



BUILDING AND CODES  
P: 315-376-5377 | F: 315-377-3137

7660 North State Street  
Lowville, NY 13367  
lewiscountyny.gov

## Application for a Town of Croghan Site Plan Review and Zoning Permit

### INSTRUCTIONS

Permits are available at the Town Clerks Office for the town you are building in, or at the Lewis County Building Codes Office.

Please fill in all of the information requested on the permit that pertains to your project.

If you have questions or need help, please call the Lewis County Codes Office.

You will need an approved Town of Croghan Land Use Permit (from this office) in order to obtain a Lewis County Building Permit (for the structure).

The landowners name and address should also be on the permit if different from the applicants.

Location of development is the address of the location being developed or where the building is going. Please use the new 4 or 5 digit number assigned to your location by the Lewis County 911 Data Processing Office. If you don't know your 4 or 5 digit number, call 315-376-5377.

Please provide the correct Tax ID number from your tax bill: it will look like: 348.00-01-02.300

Please provide a complete description of your project.

An accurate and complete plot plan is required as explained on the application; applications will not be processed without a completed plot plan. Plot plan example attached.

Driveways may be subject to regulation; applicant is responsible to contact entity that controls Right of Way prior to installation.

**Please be advised that if you build on a road designated as a seasonal or minimum maintenance road, you cannot expect the road to be maintained or the snow to be plowed.**



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Dear Applicant:

Attached is a Lewis County Zoning Application and Fee Schedule. This application is for use only in municipalities where the County of Lewis has an intermunicipal agreement with the municipality for the administration and enforcement of said municipality's local Zoning Law.

This application applies only to the Zoning Laws of said municipality. Applicant acknowledges having confirmed that no covenants, deed restrictions, or other local, state, or federal regulations exist that would prevent or restrict that which is being applied for. This application does not apply to anything unreferenced or undefined within the municipality's Zoning Law. Nor is this application an instrument establishing or defining property lines.

I hereby certify that I have read and examined this application, acknowledging the same to be true and correct. With signature applicant agrees to adhere with the parameters set forth within this application.

Signature of Applicant or Authorized Agent: \_\_\_\_\_

Date: \_\_\_\_\_

Application Fee \_\_\_\_\_  
Permit Number \_\_\_\_\_  
Date Received \_\_\_\_\_

**TOWN OF CROGHAN  
APPLICATION FOR SITE PLAN REVIEW AND ZONING PERMIT**

The undersigned hereby makes application for a:

- |                                  |                                   |                           |
|----------------------------------|-----------------------------------|---------------------------|
| _____ Mobile Home Park           | _____ Commercial Use              | _____ Renewable Energy    |
| _____ Campground                 | _____ Industrial Use              | _____ Solar (Large Scale) |
| _____ Non-exempt Home Occupation | _____ Solid Waste                 | _____ Wind                |
| _____ Junkyards                  | _____ Telecommunications<br>Tower | _____ Geo Thermal         |

as described herein, and agrees that such purpose shall be undertaken in accordance with all applicable laws and requirements of the Town of Croghan, County of Lewis, State of New York.

\_\_\_\_\_  
Signature (applicant)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

Ownership Intentions, (i.e. purchase options): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Location of Site: \_\_\_\_\_  
\_\_\_\_\_

Tax Map Description:

Section: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_

County, State, and Federal permits needed (list types, status, and appropriate department): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Total Site Area (square feet or acres): \_\_\_\_\_

Is proposed Development/Use within a FEMA Designated Flood Zone? **Yes** \_\_\_\_ **No** \_\_\_\_

TOWN OF CROGHAN  
APPLICATION FOR SITE PLAN REVIEW AND ZONING PERMIT

Anticipated construction time: \_\_\_\_\_

Will development be staged? \_\_\_\_\_

Current land use of site (agriculture, commercial, undeveloped, etc.): \_\_\_\_\_

Current condition of site (buildings, brush, etc.): \_\_\_\_\_

Character of surrounding lands (residential, agriculture, wetlands, woodlands, etc.): \_\_\_\_\_

Estimated cost of proposed project: \$ \_\_\_\_\_

Anticipated number of residents, shoppers, employees, cabins, site, shelters, etc. (as applicable): \_\_\_\_\_

Financial plans for carrying out project: \_\_\_\_\_

All other supporting documentation as required by the Town of Croghan Site Plan Review Zoning Law, Article IV. Procedures.

ZONING OFFICER RECOMMENDATION: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Zoning Officer Signature

