the Town Supervisor. Monies deposited shall be agreed upon by the applicant and the Town Board. A LWEF permit application will not be processed until proof of deposit has been provided by the applicant. A LWEF permit application determination will not be made until all costs incurred by the Town to date, have been reimbursed by the applicant.
- d. If the LWEF application is denied, all escrow account funds will be returned to the applicant, less related expenses incurred by the Town. The money will be returned, along with a statement as to these costs, within 30 days of the application being formally denied, or receipt of a letter of withdrawal. Permit fees are non-refundable.
- e. This Escrow Account will be funded during the life of the LWEF by the applicant/owner/operator. The applicant/owner/operator will replenish any escrow funds used by the Town within fourteen (14) days of being sent written notification (and explanation) of said withdrawals. Failure to maintain the escrow account at the agreed upon amount by the applicant and the Town Board (within thirty (30) days of being given notice) shall be cause for revocation (or denial of renewal) of the LWEF permit.
- f. Once the owner believes that they have satisfactorily complied with the decommissioning conditions specified herein, they will send the Town written notification. The Town then has sixty (60) days to verify to their satisfaction that all decommissioning conditions have been complied with. If there is material non-compliance, the Town will so notify the owner and the process starts over. Otherwise the Town will return all escrow account funds to the owner, less related expenses incurred by the Town, along with an explanatory statement.

**7. Installation and Design**

- a. The electrical connection system from the turbines to a collection point or substation shall, to the maximum extent possible, be placed underground. The power from that collection point or substation may use overhead transmission lines, if approved by the Town Board.
- b. The Applicant shall submit design plans to verify that the LWEF is:
  - (1) Located, fenced, or otherwise secured so as to prevent unauthorized access.
  - (2) Made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with.
  - (3) Installed in such a manner that they are readily accessible only to persons authorized to operate or service them.
- c. The LWEF shall:
  - (1) Be a non-obtrusive color (such as light blue, off-white, or light gray) that blends with the sky, as determined by the Town Board.
  - (2) Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
  - (3) Not contain any signs or other advertising (including flags, streamers or decorative items or any identification of the turbine manufacturer, LWEF owner and operator). This does not include any identification plaques that might be required by the electric utility or a governmental agency.
  - (4) Be sited and operated so as to not interfere with television, internet service, telephone (including cellular and digital), microwave, satellite (dish), navigational, or radio reception in neighboring areas. The applicant and/or operator of the LWEF shall be responsible for the full cost of any remediation necessary to correct any problems or provide equivalent alternate service, within thirty (30) days of being given notice. This includes relocation or removal of problematic turbine(s), or any other equipment, transmission lines, transformers, and other components related thereto.
  - (5) Have a leak containment system for oil, hydraulic fluids, and other non- solids that is certified by an expert (such as an engineer, turbine manufacturer, etc.) acceptable to the Town Board that all such fluids will be captured before they reach the ground. The applicant shall pay the cost(s) of the expert.
  - (6) Include an incident response plan that ensures that local emergency responders have the necessary equipment and training to effectively handle emergencies such as oil spills, turbine fires, turbine structural damage (or collapse) of equipment, including access to heavy equipment needed for rescue of trapped personnel. The escrow fund will be used to reimburse all local emergency responders for any necessary equipment or training required.
  - (7) Preserve soils during construction, with top soil being stripped and stockpile and leveled to original depth following construction to prevent erosion and runoff.

**8. Real Property Value Protection Plan**

The LWEF Applicant shall assure the Town that there will be no loss in real property value within two miles of each wind turbine within their LWEF. To legally support this claim, the applicant shall consent in writing to a Real Property Value Protection Agreement as a condition of approval for the LWEF. This agreement shall provide assurance to non-participating real property owners (i.e. those with no turbines on their property) near the LWEF, that they have some protection from LWEF-related real property values losses.

**9. Surety for Removal**

The applicant shall place with the Town an acceptable letter-of-credit, bond, or other form of security that is sufficient to cover the cost of removal at the end of each LWEF turbine's useful life, as detailed in the decommissioning plan. Such surety shall be agreed upon by the applicant and the Town Board for each wind turbine. The Town Board may approve a reduced surety amount that is not less than 150% of a cost estimate that is certified by an Engineer, salvage company, or other expert acceptable to the Town Board. This calculation will not take into account any estimated salvage values.

The Town shall use this surety to assure the faithful performance of the decommissioning terms and conditions of the applicant's plan and this law. The full amount of the bond or security shall remain in full force and effect until all necessary site restoration is completed to return the site to a condition comparable to what it was prior to the LWEF, as determined by the Town Board. The Applicant will be responsible for assuring that any subsequent Assigns of the LWEF, will provide acceptable surety to the Town, prior to any transfer of ownership.

**10. Liability Insurance**

The permittee for a LWEF shall agree to secure and maintain for the duration of the permit public liability insurance, as follows:

- a. Commercial general liability covering personal injuries, death and property damage: \$10,000,000 per occurrence (\$20,000,000 aggregate), which shall specifically include the Town and its officers, councils, employees, committee members, attorneys, agents and consultants as additional named insureds.
- b. Umbrella coverage: \$50,000,000.
- c. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in New York State and with at least a rating of "A" from AM. Best.
- d. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least thirty (30) days prior written notice in advance of a cancellation.
- e. Renewal or replacement policies shall be delivered to the Town at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
- f. No more than fifteen (15) days after the grant of the permit and before construction is initiated, the permit holder shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.
- g. A certificate of insurance that states that it is for informational purposes only and does not confer sufficient rights upon the Town, shall not be deemed to comply with this Local Law.
- h. At any time the applicant/owner shall fail to provide evidence of such required insurance or lapse of the same, upon ten (10) days written notice by the Town Board to the applicant/owner, the LWEF shall be shut down until such time as the applicant/owner comes into compliance with all insurance requirements as stated herein.

**11. Indemnification**

The granting of the Town's LWEF Permit shall contain an indemnification provision. This clause shall require the applicant to at all times defend, indemnify, protect, save, hold harmless, and exempt the Town (and affected municipalities), and its officers, councils, employees, committee members, attorneys, agents, insurers, residents and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by delivery, construction, erection, modification, location, equipment's

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performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said LWEF, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town, or its employees or agents. With respect to the penalties, damages, or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town.

**12. Certification**

Prior to operation of any approved and constructed LWEF, the applicant must provide a certification that the project complies with applicable codes, industry practices and conditions of approval (where applicable).

**13. Reservation of Authority to Inspect LWEF**

In order to verify that the holder of a Permit for a LWEF and any and all lessees, renters, and/or licensees of it, have placed and constructed such facilities in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, local laws of the Town and regulations and other applicable requirements, the Town may inspect all facets of said permittee's, renter's, lessee's or licensee's placement, construction, and maintenance of such facilities, including all turbines, towers, buildings, and other structures constructed or located on the site.