\_\_\_\_\_  
Date

\*\*\*\*\*

Approval \_\_\_\_\_ Temporary Approval \_\_\_\_\_ Denied \_\_\_\_\_

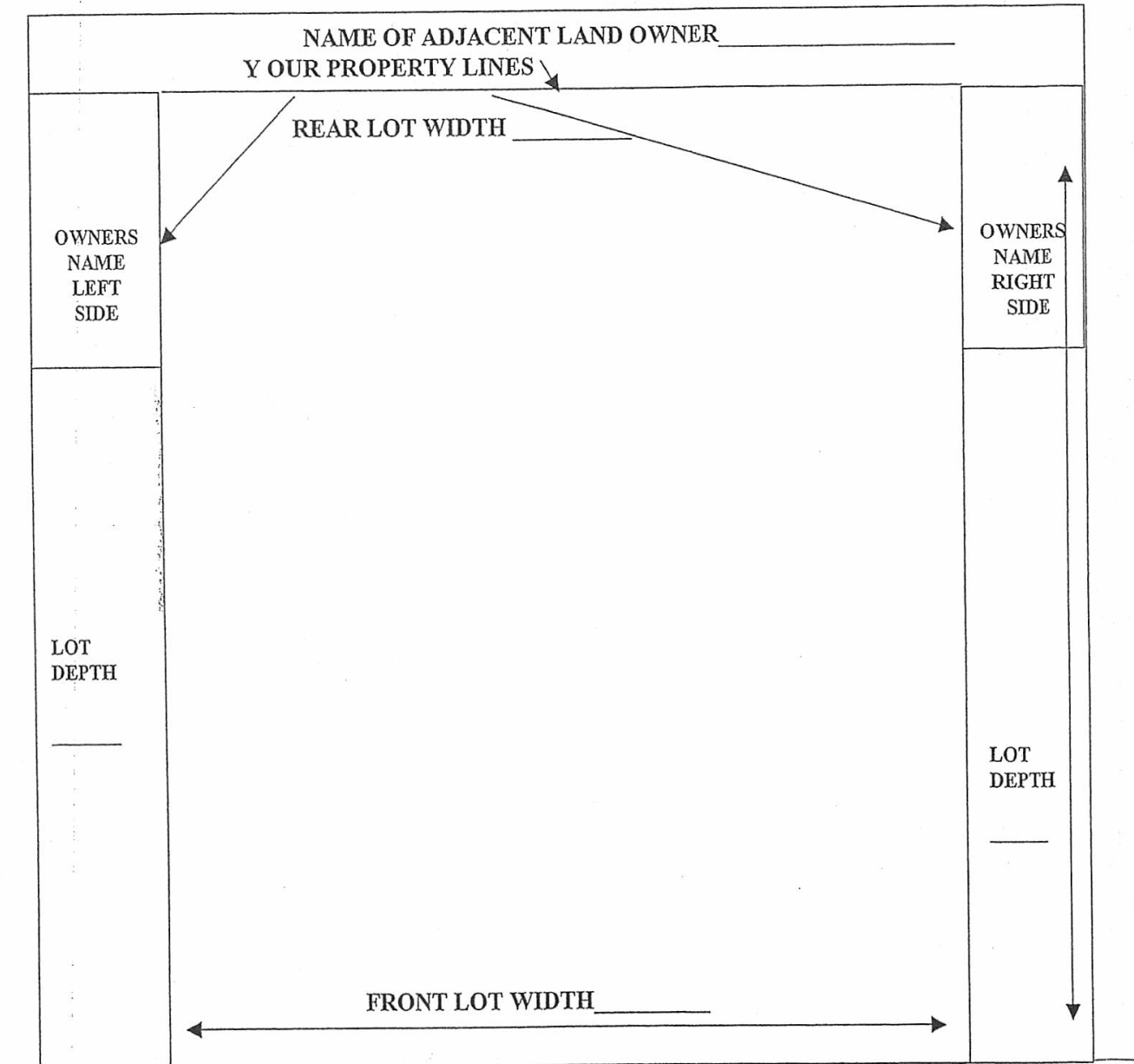
\_\_\_\_\_  
Town Board (By)

\_\_\_\_\_  
Date

Use the space below or attach a separate sheet to show the location of the proposed building(s) in relation to all roads public or private, distance proposed building is from all bodies of water, the location of all wells and septic systems, existing and proposed, the distance between buildings and give the road name as well as the names of all adjacent landowners. Also show the lot width and depth, and show the distance of proposed building(s) to all property lines.

NOTE: GIVE THE DISTANCE OF ALL WELL AND SEPTIC SYSTEMS ON NEIGHBORING PROPERTIES TO YOUR PROPOSED WELL/SEPTIC IF CLOSER THAN 150FT.

PLOT DIAGRAM



ROAD NAME \_\_\_\_\_

THIS AREA REPRESENTS THE ROAD IN FRONT OF YOUR PROJECT. SHOW DRIVEWAY

Section 330 Landscaping and Screening

That the proposed development, all parking, storage, loading, and service areas are reasonably screened during all seasons of the year from the view of adjacent residential areas and that the general landscaping and method of construction on the site is in character with the surrounding areas. Consideration of aesthetics in the project design and compatibility of signs with neighboring uses should be given.

Section 340 Natural Features

That the proposed use, together with its sanitary and water services, and storm water and drainage facilities, are adequately designed and compatible with geologic, hydrologic, and soil conditions of the site and adjacent areas, and that existing natural scenic features are preserved to the greatest extent possible.

Section 350 Manmade Features

That the proposed use will utilize appropriate and feasible measures to mitigate the adverse effects of smoke, noise, glare, dust, vibration, odors, or noxious and offensive uses.