- a. LWEFs shall not begin operation until all approvals required under this Local Law shall have been obtained, and all required certifications are provided.
- b. Following the issuance of any approval required under this Local Law, the Town Board or its designee shall have the right to enter onto the site upon which a LWEF has been placed, at reasonable times in order to inspect such LWEF and its compliance with this Local Law.
- c. After undertaking such inspection, the Town Board or its designated representative shall provide notice of any non-compliance with the terms of this Local Law or the conditions of approval of any permit issued hereunder, and shall provide the owner or applicant with a reasonable time frame to cure such violation, such time frame to be determined based upon the seriousness of the violation, its actual and/or potential impact upon public safety, and the actual and/or potential impact of the violation upon town residents and/or local ecosystems.

**14. Construction Related Damage**

The owner of any permitted LWEF shall, to the extent practicable, repair or replace all real or personal property, public or private, damaged during construction of the LWEF.

- a. The Applicant shall reimburse the New York State Department of Transportation (NYSDOT), the Lewis County Highway Department (LCHD) and/or the Town (as appropriate) for any and all repairs and reconstruction to roads that are necessary due to the construction or decommissioning of the LWEF. A qualified independent third party or other qualified person, agreed to by the NYSDOT, the LCHD and/or the Town (as appropriate) and the applicant, shall be hired to pre-inspect the roadways to be used during construction and/or decommissioning. This third party shall be hired to evaluate, document, and rate the roads condition prior to construction or decommissioning of the LWEF, and again thirty (30) days after the LWEF is completed or removed.
- b. Any road damage during construction that is done by the applicant and/or one or more of its subcontractors that is identified by this third party shall be repaired or reconstructed to the satisfaction of NYSDOT, LCHD, and/or the town (as appropriate) at the applicant's expense, prior to the final inspection. In addition, the applicant shall pay for all costs related to this third-party pre- inspection work prior to receipt of the final inspection.

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- c. The surety for removal of a decommissioned LWEF shall not be released until the Town Board and Town Highway Superintendent are satisfied that any road damage that is identified by this third party during and after decommissioning that is done by the applicant and/or one or more of its contractors or subcontractors has been repaired or reconstructed to the satisfaction of the NYSDOT, LCHD and/or the Town (as appropriate) at the applicant's expense. In addition, the applicant shall pay for all costs related to work of this third party's inspection prior to receipt of the release of the surety.

**15. Noise Impacts**

No part of the LWEF shall produce noise above 35 dBA LAeq for more than five (5) consecutive minutes, as measured at any WEF property line or residence. Each occurrence by individual turbines shall be a separate violation of this Local Law, and the penalties shall be cumulative. Noise shall be measured by a qualified independent acoustical consultant.

If noise levels exceed 35 dBA for more than five (5) consecutive minutes, as measured at any LWEF property line or residence, the problem turbine(s) shall be shut down within one business day of being directed to do so by the Town Board or their designee. The problem turbine(s) shall remain shut down until it can be demonstrated to the satisfaction of the Town Board (or their designee) that those turbines can be operated so as to not exceed 35 dBA for more than five (5) consecutive minutes, as measured at all WEF property lines, or proximate residences.

**16. Environmental Monitoring**

The applicant will permit post-construction environmental studies deemed appropriate by the Town Board. These will be funded by the escrow account. Post-construction field studies will include scientific assessments of regional nesting failures, and territory abandonment of special status species like raptors species, within two (2) miles of the LWEF. When these assessments are being done, only researchers involved with these studies will be legally allowed to touch carcasses. During the life of the project every bird or bat carcass, or crippled bird or bat found anywhere within the LWEF must be reported to the Town by the applicant, within seven (7) days.

**17. Decommissioning**

The Town Board will review and determine whether to hire an expert in the projected decommissioning costs every five (5) years. The LWEF owner will adjust their security to any changes from the original calculation. If the Town Code Enforcement Officer condemns any portion of a LWEF, or if no electricity is generated from any turbines for three (3) consecutive months, the LWEF owner and/or property owner shall have three (3) months to remedy the safety issues or complete the decommissioning of the WEF, according to the approved plan. The Town Board or their designee, may grant extensions of time for repair and/or maintenance, for good cause, such as the need to back-order parts that are not currently available from the supplier or the need to repair a LWEF damaged by a storm.

Decommissioning shall include the complete removal of turbines, buildings, electrical components, cabling, roads, and any other associated facilities and/or structures, including below-ground items (e.g. foundations). Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

**18. Complaints**

The Town Board shall set up a procedure for filing and handling LWEF complaints. The LWEF owner/permittee shall initially be given a reasonable opportunity to resolve all complaints. The cost of such resolution shall be borne by the LWEF owner/permittee. If resolution is not made in a reasonable time (as determined by the Town), the Town may utilize its escrow account to attempt to resolve any LWEF issues. The Town Board may establish a monitoring committee to oversee resolution of complaints regarding LWEFs.

**19. Fiscal Responsibility**

- a. The Town Board may, at its discretion, request the most recent annual audited financial report of the owner/permittee prepared by a duly licensed certified public accountant, during the review process. If such report does not exist, the Town Board may, in its sole discretion, require a suitable alternative to demonstrate the financial responsibility of the applicant and its ability to comply with the requirements of this Local Law.
- b. No transfer of any LWEF or permit shall occur without notice to the Town Board and written acceptance by such entity of the obligations of the permittee under this Local Law and the terms of the permit. Any such transfer shall not eliminate the ability of any entity for any act occurring during its ownership or status as permittee.

**Section 655. Solar Energy Systems**

**1. Applicability**

- a. The requirements of this Local Law shall apply to all solar energy system and equipment installations modified or installed after its the effective date, excluding general maintenance and repair and building integrated photovoltaic systems.
- b. Permits shall not be transferrable without the permission of the Town Board after a thorough review of the financial character and condition of the proposed transferee by the Town Board along with a finding that the permittee is not already in violation of the permit in any way, that the proposed transferee has the necessary financial resources, management experience, skill and creditable ability to perform according to the terms of the permit.

The Planning Board and the Town Board shall have the authority to impose new conditions on the proposed permittee's permit as a condition of approval of the transfer. Such conditions may be related to financial concerns and/or any studies or data (post the date of the original permit) which may show an increased environmental or health impact on the Town, its people and/or its wildlife.

**2. Small Scale Solar Energy Systems**

- a. The installation of a solar collector or panel for a small scale solar energy system, whether attached to the main structure, an accessory building, or as a detached, free-standing or ground mounted solar collector is permitted as an accessory structure, shall meet all requirements of this Section and shall require the issuance of a zoning permit.
- b. Small solar panels of less than two square yards used individually for charging of batteries and powering small equipment or devices shall not require a permit.
- c. All small scale solar energy systems shall be designed in conformance with the current International Building Code requirements, the New York State Unified Solar Permit (where applicable), and the manufacturer's recommendations.
- d. All solar collectors and related equipment shall be surfaced, designed and sited to prevent glare and/or reflection of solar rays onto neighboring properties and public roads in excess of that which already exists.
- e. Solar collectors on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached. Solar collectors on flat roofs shall not extend above the

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top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

- f. Ground-mounted solar energy systems shall not exceed 15 feet in height when oriented at maximum tilt.
- g. All solar energy systems shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.
- h. Small scale solar energy systems shall be setback from property lines as required for the zone they are located in, with the exception that no small scale solar energy systems shall be located closer than 50 feet from a road center line.
- i. Screening shall be provided from adjoining lots through the use of architectural features, landscaping, fencing, or other screening which will harmonize with the character of the property and surrounding area. The proposed screening shall not interfere with normal operation of the collectors.
- j. All solar energy systems shall be operated such that no damage is caused by stray voltage. If it has been demonstrated that a system is causing stray voltage, the system operator shall (within seven days) mitigate the damage or cease operation of the system.
- k. All solar collectors and their associated support elements shall, at the time of installation, be designed according to generally accepted engineering practice to withstand wind pressures applied to exposed areas by wind from any direction, to minimize the migration of light or sound from the installation and to minimize the development of sight obstructions for adjacent structures or land parcels.
- l. All solar energy systems, solar collectors and solar panels shall be maintained in good condition and in accordance with all requirements of this Local Law.