**ARTICLE IV SITE PLAN REVIEW**

Section 410 General

Any person, before undertaking any new land use activity at any location within the Town for which this law requires site plan review, shall submit a site plan together with appropriate supporting data to the Town Board for review and approval in accordance with the standards and procedures set forth in this law. Upon the Town Board's approval and granting of a zoning permit, all conditions and restrictions imposed upon the site plan approval must be met in connection with the issuance of a certificate of occupancy Lewis County Code Enforcement Office. The Town Board may waive, subject to appropriate conditions, portions of the requirements herein set forth if they are deemed to be unnecessary by the Town Board in accordance with this law.

Section 420 Application for Site Plan Review

To apply for site plan review and zoning permit, an applicant shall complete a site plan application form and file it with the Town Clerk together with the application fee, as determined by resolution of the Town Board. The Town Clerk shall notify the Town Board of the date that such application was received.

Section 430 Site Plan Submission Requirements

The site plan submitted for review and supporting documentation shall include where applicable, as determined by the Town Board, the following information, as well as other information that may be requested:

- A. Title of site plan, including name and address of applicant and person responsible for preparing such drawing.

- B. North arrow, scale and date.
- C. Boundaries of property plotted to scale.
- D. Location, size and existing use of buildings on premises.
- E. Location and ownership identification of all adjacent lands as shown on the latest tax records.
- F. Location, name, and width of existing adjacent roads.
- G. Location, width, and identification of all existing and proposed rights-of-way, easements, setbacks, internal roads, reservations, and areas dedicated to public use on or adjoining the property.
- H. Grading and drainage plan, showing existing and proposed contours and water courses.
- I. Location, type of construction and exterior dimensions of all buildings and mobile home sites.
- J. Identification of the amount of gross floor area proposed for commercial/industrial facilities.
- K. Location, type of construction, and area of all parking and truck loading areas, showing access and egress.
- L. Provision for pedestrian access, including public and private sidewalks, if applicable.
- M. Location of outdoor storage, if any.
- N. Location and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
- O. Description of the method of sewage disposal and the location of such facilities.
- P. Description of the method of securing water, location of such facilities, and approximate quantity of water required.
- Q. Location of fire lanes and other emergency zones, including the location of fire hydrants, if required.
- R. Location, design, and construction materials of all energy generation and distribution facilities, including electrical, gas, and solar energy.
- S. Location, size, design and type of construction of all proposed permanent signs.
- T. Location and development of all proposed buffer areas, including indication of existing and proposed vegetative cover.
- U. Location and design of existing and proposed outdoor lighting facilities.
- V. General landscaping and planting schedule.
- W. Record of applications and approval status of all necessary permits from federal, state, county and local offices.
- X. Estimated project construction schedule.
- Y. Other elements integral to the proposed development as may be specified by the Town Board.

The Town Board reserves the right to waive submittals of any of these requirements that it deems to be unnecessary.

Section 440 Specifications of Materials to be Submitted

- A. Site Plan Map: The site plan map shall drawn at scale of one hundred (100) feet to one inch or larger. Existing topography at a contour of not more than five (5) feet may be required by the Town Board. This map shall show the site area and any pertinent natural features that may affect the proposed use such as water courses, swamps, wetlands, wooded areas, areas subject to flooding, etc.
- B. Elevations and/or Sections: Elevations and/or sections, illustrating front, rear, and side profiles drawn to the same or smaller/larger scale as the site plan, may be required by the Town Board. The elevation and/or sections shall clearly delineate the bulk and height of all buildings and other permanent structures included in the proposal, including the dimensions and height of any proposed signs.
- C. Engineering Plans: The Town Board may require, as appropriate, engineering plans to illustrate and describe such development aspects as: road improvements, drainage system, grading plan, public or private utility systems, sewer and water facilities, and such other supporting data as may be necessary.

Section 450 Acceptance of Site Plan Review Application

The Town Board shall determine whether to accept the application as complete and begin the review process, or to reject the application as incomplete. Incomplete applications shall be returned to the applicant, without prejudice, with a letter stating the application deficiencies.

Section 460 Referral to Other Agencies and Boards

- A. Coordinated Review. The Town Board may refer the site plan for review and comment to local and/or county officials or their designated consultants, and to representatives of federal, state, and county agencies, including but not limited to the Soil Conservation Service, the New York State Department of Transportation, the State Department of Environmental Conservation, and the State or County Department of Health.
- B. County Planning Board Review. The Town Board shall provide notice of all site plan review matters that fall within those areas specified under General Municipal Law, Article 12-B, Section 239-m to the County Planning Board as required by law. Any site plan that falls within 250 feet of the boundary of the Town; a State/County park or recreation area; a State/County highway; a State/County owned drainage channel; and State/County land where a public building or institution is located; or requires an agricultural data statement shall be referred to the Lewis County Planning Board for their recommendations thereon. The notice shall be accompanied by a full statement of the matter under consideration.

Section 470 SEOR Compliance

The Town Board shall be responsible for compliance with the State Environmental Quality Review (SEQR) Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6NYCRR, 617 with regard to site plan approval and issuance of special use permits. The applicant shall demonstrate compliance for any other actions subject to SEQR prior to site plan approval.

Section 480 Public Hearing on Site Plan

The Town Board shall conduct a public hearing on the site plan within sixty-two (62) days of submission of the complete site plan review application. A notice of such hearing shall be advertised in a newspaper in general circulation in the Town at least five (5) days prior, and mailed to the applicant ten (10) days prior to the hearing.

Section 490 Town Board Action on Site Plan

The Town Board shall render its determination within sixty-two (62) days of the hearing. The Town Board shall render its decision to either approve, approve with modifications, or disapprove the site plan.

- A. Approval. Upon approval with or without modifications of the site plan, and payment by the applicant of all fees and reimbursable costs due to the Town, the Town Board shall endorse its approval with or without modifications, on a copy of the site plan review and zoning permit. The decision of the Town Board shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered. A copy of such decision shall be mailed to the applicant, along with a written statement of approval with or without modifications.
- B. Disapproval. Upon disapproval of the site plan, the decision of the Town Board shall be filed in the office the Town Clerk within five (5) business days after the day such decision is rendered. A copy of such decision shall be mailed to the applicant along with a letter stating the Town Board's reasons for disapproval.

Section 495 Extension of Time to Render Decision

The time period in which the Town Board must render its decision on the site plan may be extended by mutual consent of the applicant and the Town Board.

**ARTICLE V SPECIAL USES**

Section 510 Authority

The Town Board shall review and approve, approve with modifications or disapprove special use permits pursuant to Town Law § 274-b and in accordance with the standards and procedures set forth in this law.

Section 520 Applicability

All uses designated as requiring a special use permit shall have a special use permit and, where required, a site plan approved by the Town Board prior to the issuance of a zoning permit by the Town Board or enforcement officer.

Section 530 Considerations

In considering and acting on special use permits, the Town Board shall consider the public health, safety, welfare and comfort and convenience of the public in general, the resident, proposed developments and the residents of the immediate surrounding area.

The Town Board may disapprove the issuance of a special use permit or 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 and in harmony with the Master/Comprehensive plan for the community.
- B. Utilities and services: that the utilities and services for the proposed use, including water supply, sewage disposal, drainage facilities and road facilities, and any other utilities and services are adequate for the intended level of use.
- C. Other requirements: that the proposed use complies with all requirements for special permitted uses as specified in Article VI of this law and any other special requirements as may be set forth for the use in this law.
- D. Natural features: that the proposed use is compatible with geologic, hydrologic, and soil conditions of the site and adjacent Mas and that existing natural scenic features are preserved to the greatest extent possible.

Section 540 Application and Review Procedure

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

**ARTICLE VI DESIGN STANDARDS**

Section 610 Lot Development Criteria

An application for site plan review shall not be approved unless the proposed use meets the following minimum development standards. Such standards may be waived, modified, and/or additional conditions imposed by the Town Board on a case-by-case basis, where circumstances

warrant, to protect the health, safety, and general welfare of the public.

A. Sewer, Water and Public Facilities

Sewer, water, and other utilities shall be provided in accordance with the requirements of Chapter 1, Part 7, NYS Sanitary Code, and subject to any other Town requirements.

B. Access / Traffic Standards

Site plan approval shall be conditional upon the applicant obtaining any necessary approvals from the jurisdictional permitting authority, e.g. county, or Town highway departments. In addition, the following access requirements shall apply:

1. Private roads and driveways shall be constructed and maintained so as to provide for year-round access except when proposed for seasonal uses.
2. Private roads and driveways shall be finished with a surface that will assure that it will be maintained free of dust and debris. Surface materials may include commercially applied "oil and stone", compact gravel, or blacktop.
3. There shall be a minimum distance of thirty-five (35) feet between proposed and existing driveways on public roads.
4. Driveways shall be combined wherever possible to minimize the number of access points onto public roadways.
5. No driveway centerline shall intersect a street line less than seventy (70) feet from the intersection of any two (2) roadways.
6. Driveway grade and width shall be such that adequate and safe access is provided for emergency and service vehicles during all seasons.
7. The minimum maintained width of driveways shall be twenty-four (24) feet which allows for incoming and outgoing vehicles to pass one another safely.
8. In situations where the proposed additional traffic is likely to result in a significant decrease in traffic safety conditions, the Town Board may require the applicant to provide traffic improvements as a condition of site plan approval, or to reduce the size or density of the proposed development.

C. Parking Standards

The following off-street loading standards may be required by the Town Board in appropriate circumstances:

1. On-site pedestrian and vehicle circulation shall be designed to limit traffic hazards.
2. Adequate off-street parking must be provided. Commercial/industrial uses shall have one (1) parking space per 200 square feet of gross floor area, or one (1) space per three (3) employees, whichever will require a larger number of spaces.
3. Minimum dimensions of parking spaces shall be eight (8) feet by eighteen (18) feet. Car loading spaces shall be at least fifteen (15) feet in width and at least twenty-five (25) feet in length, exclusive of access and turning areas. Truck loading spaces shall be at least fifteen (15) feet in width and at least sixty (60) feet in length, exclusive of access and turning areas.
4. Curbing may be required along frontage to delineate access points.
5. Where possible, parking/loading areas should be located to the sides or rear of the industry.