**3. Utility-Scale Solar Energy Systems**

- a. Utility-scale solar energy systems are permitted through the issuance of a special use approval subject to the requirements set forth in this Section.
- b. Throughout the permit process, the applicant shall promptly notify the Town Board of any changes to the information contained in the permit application. Changes which do not materially alter the initial site plan may be administratively accepted. Any changes which materially or substantively add to or affect the environmental, health, economic, cultural, scenic, pastoral/rural, cumulative, and technological impacts shall be included in an amended application. The application for a utility-scale solar energy system shall consist of an electronic (digital) filing that contains the inventory (a tabulation describing the number and type of each proposed solar array, including their generating capacity, dimensions, appurtenant structures and/or facilities).
- 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 in the application for special use permit approval.
- d. Any utility-scale solar energy system requiring special use approval shall also require site plan review. Any site plan application for a solar energy system shall also include the following information:

- (1) A survey depicting project site boundaries (if part of a larger parcel, include a map of the larger parcel and the location of the area to be acquired or leased for the project).
  - (2) Illustration of all proposed changes to the landscape of the site, location of lease lines, location and orientation of all the arrays, battery storage, supporting equipment and structures, access from public highways, means of interconnection to the existing electric grid, vehicular paths, grading, limits of vegetation clearing, limits of tree cutting, exterior lighting, fencing and plantings and vegetative screening as well as any additional information relevant to the proposed project as determined by the Town Code Enforcement Officer and/or Town Board.
  - (3) An electrical diagram detailing the solar energy system layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
  - (4) Preliminary equipment specification sheets that document all proposed solar panels, significant components, mounting systems and inverters that are proposed. Final equipment specification sheets shall be submitted prior to the issuance of a special use permit.
  - (5) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, as applicable, and to such standards as may be established by the Town Board.
  - (6) Equipment specification sheets documented and submitted for all photovoltaic panels, significant components, mounting systems and inverters that are to be installed.
  - (7) Plans showing the layout of the solar energy system signed by a professional engineer (or professional engineering company/firm) in New York State. Any solar energy systems attached to a structure shall be required to submit a structural report to address all load impacts.
  - (8) A screening and landscaping plan, stamped and signed by a New York State licensed landscape architect, showing adequate measures to screen the solar energy system through landscaping or other means so that the views of solar panels and other solar energy system buildings and equipment shall be minimized as reasonably practical from roadways and neighboring properties. The screening and landscaping plan shall include the locations, elevations, height, plant species and/or materials that will comprise the vegetative buffer or landscaping used to screen and/or mitigate any adverse aesthetic impacts of the solar energy system.
- e. For projects 50 acres or greater in size, a visual impact assessment (VIA) shall be provided to determine the potential visual impacts of the proposed solar energy system on public roadways and adjacent properties. At a minimum, a viewshed analysis map and line-of-sight profile analysis shall be provided. A rendering or photo-simulation of the solar energy system shall also be provided as part of a complete application. The view(s) provided shall be from the closest public road(s) and closest existing (non-participating) residence(s). Depending upon the scope and potential significance of the visual impacts, additional impact analyses may be required by the Town Board in order to determine the effectiveness of the proposed buffers and/or setbacks. The VIA shall be prepared according to the NYS policy for Assessing and Mitigating Visual Impacts (DEP-00-02) as applicable to the setting and location.

- f. If any portion of a utility-scale solar energy system will be located within five miles of any civilian or military airport runway, or heliport, the applicant shall provide a copy of the FAA determination resulting from the filing of FAA Form 7460 2. The applicant shall also demonstrate compliance with all local, state and federal airport related laws.
- g. If requested by the Town Board, the utility-scale solar energy system applicant shall use the latest version of the Solar Glare Hazard Analysis Tool (SGHAT), per its user's manual to evaluate the solar glare aviation hazard, as indicated in D(i) and D(ii). The full report for each flight path and observation point, as well as the contact information for the Zoning Enforcement Officer, shall be sent to the appropriate authority at least 30 days prior to site plan approval. Proof of delivery of notification and date of delivery shall be submitted with the permit application.
- h. Applicant shall submit an emergency operations plan. A copy of the approved emergency operations plan shall be given to the system owner, the local fire department and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials and emergency responders. The emergency operations plan shall include the following:
  - (1) Procedures for safe shutdown, de-energizing or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
  - (2) Procedures for inspection and testing of associated alarms, interlocks and controls.
  - (3) Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm notifying the fire department, evacuating personnel, de-energizing equipment and controlling and extinguishing the fire.
  - (4) Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
  - (5) Procedures for dealing with system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged equipment from the facility.
  - (6) Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.
  - (7) Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.
- i. A property operation and maintenance plan shall be provided. The applicant shall detail storm follow-up and other actions that will be taken to keep the utility scale solar energy system operating quietly, efficiently, and not polluting land, water, or air. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- j. To ensure the proper removal of utility-scale solar energy systems, a solar decommissioning plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of special use permit approval under this section. The solar decommissioning plan must specify that after the utility-scale solar energy system can no longer be used, it shall be removed and disposed of by the applicant or any

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subsequent owner in a lawful and proper manner. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. Removal of utility-scale solar energy systems must be completed in accordance with the solar decommissioning plan. If the utility-scale solar energy system ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the system, mount and associated equipment and facilities by no later than 90 days after the end of the 12 month period. If the utility-scale solar energy system is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality. A licensed professional engineer registered in the State of New York, with solar development experience, shall be hired by the company, and shall estimate decommissioning cost.

- k. The solar developer shall provide decommissioning security in the form of a performance bond issued by a surety company in good standing with, and authorized to issue surety bonds by, the New York State Department of Financial Services and having a rating of "A" or better pursuant to the latest rating publication of Surety Companies by AM. Best Company. The bond amount shall equal 115% of the decommissioning and reclamation costs for the entire system. The amount of the bond or security shall be updated by a qualified independent engineer licensed to practice in the State of New York to reflect inflation and any other changes after one year of project operation, and every fifth year thereafter. The bond shall remain valid until the decommissioning obligations have been met to the satisfaction of the Town. In the case of a lease, the cost of decommissioning shall be borne by the entity or corporation that is leasing the property in question and not the landowner.
- l. No transfer of the Permit shall release any present or future permittee from the decommissioning obligations, both financial and performance related.
- m. Prior to the issuance of the special use approval or final approval by the Town Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State Licensed Professional Engineer.
- n. Any application for a utility-scale solar energy system within the Town shall contain an indemnification provision. The provision shall require the applicant to at all times defend, indemnify, protect, save, hold harmless, and exempt the Town, and its officers, councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said utility-scale solar energy system, excepting however any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the town, or its employees or agents. With respect to the penalties, damages, or charges referenced herein, reasonable attorney's fees, consultant's fees, and expert witness fees are included in those costs that are recoverable by the Town.
- o. All applicants must meet with the Town of Osceola Sole Tax Assessor to determine potential impact on their tax assessment prior to installation as part of the permit process.
- p. All utility-scale solar energy systems shall comply with the following dimensional and design standards:

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- (1) Utility-scale solar energy system shall be located on lots with a minimum lot size of five acres.
  - (2) Utility-scale solar energy system components, equipment, and associated impervious surfaces shall occupy no more than 50% of the area of MSG 1-4 within the facility area. This requirement may be waived if the applicant can demonstrate to the Town Board that adherence to it would interfere with farming operations.
  - (3) Ground-Mounted Solar Energy Systems shall not exceed the maximum height of 15 feet and shall be set back a minimum of 100 feet from all property lines to edge of solar array, a minimum of 300 feet from centerline of road to edge of solar array, and a minimum of 300 feet from any occupied residences to edge of solar array.
  - (4) All utility-scale solar energy systems shall be enclosed by fencing to prevent unauthorized access. Warning signs, every 100 feet, with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The fencing and the system may be further screened by landscaping as needed to avoid adverse aesthetic impacts. All mechanical buildings and equipment, including, but not limited to, substations, transformers or any structure used for storage of batteries, shall be enclosed by a fence not to exceed seven feet in height if required by the National Electric Code, and a locking gate to prevent unauthorized access. Fencing may surround the solar panel array(s), but the entire lease area or property shall not be fenced.
  - (5) Construction of on-site access roadways shall be minimized.
  - (6) Solar energy systems and equipment shall not present safety risks, including, but not limited to, weight load and ingress or egress in the event of an emergency.
  - (7) All solar collectors and related equipment shall be surfaced, designed and sited to prevent glare and/or reflection of solar rays onto neighboring properties and public roads in excess of that which already exists. If needed, the company shall hire a professional photovoltaic contractor to evaluate potential problems.
  - (8) All solar collectors and their associated support elements shall, at the time of installation, be designed according to generally accepted engineering practice to withstand wind pressures applied to exposed areas by wind from any direction, to minimize the migration of light or sound from the installation, and to minimize the development of sight obstructions for adjacent structures or land parcels.
  - (9) All on-site electrical wires associated with solar energy systems shall be installed underground, except for "tie-ins" to a public utility company and public utility company utility poles, towers and lines, (all electrical wires that are not installed underground shall be inside of proper conduit, if possible). This standard may be modified by the Town if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts or similar factors.
- q. All costs and expenses incurred related to the environmental tests for the utility-scale solar energy system shall be paid from an escrow account. The Town shall also use the escrow account funds to hire independent qualified experts, as needed, to assure the following:
- (1) That the applicant provides a written report from all appropriate state and federal agencies detailing their evaluation of the proposed utility-scale solar energy system.

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- (2) That the applicant provide a complete list of all materials that will be used in the solar array, highlighting any materials that are known to be carcinogenic, (i.e., cadmium, PFOS, PFAS).
- r. All solar energy systems shall be operated such that no damage is caused by stray voltage. If it has been demonstrated that a system is causing stray voltage, the system operator shall (within seven days) mitigate the damage or cease operation of the system.
- s. All utility-scale energy systems installations must be performed by a certified and recognized solar installation contractor, and prior to operation, the electrical connections must be inspected by a certified New York State electrical inspection agency and by an appropriate electrical inspection person or agency, as determined by the Town of Osceola. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.
- t. If in the course of delivery, installation, maintenance, dismantling, removal or transport of the solar energy system or any components thereof, the property of the Town of Osceola, including but not limited to, roadways, shoulders, drainage structures, signage, guide rails, etc., is damaged by the efforts of the applicant or any of its agents, the applicant shall within 30 days of completing construction, completely replace or repair all damages in consultation with the Town of Osceola Highway Superintendent and Town Board.
- u. All solar energy systems, solar collectors and solar panels shall be maintained in good condition and in accordance with all requirements of this Local Law.
- v. In order to verify that the holder of a permit for a solar energy facility and all lessees, renters, and/or licensees of it, have placed and constructed such facilities in accordance with all applicable technical, safety, fire, building, and zoning codes laws, local laws of the Town of Osceola and regulations and other applicable requirements, the Town may, after notification to owner, inspect all facets of said permit holder's, renter's, or lessee's placement, construction, and maintenance of such facilities, including all solar panels, buildings, and other structures constructed or located on the site.
- w. After undertaking such inspection, the Town Board or its designated representative shall provide notice of any non-compliance, within 15 days, with the terms of this Local Law or the conditions of approval of any permit issued hereunder, and shall provide the owner or applicant with a reasonable time frame to cure such violation, such time frame to be determined based upon the seriousness of the violation, its actual and/or potential impact upon public safety, and the actual and/or potential impact of the violation upon Town residents.
- x. The applicant shall conduct preventive maintenance inspections at least once every season and after any wind defined as a tropical storm or Category 1 (or higher) hurricane or lightning, flooding or draining altering event, or seismic event. The town's Zoning/Code Enforcement Officer shall be present for the inspection. Each inspection shall look for such things as metal fatigue, nut loosening, and other potential failures that might impact the public health and safety. Such inspection reports shall be provided to the Town Board and the landlord of the premises if there is one, within 30 days of the inspection.
- y. If the owner of the solar energy system changes or the owner of the property changes, the special use approval shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use approval, site plan approval, and decommissioning plan. A new owner or operator of the solar energy system shall notify the Code Enforcement/Zoning Enforcement Officer and the Town of such change in ownership or operator within 30 days of the ownership change. A new owner or

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operator must provide such notification to the Code Enforcement/Zoning Enforcement Officer and the Town in writing. The special use approval and all other local approvals for the solar energy system would be void if a new owner or operator fails to provide written notification to the Code Enforcement/Zoning Enforcement Officer and Town in the required timeframe. Reinstatement of a void special use approval will be subject to the same review and approval processes for new applications under this Local Law.

**Section 660. Battery Energy Storage Systems**

1. A zoning permit and an electrical permit shall be required for installation of all battery energy storage systems.
2. All battery energy storage systems, all dedicated use buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in Uniform Code, the Energy Code, and all Town laws.
3. Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts, subject to the Uniform Code and the issuance of a zoning permit. Tier 1 battery energy storage systems are exempt from site plan review.
4. Tier 2 Battery Energy Storage Systems are permitted through the issuance of a special use approval and site plan approval, and shall be subject to the Uniform Code and the following requirements:
  - a. Prior to the issuance of final approval by the Town Board, but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer.
  - b. Site plan approval shall be required. Any site plan application shall include the following information:
    - (1) Property lines and physical features, including roads, for the project site.
    - (2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
    - (3) A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
    - (4) A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a permit. Name, address and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of a special use approval.
    - (5) Name, address, phone number and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.