D. Landscaping and Screening

Landscaping and screening shall be provided as follows:

1. Existing vegetation shall be used to the greatest extent possible.
2. Along a property line facing a residential property, a twenty (20) feet wide with a minimum height of six (6) feet buffer strip of evergreen (Blue Spruce, Norwegian Spruce, Frazer or Douglas Fir) planting shall be provided to effectively screen the commercial/industrial, or campground use from view.
3. Along road frontage, a twenty (20) feet wide buffer of landscaping shall be provided where appropriate, and designed so as not to obstruct sight distance at points of access.
4. Where appropriate, a wall, fence, or earthen berm of location, height, and design approved by the Town Board, may be substituted for the required planting.
5. Where the existing topography and/or landscaping provides adequate screening, the Town Board may modify the planting and/or buffer area requirements.

E. Lighting

Adequate lighting shall be provided on a site to ensure safe movement of persons and vehicles and for security purposes. All lighting shall be designed and arranged

so as to minimize glare and reflection on adjacent properties. All lighting is required to be LED energy efficient

1. The style of light and light standard should be consistent with the architectural style of the principal building.
2. The maximum height of free standing lights should be the same as the principal building but not exceeding twenty-five (25) feet.
3. Where lights along the property lines will be visible to adjacent residents, the lights should be appropriately shielded.
4. Spotlight-type fixtures attached to buildings should be avoided.
5. Free-standing lights should be so located and protected to avoid being easily damaged by vehicles.

F. Signs - One sign per entrance that identifies the development is permitted and should be compatible with the general environment of the project site. Signs should conform to the following standards:

1. Maximum height for a free-standing entrance sign, from base elevation, shall be no greater than thirty-two (32) feet.
2. Maximum area of one side or face of a sign shall not exceed forty (40) square feet.
3. Maximum area of a one side or face affixed to a building shall be no greater than forty-eight (48) square feet.
4. Larger signs maybe authorized if multiple use shares the same building.

G. Drainage

1. To the extent practicable, all development shall conform to the natural contours of the land, and pre-existing manmade drainage ways shall remain undisturbed.
2. All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:
  - a. The retention results from a natural wetland on site, or a technique, practice, or device deliberately installed as part of an approved

sedimentation or storm water runoff control plan

3. Wherever practicable, the drainage system of a development shall be coordinated with the connections to the drainage systems or drainage ways on surrounding properties or roads.
4. Construction specifications for drainage swales, and storm drainage shall be designed to Town requirements as follows:
  - a. The natural state of watercourses, swales, or rights-of-way shall be maintained nearly as possible. All drainage facilities shall be designed for a 25-year storm, minimum. The Town Board may require facilities sized for more intensive storms should development conditions in the vicinity of the site warrant a greater degree of protection.
  - b. Surface water runoff shall be minimized and detained on-site as long as possible and practicable to facilitate groundwater recharge.
5. All developments shall be constructed and maintained so that adjacent properties are not impacted by, surface waters as a result of such developments. No development shall be constructed or maintained so that such development impedes the natural flow of water thereby causing damage to any adjacent properties, or unreasonably collects and channels surface water into adjacent properties at such locations or at such volume as to cause substantial damage to such lower adjacent properties.

H. Erosion Control

1. An Erosion Control Plan must be submitted and approved when an activity involves one of the following:
  - a. Disturbs five (5) acres or more of land.
  - b. Is to be conducted on a site which has a slope anywhere on the site that averages fifteen (15) percent or more over a horizontal distance of at least one hundred (100) feet.
  - c. The activity will occur within 500 feet of a stream, river or lake.

For purpose of this section, disturbed land shall mean any use of the land by any person that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, wind, or ice from the site of its origin. This section shall not be construed to include the normal disturbance of the soil and its natural cover occurring in the ordinary course of agricultural use.

2. All measures necessary to minimize soil erosion and to control sedimentation in the disturbed land area shall be provided. Every effort shall be made by the applicant to minimize velocities of water runoff, and retain sedimentation within the development site as early as possible following disturbances.

## **ARTICLE VII. SPECIAL USE PERMIT ADDITIONAL REQUIREMENTS**

### Section 705 General Requirements

The following uses shall meet the requirements as specified in this Article and all other relevant articles of this law before final consideration by the Town Board. Any pre-established special use permit requirements may be waived by the Town Board, where the requirements are found not to be requisite in the interest of the public health, safety, or general welfare or inappropriate to a particular special use.

### Section 710 Telecommunication Towers

- A. The applicant shall provide documentation on completing all FCC regulations.
- B. The applicant shall provide a complete Visual Environmental Assessment Form (Visual EAF) and a landscaping plan which incorporates the standards of this law with particular attention given to visibility from key view points within and outside of the Town as identified in the Visual EAF.
- C. Shared Use
  1. At all times, shared use of existing towers shall be preferred to the construction of new tower. Where shared use is available, location of antenna on pre-existing structures shall be the next alternative considered. An applicant shall be required to present a report inventorying existing towers within the Town and within one (1) mile of the Town regardless of owners. The applicant shall outline opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to new construction. By way of illustration, existing structures, as referred to in these regulations governing the siting of telecommunication towers and antennas, shall include but not be limited to signs, church spires, belfries, cupolas, domes, monuments, water towers, preexisting tower structures, windmills, chimneys, smokestacks, buildings, utility towers, clock towers, silos, barns or other agricultural buildings, steeples, radio or television towers and commercial parking lot light poles.
  2. An applicant intending to share use of an existing tower shall be required to document intent from existing tower owner to share use.
  3. In the case of new towers, the applicant shall be required to submit a report demonstrating a good faith efforts to secure shared use from existing towers. Written requests and responses for shared use shall be provided.