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- (6) Zoning district designation for the parcel(s) of land comprising the project site.
- c. Applicant shall submit an erosion and sediment control and storm water management plan prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Town Board.
- d. Applicant shall submit a commissioning plan. Such plan shall document and verify that the system and its associated controls and safety systems are in properly working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, battery energy storage system commissioning shall be conducted by a New York State (NYS) licensed professional engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Code Enforcement/Zoning Enforcement Officer and Town Board prior to final inspection and approval and maintained at an approved on-site location.
- e. Applicant shall submit an operation and maintenance manual. Such manual shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code.
- f. Applicant shall submit a fire safety compliance plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.
- g. Applicant shall submit an emergency operations plan. A copy of the approved emergency operations plan shall be given to the system owner, the local fire department and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials and emergency responders. The emergency operations plan shall include the following:
  - (1) Procedures for safe shutdown, de-energizing or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
  - (2) Procedures for inspection and testing of associated alarms, interlocks and controls.
  - (3) Procedures to be followed in response to notifications from the battery energy storage management system, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
  - (4) Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm notifying the fire department, evacuating personnel, de-energizing equipment and controlling and extinguishing the fire.
  - (5) Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
  - (6) Procedures for dealing with battery energy storage system equipment damaged in a fire

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- or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
- (7) Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.
  - (8) Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.
- h. All Tier 2 battery energy storage systems shall comply with the following dimensional and design standards:
- (1) Tier 2 battery energy storage systems shall comply with the setback requirements of the underlying zoning district for principal structures.
  - (2) Tier 2 battery energy storage systems shall comply with the building height limitations for principal structures of the underlying zoning district.
  - (3) Areas within 10 feet on each side of Tier 2 battery energy storage systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.
  - (4) Tier 2 battery energy storage systems, including all mechanical equipment, shall be enclosed by a seven-foot high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
  - (5) Tier 2 battery energy storage systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports.
  - (6) Lighting of battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
  - (7) All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and rights-of-way.
  - (8) Signage shall be in compliance with ANSI 2535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number. As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

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- (9) The one-hour average noise generated from the battery energy storage system, components and associated ancillary equipment shall not exceed a noise level of 60 dBA as measured at the outside wall of any non-participating residence or occupied community building. Applicants may submit equipment and component manufacturers noise ratings to demonstrate compliance. The applicant may be required to provide operating sound pressure level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.
5. To ensure the proper removal of battery energy storage systems, a decommissioning plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of special use approval under this Section. The decommissioning plan must specify that after the battery energy storage system can no longer be used, it shall be removed and disposed of by the applicant or any subsequent owner in a lawful and proper manner. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. Removal of battery energy storage systems must be completed in accordance with the decommissioning plan. If the battery energy storage system ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the system and associated equipment and facilities by no later than 90 days after the end of the 12 month period. If the battery energy storage system is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality. A licensed professional engineer registered in the State of New York, with relevant experience, shall be hired by the company, and shall estimate decommissioning cost.
6. The developer shall provide decommissioning security in the form of a performance bond issued by a surety company in good standing with, and authorized to issue surety bonds by, the New York State Department of Financial Services and having a rating of "A" or better pursuant to the latest rating publication of Surety Companies by AM. Best Company. The bond amount shall equal 115% of the decommissioning and reclamation costs for the entire system. The amount of the bond or security shall be updated by a qualified independent engineer licensed to practice in the State of New York to reflect inflation and any other changes after one year of project operation, and every fifth year thereafter. The bond shall remain valid until the decommissioning obligations have been met to the satisfaction of the Town. In the case of a lease, the cost of decommissioning shall be borne by the entity or corporation that is leasing the property in question and not the landowner.
7. No transfer of the permit shall release any present or future permittee from the decommissioning obligations, both financial and performance related.
8. If the owner of the battery energy storage system changes or the owner of the property changes, the special use approval shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use approval, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the Code Enforcement/Zoning Enforcement Officer and the Town of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification to the Code Enforcement/Zoning Enforcement Officer and the Town in writing. The special use approval and all other local approvals for the battery energy storage system would be void if a new owner or operator fails to provide written notification to the Code Enforcement/Zoning Enforcement Officer and Town in the required timeframe. Reinstatement of a void special use approval will be subject to the same review and approval processes for new applications under this Local Law.

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Section 665. Telecommunication Towers

**1. Shared Use**

- a. At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antennae on pre-existing structures shall be considered. An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to new construction.
- b. An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes including real property acquisition or lease required to accommodate shared use.
- c. In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.

**2. Setbacks**

Towers and antennae shall be setback from all lot lines a distance equal to the height of the tower plus 25 feet. Additional setbacks may be required by the town board to contain on-site substantially all ice-fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities.

**3. Visibility**

- a. All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.
- b. Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding treeline and painted gray, green or black below the surrounding treeline unless other standards are required by the FAA. In all cases, guyed towers shall be preferable to free-standing structures. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.
- c. Accessory structures shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

**4. Existing Vegetation**

Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to approval of the permit. Clearcutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

**5. Screening**

Deciduous or evergreen tree plantings may be required to screen portions of the tower from nearby

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residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including roads, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten feet in height within two years of planting shall be provided to effectively screen the tower base and accessory structures. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.

**6. Access and Parking**

A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived in meeting the objectives of this section.

**7. Inspection**

Towers shall be inspected annually for structural integrity and continued compliance with this law by a licensed professional engineer. A copy of the inspection report shall be submitted to the Town Board indicating repairs made.

**ARTICLE 7. SITE PLAN REVIEWS**

**Section 705. Authority**

The Town Board of the Town of Osceola is hereby authorized pursuant to Town Law Section 274-a to review and approve, approve with modifications, or disapprove site plans within the town as designated in accordance with the standards and procedures set forth in this law.

**Section 710. Applicability**

All nonresidential uses on any site or lot, and all multi-family dwellings of over two families shall be required to have an approved site plan approved by the town board prior to the issuance of a zoning permit or a certificate of compliance by the enforcement officer.

**Section 715. General Review Criteria**

The town board shall require that all site plans comply with the following general review criteria:

1. that the site is designed in the interests of the public health, safety, welfare, and comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area;
2. that the site is designed so as to be in harmony with the comprehensive plan for the community;
3. that parking areas are adequate for the intended level of use, and arranged and screened so as to minimize negative impacts on adjacent properties;
4. that access to the site is safe and convenient and relates in an appropriate way to both the internal circulation on the site as well as the town road system;
5. that the internal circulation of the site is arranged so as to minimize impacts on the town road system;
6. that the site is suitably landscaped, and appropriately screened from adjacent properties and the road so as to protect the visual character of the area and to minimize negative impacts on adjacent properties and the neighborhood;

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7. that any activities on the site which are incompatible with adjacent properties are suitably buffered so as to minimize negative impacts on such adjacent properties;
8. that signs, site lighting, and the locations of all buildings and structures are in keeping with the character of the neighborhood;
9. that any changes to existing drainage patterns, or increased drainage due to development activity has no negative impacts on adjacent property;
10. that proposed water supply and sewage disposal facilities are adequate;
11. that development activity complies with all other standards and requirements of this law.