The applicant shall also document capacity for co-location (use) by at least three (3) providers who may share use of the proposed tower in the future. The applicant shall provide cost and criteria under which co-location will be permitted. The tower shall also be designed to allow free access and use by emergency management agencies and organizations designated by the Town.

- D. Dimension Requirements - Towers and antennae shall comply with all yard and lot dimension requirements as required by the Town Board. Towers shall not be located closer than 200 feet to the nearest residential property line. In all other cases, towers shall be set back from adjoining properties a distance equal to at least the height of such tower. Additional yard dimensions may be required by the Town Board to substantially contain on-site, all ice-fall, or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Yard dimension requirements shall apply to all tower parts including guy wire anchors, and to any accessory facilities.
- E. Visibility.
1. Towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.
  2. 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, painted gray or ted a natural color above the surrounding tree line unless other standards are required by the FFA. Whenever feasible, tower construction shall be of "monopole" design. Towers shall be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Painting shall be preferable to lighting. If lighting is required, the lighting alternatives and design shall be of the minimum mandated by the FAA.
  3. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
- F. Existing Vegetation - Existing on-site vegetation shall be preserved to the maximum extent possible, maintained and replaced as needed, and no cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground) shall take place prior to approval of the special permit. Clear-cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be subject to Town Board approval.
- G. Screening - Deciduous or evergreen tree plantings shall be required to screen portions of the tower from near residential property, as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees

forming a continuous hedge at least three (3) feet in height shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall be in addition to the height of any berm. Fencing may be required by the Town Board for screening and/or security purposes.

- H. Access and Parking - A road and parking for two vehicles shall be provided to assure adequate emergency and service access. Road construction shall be consistent with standards for private roads. Road construction shall at all times minimize ground disturbance and vegetation cutting to within the top of fill, the top of cuts, or no more than ten (10) feet beyond the edge of the travel surface. 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 subsection.
- I. Signs - Signs shall not be permitted on commercial mobile service towers, antennas or related accessory facilities except signs displaying owner contact information and safety instructions. Such signs shall not exceed five (5) square feet in surface area.
- J. Utility Connections - All utility connections to commercial mobile service facilities shall be installed beneath the ground surface, to the extent reasonably possible.
- K. The operator of any telecommunication tower facility shall submit certification every five (5) years from the date of operation, signed by a New York State licensed professional engineer verifying that such facility is in compliance with all applicable federal, state, and local radio frequency radiation (rfr) emission standards. Such certification shall be delivered to the Town Clerk during the month of December of the appropriate year. This requirement shall be considered an implied condition to any special permit granted for such facility.
- L. Tower Inspections - Towers shall be inspected every five (5) years from the date of operation, on behalf of the tower owner by a licensed professional engineer, for structural integrity and continued compliance with these regulations. A copy of such inspection report, including findings and conclusions, shall be submitted to the Town Clerk no later than December 31 of the appropriate year. This requirement shall be considered an implied condition to any special permit granted for such facility.
- M. Maintenance and Repair - All telecommunication towers and facilities shall be maintained in good order and repair.
- N. Removal of Unused Towers, Demolition Bond – An Applicant for a Special Permit to construct a communications tower shall agree to remove such tower and related

facilities if it becomes or ceases to be used for its intended purpose for a period of twelve consecutive (12) months. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Town Board shall require the applicant to provide a demolition bond or other security acceptable to the Town Board, for the purpose of removing such facilities in case the applicant fails to do so.

O. Additional Submission Requirements –

1. The site plan shall show distances between the proposed tower structure and structures on adjoining properties within one thousand (1,000) feet, together with the names and addresses of all property owners within one thousand (1,000) feet of the boundary of the property on which the tower is proposed.
2. A drawing of the proposed tower, including any proposed attachments, accessory equipment, cabinets or other items used in connection therewith. The make and model of the planned facility and the manufacturer's design data pertaining to installation shall also be provided.
3. The applicant's maintenance and inspection schedule.
4. Identification of the effects such facility will have on other existing communication facilities in the vicinity. A safety analysis and certification by a licensed professional engineer that the proposed facility will be in compliance with all applicable FAA and FCC laws and regulations.

## **ARTICLE VII GUARANTEE OF SITE IMPROVEMENTS**

### Section 810 General

Subsequent to the granting of site plan approval or a special use permit, no zoning permit shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been provided by the applicant for improvements not yet completed. The Town Board shall have sole discretion under what conditions, and whether, a performance guarantee shall be required.

### Section 820 Performance Guarantee Options

In order that the Town has the assurance that the construction and installation of such improvements as storm sewers, water supply, sewage disposal, sidewalks, parking, and access roads will be constructed in accordance with these standards and/or any site plan approval modifications, the Town Board may require that the applicant enter into one of the following agreements with the Town.

- A. Furnish bond executed by a surety company equal to the cost of construction of such

improvements as shown on the plans.