**Section 720. Application**

The enforcement officer shall refer any application for a zoning permit which requires a site plan review to the town board. An application for a site plan review shall be filed with the town board, and the appropriate fee as determined by the fee schedule adopted by town board resolution shall be paid to the town clerk. Six copies of the application and site plans shall be provided which shall include the following:

1. Name and address of applicant and owner, if different, and of the person responsible for preparation of drawings;
2. Date, northpoint, written and graphic scale;
3. Boundaries of the site plotted to scale, including distances, bearings, and areas;
4. Locator map showing the site in relationship to the town;
5. Location and ownership of all adjacent lands as shown on the latest tax records;
6. Location of all zone district boundaries;
7. Location, name, and existing width of adjacent roads;
8. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use or adjoining the property;
9. Complete outline of existing or proposed deed restrictions or covenants applying to the property;
10. Existing hydrologic features, including wetlands, together with a grading and drainage plan showing existing and proposed contours at a maximum of five foot intervals;
11. Location, proposed use, and height and dimensions of all buildings including the number and distribution by type of all proposed dwelling units, and the designation of the amount of gross floor area and gross leasable area proposed for retail sales and services, office and other commercial or industrial activities;
12. Location and design of all parking and loading areas including access and egress drives and fire lanes and emergency access areas;
13. Provision for pedestrian access, including public and private sidewalks;
14. Location of outdoor storage;
15. Location and design of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences;
16. Description of the method of securing public water supply and disposing of sewage, and the location and design of such facilities;
17. Location and design of all energy distribution facilities, including electrical, gas, and solar energy;
18. Location, size and design of all proposed signs;
19. Location and design of outdoor lighting facilities;
20. General landscaping plan and planting schedule, including the location and proposed development of all buffer areas;
21. Erosion and sediment control plan conforming to the standards and practices contained in the USDA Soil Conservation Service Engineering Field Manual (EFM) and New York Guidelines for Urban Erosion and Sediment Control, or other erosion and sediment control manual recognized by the town board;
22. A statement of the nature and extent of the interest of any state employee, or officer of employee of the town in the applicant pursuant to General Municipal Law Section 809.
23. An environmental assessment form (EAF) and, where required, a draft environmental impact statement (EIS);
24. Other elements integral to the proposed development as considered necessary by the town board.

**Section 725. Waiver of Submission Requirements**

The town board may waive any of the submission requirements listed in Section 720 above where it deems that the information is either not applicable or is unnecessary to a particular site plan review.

**Section 730. Environmental Impact Review**

The town board shall be responsible for the completion of an environmental assessment form (EAF) for each application for site plan review. The town board shall be responsible for compliance with 6 NYCRR Part 617 (State Environmental Quality Review regulations) in cooperation with other involved agencies in the review of any site plan.

**Section 732. Town Planning Board Referral**

Upon acceptance of a completed application, the town board shall refer the application to the town planning board for review and comment. The town planning board shall have 30 days to review the application and make such recommendations to the town board as they may deem appropriate. The town planning board may hold such public meetings and hearings as they may deem necessary to conduct their investigation and make recommendations.

**Section 735. Review**

Upon a determination by the town board that the application for a site plan review is complete, the board shall review the site plan taking into consideration the objectives for site plan review as outlined in Section 715 above, the general standards for all uses as outlined in Article 5 of this law.

**Section 740. Variance**

During the course of the review, should the town board determine that a site plan approval may not be feasible without the granting of a variance as defined by Town Law Section 267, the town board may at any time refer the application and site plans to the zoning board of appeals for the consideration of such variance.

**Section 745. Public Hearing**

The town board shall conduct a public hearing. Such public hearing shall be conducted within 62 days of the receipt of the completed application for a site plan review and shall be advertised at least five days before the hearing in a newspaper in general circulation in the town. A notice of the hearing shall be mailed to the applicant at least 10 days before the hearing.

**Section 750. County Planning Board Review**

At least 10 days before the hearing, the town board shall refer all site plan review matters that fall within those areas specified under General Municipal Law Section 239-m to the Lewis County Planning Board prior to final action. This includes any use that falls within 500 feet of the following: the boundary of the town; a state or county park or recreation area; a state or county highway or expressway; a state or county owned drainage channel; or state or county land where a public building or institution is located. If the Lewis County Planning Board does not respond within 30 days from the time it received a full statement on the referral matter, then the town board may act without such report.

**Section 755. Waiver of Public Hearing**

The town board may waive the public hearing. Such waiver shall not be allowed in any one of the following circumstances:

1. the use requires a special use approval pursuant to this law;
2. the use is a Type I SEQRA action and the use is determined by the town board to have environmental significance;

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3. the use is over 1000 square feet of floor or ground area;
4. the use is over 20 feet in height;
5. the use is within 200 feet of a DEC designated wetland area, within 200 feet of a stream with a DEC classification of C or higher, in a FEMA designated floodplain area, or in a Special Area as depicted on the zoning map;
6. the use is determined by the town board to be of a publicly controversial nature; or
7. the applicant has requested a public hearing.

**Section 760. Final Action**

1. Within 62 days of the public hearing, or within 62 days of the acceptance of a complete application by the town board where such hearing has been waived pursuant to Section 755 above, the town board shall act on the site plans. The time within which the town board must render its decision may be extended upon mutual consent of the applicant and the town board. The action of the town board shall be in the form of a written statement to the applicant stating whether or not the site plans are approved, approved with modifications, or disapproved. The decision of the town board shall be filed in the office of the town clerk within five business days and a copy mailed to the applicant.
2. If the site plans are approved, and upon payment by the applicant of all fees and reimbursable costs due the town, the town board shall endorse its approval on a copy of the application and site plans.
3. If the site plans are approved with modifications, the town board shall specify in the statement all modifications to be made. Upon payment by the applicant of all fees and reimbursable costs due to town, and upon approval of the modified application and site plans, the town board shall endorse its approval on a copy of the application and site plans.
4. If the site plans are disapproved, the statement shall contain the reasons for such findings. In such case, the town board may recommend further study of the application and resubmission after it has been revised or redesigned.

**Section 765. Report to County Planning Department**

The town board shall report to the Lewis County Planning Board on its final action within 30 days of that event.

**ARTICLE 8. SPECIAL USE APPROVAL**

**Section 810. Authority**

The town board of the Town of Osceola is hereby authorized pursuant to Town Law Section 274-b to review and approve, approve with modifications, or disapprove special uses within the town as designated in accordance with the standards and procedures set forth in this law.

**Section 820. Applicability**

All uses listed in sections 555, 940 and 1015 of this law as requiring a special use approval shall be required to have such approved by the town board prior to the issuance of a zoning permit or a certificate of compliance by the enforcement officer.

**Section 830. Considerations**

1. In considering and acting on special uses, the town board shall consider the public health, safety, welfare, and comfort and convenience of the public in general, the residents of proposed developments, and the residents of the immediate surrounding area.
2. The town board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the following objectives:
  - a. **Compatibility:** That the proposed use is of a character compatible with the surrounding neighborhood, in harmony with the comprehensive plan for the community, and be compatible with existing natural resources such that the activity does not substantially alter their value or quality.
  - b. **Public Facilities:** That the public facilities to service the proposed use, including water supply, sewage disposal, drainage facilities, and road facilities, and any other utilities and public services are adequate for the intended level of use.
  - c. **Other Requirements:** That the proposed use complies with all requirements for site plans in Article 7 of this law and any other special requirements as may be set forth for the use in this law.

**Section 840. Application and Review Procedure**

All applications for special use approvals shall be submitted and reviewed in compliance with the submission requirements and review procedures for site plan reviews in Article 7 of this law.

## **ARTICLE 9. NONCONFORMITIES**

**Section 910. Intent**

The intent of this article is to recognize lots, structures and uses of land and structures which legally existed prior to the enactment or subsequent amendment of this law which would be prohibited or unreasonably restricted by the requirements herein. All rights of nonconformity shall continue regardless of the transfer of ownership of nonconforming lots, structures or uses.

**Section 920. Nonconforming Lots**

Any lot held under separate ownership prior to the enactment or amendment of this law, and having a width or area less than the minimum requirements set forth in this law, may be developed for any use allowed in the zone in which it is located, as designated in Article 4 of this law, provided that such lot has sufficient width and area to undertake development which will:

1. maintain the required minimum front setback;
2. maintain at least 2/3 of the required minimum side and rear setbacks;
3. comply with the sewage, wastewater and well setbacks as provided in Section 550 of this law.

Where two or more adjoining lots exist in the same ownership, such lots shall be considered as combined to meet the requirements of this law.

**Section 930. Nonconforming Structures**

No structure which by the enactment or amendment of this law is made nonconforming or placed in a nonconforming situation with regard to setback sizes, lot coverage, height or any requirement of this law, other than the use to which it is put, shall be changed so as to increase its nonconformity, except as follows. A structure that is nonconforming as to front, side or rear setbacks may be increased in size within the setback area as long as no part of the addition is closer

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to the lot boundary than the closest part of the previous nonconforming structure. If a structure is nonconforming as to use, see Section 940 below. Any such nonconforming structure may be used for any compatible use listed for the zone in which it is located as designated in Article 4 of this law.

**Section 940. Nonconforming Uses of Land or Structures**

Any use of land or structures which by the enactment or amendment of this law is made nonconforming may be continued on the premises and to the extent preexisting provided that:

1. no nonconforming use shall be increased in size so as to occupy a greater area of land or floor area than was committed to the nonconforming use at the time of such enactment or amendment;
2. no nonconforming use which has for any reason been discontinued for a period of one year or more shall be reestablished, except where transfer has been delayed in a probate case; and
3. a special use approval shall be required for any alteration or reconstruction which is on the premises of a nonconforming multi-family residential or nonresidential use.

**Section 950. Nonconforming Structures Damaged or Destroyed**

Any structure which is nonconforming as to use, setbacks, height or any other requirement of this law, which is damaged or destroyed by fire or other hazard, may be repaired, restored or reconstructed provided that such work is undertaken within two years of the date on which the damage or destruction occurred. No such work shall increase the nonconformity of the structure.

**ARTICLE 10. ADMINISTRATION AND ENFORCEMENT**

**Section 1005. Zoning Permits Required**

No land-use activity as listed below, other than those activities specifically excepted in Section 1010 below, shall be carried out until a zoning permit has been issued by the enforcement officer stating that the proposed building, structure, use of land, or development activity complies with the requirements of this law:

1. Erection, re-erection or movement of a building or structure;
2. Change of the exterior structural dimensions of a building or structure.
3. Change in use of land, buildings or structures through the establishment of a new use, or through the expansion or enlargement of an existing use.
4. The resumption of any use which has been discontinued for a period of 12 months or longer.
5. Establishment or change in dimensions of a parking area for nonresidential or multi-family residential uses.
6. Installation of a well, sewage or waste disposal system, or replacement of any on-site waste disposal system component beyond the distribution box.
7. Recreational camping vehicles which are sited for occupancy for more than 30 consecutive days (see Section 1019 below).

**Section 1010. Zoning Permit Exceptions**

A zoning permit shall not be required for:

1. Accessory structures with less than 144 square feet of ground coverage, unless over 15 feet in height. Accessory uses and structures shall comply with all setback and height requirements for principal uses and structures as set forth in this law, regardless of whether or not they require a permit pursuant to this law.
2. Alterations of less than 250 square feet of ground coverage. Alterations shall comply with all requirements of this law, regardless of whether or not they require a permit pursuant to this law.
3. Fences or walls.
4. Interior structural alterations or routine maintenance and improvement that does not expand the exterior dimensions of the structure (e.g., roofing, window replacement, siding replacement, etc.).
5. Minor accessory structures such as posts, sidewalks, driveways, flagpoles, playground equipment, etc.
6. Family day care homes and group family day care homes.
7. Agricultural uses and timber management.

**Section 1015. Temporary Zoning Permits**

1. Temporary zoning permits may be issued for the following uses:
  - a. for one interim dwelling on an individual lot during the construction of a single-family or two family dwelling on such lot;
  - b. for one emergency use on an individual lot, when the need for such use resulted from the loss by flood, fire, or other disaster of an existing use within the town;
  - c. upon proof of special necessity for an agricultural use where additional dwellings are needed for farm employees or family members, the town board may grant a special use approval for the installation of a maximum of two mobile homes to be placed on the same individual lot as an existing conventional single-family dwelling conditioned upon the following: 1) the mobile homes shall not be occupied by persons other than employee or family members, and 2) the mobile homes shall be removed within six months from the date when the special necessity ceases;
  - d. for temporary uses and structures incidental to a construction project.
2. Temporary zoning permits may be issued for a period not to exceed one year. In cases of emergency use as provided for in subsection b above and special necessity for an agricultural use as provided for in subsection c. above, temporary zoning permits may be renewed annually.
3. All temporary zoning permits shall be conditioned upon agreement by the applicant to remove any nonconforming uses or structures upon expiration of the permit.

**Section 1018. Driveway Permit**

The placement of new driveways on town roads shall require a driveway permit issued by the highway superintendent pursuant to Local Law No. 1 of 2012. All driveways will be a minimum of 30 feet wide at the point where they adjoin the town road. All work and materials are the responsibility of the property owner or contractor doing the installation.

**Section 1019. Recreational Camping Vehicle Permit**

A recreational camping vehicle permit shall be valid for one year from the date it is issued.