- B. Deposit certified check in sufficient amount up to the total cost of construction of such improvements as shown on the site plan.
- C. Provide the Town with a letter of credit that is of sufficient amount to cover up to one hundred ten percent (110%) of the total cost of improvements as shown on the site plan or such other security as is acceptable to the Town Board.

#### Section 830 Conditions

Any such bond, certified check, or letter(s) of credit shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency, manner of execution and/or surety, and duly notarized.

#### Section 840 Extension of Time

The construction or installation of any improvements or facilities, other than roads, for which a guarantee has been made by the applicant in the form of a bond or certified check deposit, shall be completed within one year from the date of approval of the site plan. Road improvements shall be completed within two (2) years from the date of approval of the site plan. The applicant may request that the Town Board grant him or her an extension of time to complete such improvements, provided the applicant can show reasonable cause for inability to perform said improvements within the required time. The Town Board may also grant the applicant an extension of time whenever construction of improvements is not performed in accordance with applicable standards and specifications.

#### Section 850 Schedule of Improvements

When a certified check or performance bond is issued pursuant to the preceding sections, the Town and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However, ten percent (10%) of the check deposit or performance bond shall not be repaid to the applicant until one year following the completion and inspection by the Town of all construction and installation covered by the check deposit or performance bond.

### **ARTICLE IX RENEWABLE ENERGY LAW**

#### Section 910 Supplemental Regulations - Energy Systems Purpose.

The purpose of this section is to provide a uniform and comprehensive set of standards for the implementation and use of energy systems designed for on-site or off-site home, farm, small- and large-scale commercial energy regulations. The intent of this article is to encourage the development of alternative energy systems while protecting the health, safety, and welfare of the public.

Section 920                    GEOHERMAL ENERGY SYSTEMS.

- A.    Applicability.
  - 1.    Only closed-loop geothermal energy systems utilizing heat transfer fluids as defined in Article XII are permitted. Open-loop geothermal energy systems are not permitted.
  - 2.    Geothermal energy systems in public waters may be permitted in accordance with approval from the Town of Croghan Planning Board, subject to state and federal permits and water quality standards.
  - 3.    Geothermal energy systems in water bodies owned or managed by the Town of Croghan are not permitted.
  
- B.    Design standards.
  - 1.    All components of geothermal energy systems, including pumps, borings and loops, shall be set back at least five feet from side lot lines and at least 10 feet from rear lot lines.
  - 2.    All borings and loops shall be set back at least 10 feet from the foundation of any structure, either on or off site.
  - 3.    Aboveground equipment associated with geothermal energy shall not be installed in the front yard of any lot or the side yard of a corner lot adjacent to a public right-of-way and shall meet all required setbacks for the applicable zoning district.
  - 4.    Geothermal energy systems shall not encroach on public drainage, utility roadway or trail easements.
  - 5.    Geothermal heat pumps shall be screened to reduce noise levels as measured at the property boundary to 50 decibels or less as to mitigate adverse noise impacts.
  - 6.    In addition to screening for noise control, geothermal energy systems are considered mechanical equipment and are subject to screening by landscaping, fencing or other methods to enhance the view.
  
- C.    Standards and certifications.

Geothermal energy systems shall be certified by Underwriters' Laboratories, Inc., and shall meet the requirements of the New York State Building Code as adopted by the Town of Croghan.

D. Abandonment.

- (a) If a geothermal energy system remains nonfunctional or inoperative for a continuous period of 12 months, the system shall be deemed to be abandoned and shall constitute a public nuisance.
- (b) Upon notice to the owner by the Zoning Enforcement Officer, within 180 days the owner shall remove the abandoned system at his/her expense after a hearing by the Croghan Town Board, in accordance with the following:
  - (i) The heat pump and any external mechanical equipment shall be removed.
  - (ii) Pipes or coils below the land surface shall be filled with grout to displace the heat transfer fluid. The heat transfer fluid shall be captured and disposed of in accordance with applicable regulations. The top of the pipe, coil or boring shall be uncovered and grouted.
  - (iii) Geothermal energy systems shall be completely removed from the bottom of any water body.

E. Permits.

- (a) A building permit shall be obtained from the Town of Croghan Code Enforcement Officer/Lewis County Code Enforcement Officer.
- (b) Borings for vertical systems are subject to any and all required approvals and permits from the NYSDEC Division of Water and the New York State Department of Health.

Section 930 Small Wind Energy Conversion Systems (WECS).

A. Applicability.

Small WECS may be used primarily to generate on-site power or to reduce the off-site supply of electricity.

B. Approval.

- 1. Freestanding and building mounted small WECS shall only be permitted by site plan review and approval from the Town Board.
- 2. All small WECS installed prior to the enactment of this article are exempt from the conditions herein; provided, however, that:
  - a. Any such preexisting small WECS that has been inoperable, not supplying energy for 12 months will require conditions and processes of this section to be met prior to operations being reinitiated.  
No modification or alteration to an existing small WECS shall be allowed without full compliance with this section.
  - b. Small WECS constructed and installed in accordance with this section shall not be deemed expansions of a nonconforming use or structure.