**Section 1020. Application Procedure for Zoning Permits**

1. The application procedure for zoning permits shall be as provided in this section below, or through intermunicipal agreement entered into by the town board. Where conflict exists between the provisions below

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and any intermunicipal agreement entered into by the town board, the provisions of the intermunicipal agreement shall govern.

2. Applications for zoning permits shall be submitted to the town clerk who shall refer them to the enforcement officer, and shall include two copies of a layout or plot plan showing the actual dimensions of the lot to be used; the parcel tax identification number; the size and location on the lot of existing and proposed structures and accessory structures; the setbacks of structures from all lot lines, road center lines, mean high water lines of streams, ponds and wetlands, and any other features of the lot; the location of sanitary and water facilities; a brief description of the proposed use; and such other information as may be necessary to provide for the enforcement of this law. This information, and other relevant application data, shall be provided on forms issued by the town clerk.
3. When establishing measurements to meet the required setbacks, the measurements shall be taken from the lot line, road center line, or nearest mean high water line to the furthestmost protruding part of the use or structure. This shall include such projecting facilities as porches, carports, attached garages, roofs, eaves, etc. Where property boundary lines are not readily apparent in the field, the zoning officer may require the applicant to produce a survey to identify boundaries.
4. The enforcement officer shall take action to approve or disapprove the application within 15 days of the receipt of a completed application by the enforcement officer and the payment of all fees.
5. A zoning permit shall expire one year from the date of issue if construction is not started or the use has not commenced. All construction must be completed within two years of the issuance of the permit, or the permit must be renewed annually thereafter until completion upon payment of all fees.

**Section 1025. Permit Fees**

A fee as determined by town board resolution shall be paid for each application for a site plan approval, special use approval and appeal. No permit shall be issued until full payment has been received by the town clerk.

**Section 1030. Certificate of Compliance**

No use or structure requiring a zoning permit shall be occupied, used, or changed in use until a certificate of compliance has been issued by the enforcement officer stating that the use or structure complies with the provisions of this law. The certificate of compliance shall be issued within five days after the use has been completed and approved as complying with the provisions of this law.

**Section 1040. Unapproved Lots**

No zoning permit or certificate of compliance shall be issued for any use or structure on any unapproved lot. An unapproved lot is a lot which has been filed in the office of the county clerk after the effective date of the Town of Osceola Subdivision Law and which has not been approved by the planning board and was not exempt from said regulations at the time of filing.

**Section 1045. Enforcement Officer**

This law shall be enforced by the enforcement officer, who shall be appointed or established through intermunicipal agreement by the town board. The duties of the enforcement officer shall be to:

1. Approve and disapprove zoning permits and certificates of compliance;
2. Scale and interpret zone boundaries on the zoning map;
3. Refer appropriate matters to the board of appeals, planning board, or town board;
4. Revoke zoning permits or certificates of compliance where there is false, misleading or insufficient information or where the applicant has varied from the terms of the application;

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5. Investigate violations, issue stop work orders, and refer violations to the town justice and the town board;
6. Report at regular town board meetings the number of zoning permits and certificates of compliance issued;
7. Maintain records of active permit applications and active enforcement actions.

**Section 1050. Zoning Board of Appeals**

1. The zoning board of appeals shall consist of five members as set forth in Section 267 of the Town Law, or in the alternative the town board may enter into an agreement pursuant to Article 5-G of the General Municipal Law and Section 284 of the Town Law to establish a cooperative zoning board of appeals. In the event of a cooperative zoning board of appeals, membership shall be as per the contractual agreement and may otherwise vary from provisions of Section 267 of the Town Law as may be set forth in that agreement.
2. The powers of the zoning board of appeals shall be to interpret this law and to grant area variances and use variance in accordance with the standards set forth in Section 267-b of the Town Law and as may be otherwise provided by law.
3. The procedure before the zoning board of appeals shall be in accordance with Section 267-a of the Town Law except as may be specifically modified by intermunicipal agreement should the town elect to enter into a cooperative zoning board of appeals, in which event such procedures shall be strictly governed by the intermunicipal agreement.
4. This local law specifically supersedes those provisions of Section 267 of the Town Law requiring that there be three or five members of the board of appeals, that the terms be staggered, that the town board select the chairman, and the voting power of members of the zoning board of appeals in the event that the town should enter into an intermunicipal agreement pursuant to Section 284 of the Town Law and Article 5-G of the General Municipal Law in which event the intermunicipal agreement shall govern those factors.

**Section 1060. Filing of Records**

1. A copy of all zoning permits, temporary zoning permits, certificates of compliance, notices of violation, and stop work orders shall be filed in the office of the town clerk within five business days of their issuance.
2. A copy of all decisions of the zoning board of appeals shall be filed in the office of the town clerk within five business days of the decision.
3. A copy of all site plan review decisions of the planning board shall be filed in the office of the town clerk within five business days of the decision.
4. A copy of all special use approvals of the town board shall be filed in the office of the town clerk within five business days of the decision.
5. All such records shall be available for the inspection of the public.

**Section 1065. Violations**

1. Whenever a violation of this law occurs, any person may initiate a complaint. All complaints shall be in writing and delivered to the town clerk or enforcement officer. The enforcement officer shall accurately record the complaint, file it appropriately, and investigate it.
2. If the complaint is found to be valid, the enforcement officer shall then inform the owner of the premises that there is a violation of the law. The owner shall be notified by certified mail with a return receipt requested, or be personally served, as to the manner of the violation. Mail shall be sent to the address of

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the property owner as stated on the last completed tax roll. The owner will have fourteen days, minimum, to remedy the situation from the date of the mailing, except in the case of imminent peril to life or property.

3. An order to stop use/work may be issued to the owner in the same manner as a notice of violation. Such order shall require that all construction stop immediately.
4. If a violation persists, the enforcement officer may file an "information and complaint" with the town justice charging the owner with violating one or more sections of this law. The town justice shall then issue a summons for the violator to appear in court.
5. Alternatively to section 4 above, pursuant to Criminal Procedure Law Section 150.20 (3), the enforcement officer is hereby authorized to issue an appearance ticket to any person causing a violation of this law, and, if a violation persists, shall cause such person to appear before the town justice.

**Section 1070. Penalties**

1. Pursuant to Municipal Home Rule Law Section 10 and Town Law Section 268, any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this law shall, upon conviction, be deemed guilty of a violation and subject to fine and/or imprisonment. Any violation of this law is an offense punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$750 nor more than \$1000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
2. The town board may maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this law.

**ARTICLE 11. MISCELLANEOUS PROVISIONS**

**Section 1110. Amendments**

The town board may amend the provisions of this law pursuant to Town Law Section 265 after public notice, public hearing, compliance with the State Environmental Quality Review Act regulations (6 NYCRR Part 617), and following appropriate referral to the county planning board pursuant to General Municipal Law Section 239-m.

**Section 1120. Interpretation**

Interpretation and application of the provisions of this law shall be held to be minimal requirements, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this law differ from the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

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**Section 1130. Separability**

Should any article, section, subsection, sentence or clause of this law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

**Section 1140. Effective Date**

The provisions of this law shall take effect upon filing with the Secretary of State.