C. Application Requirements for Small WECS.

An application for a building permit and site plan review for freestanding small WECS shall include the following requirements.

1. Ownership and land use information within a radius of 1,000 feet of the location proposed for each tower to be shown on the site plan.
2. Location of the proposed small WECS, foundations, guy anchors, and associated equipment to be shown on the site plan.
3. Setback requirements as outlined in this chapter to be shown on the site plan. Small WECS specifications, including manufacturer, model, rotor diameter, tower height, and tower type (freestanding or guyed).
4. If the small WECS will be connected to the power grid, documentation shall be provided regarding the notification of the intent with the utility regarding the applicant's installation of a small WECS.
5. Sound level analysis prepared by the wind turbine manufacturer.
6. Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code (usually provided by the manufacturer).
7. The site plan must be stamped by a professional engineer licensed to practice in the State of New York.
8. A building permit application for building-mounted small WECS shall include all requirements in the adopted code, including building connection detail plans, to be submitted and stamped by a NYS licensed professional engineer.
9. A decommission bond for small wind energy systems will need to be in place.

D. Standards for Small WECS.

1. Upon receipt of a building permit application for a Small WECS the Lewis County Code Enforcement Officer will review the permit. A building permit will be issued when the requirements for site plan review and building permit review have been met.
2. Setback and area requirements.
  - a. Freestanding small WECS shall be set back a distance, measured from the center of the tower base to the height of the Nacelle plus 100 feet from:
    - (1) Any public road right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road.
    - (2) Any overhead utility or transmission lines.
    - (3) All property lines.
    - (4) All dwellings not owned by the requester/WECS owner.
    - (5) Any travel ways, to include but not be limited to driveways, parking lots, nature trails or sidewalks.
    - (6) Other wind turbine towers, electrical substations, or

meteorological towers.

- (7) Guy wires used to support the tower are exempt from the small WECS setback requirements. However, the guy wires may not be located within or over a right-of-way without obtaining an easement.
- (8) Small WECS often are deemed unlisted actions and require the Short Environmental Assessment form, yet SEQRA review is determined on a project-by-project basis.
- (9) No small WECS shall be installed or mounted less than 110% of the Tower height from the nearest dwelling as measured horizontally from the center of the tower base.
- (10) All small WECS shall require a minimum lot size of 5 acres for each turbine. The total height for freestanding small WECS shall not exceed 150 feet to the nacelle.

3. Towers.

- a. Freestanding wind turbines may only be attached to specifically designed and manufactured towers.
- b. The applicant shall provide evidence that the proposed tower height does not exceed the height recommended by the manufacturer of the wind turbine.
- c. Anchor points for any guy wires for a system tower shall be located within the property or easements that the system is located on and not on or across any aboveground electric transmission or distribution lines.
- d. Tower foundation engineering drawings stamped by a professional engineer licensed to practice in the State of New York.

4. Sound level.

A small WECS shall be designed, installed, and operated so that noise generated by the system shall not exceed ambient noise (L90 measured with the turbine in operative) plus five decibels (dBA), as measured at the closest neighboring property line. Sound levels should be determined based on noise study.

5. Safety.

- a. To prevent harmful wind turbulence on existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a radius of 250 feet. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.
- b. All small WECS shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
- c. Owners shall be instructed to provide one of the following means

of access control or other appropriate method of access:

- (1) Tower-climbing apparatus located no closer than 12 feet to the ground.
  - d. Any small WECS found to be unsafe by the local Code Enforcement Officer shall be repaired by the owner to meet federal, state and local safety standards or shall be removed within three months.
  - e. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.
  - f. The system 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 promptly mitigate the damage or cease operation of the system.
  - g. Small WECS shall be sited in a manner that does not result in shadowing or flicker impacts in excess of one hour per day. The applicant has the burden of proving that this effect does not have a significant adverse impact on neighboring or adjacent uses, either through siting or mitigation.
  - h. Signs. All signs, both temporary and permanent, are prohibited on the small WECS, except as follows:
    - (1) Manufacturer's or installer's identification on the wind turbine.
    - (2) Appropriate warning signs and placards.
    - (3) At least one sign shall be posted on the tower at a height of five (5) feet, warning of electrical shock or high voltage and harm from rotating machinery.
    - (4) No advertisement, including, brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed in an unobtrusive manner on a system generator housing.
6. Code compliance.  
The small WECS shall comply with all applicable sections of the New York State Building Code and National Electric Code.
7. Aviation compliance.
- a. The small WECS shall be built to comply with all applicable Federal Aviation Administration guidelines, including but not limited to 14 CFR Part 77, Sub part b, regarding installations close to airports, and the New York Aviation regulations. Evidence of compliance or non-applicability shall be submitted with the application.
  - b. Fort Drum. The applicant shall notify Fort Drum personnel in the

Plans, Analysis, and Integration Office as soon as possible upon application submission to determine potential impacts on Fort Drum airfield and training activities. The applicant should provide a letter from Fort Drum with comments of the proposed tower.

- c. Watertown International Airport. The applicant shall file a Notice of Proposed Construction or Altercation, FAA Form 7460 Airport Airspace Analysis, and notify the Airport Manager as soon as possible upon application submission to determine potential impacts on the airport. If warranted by the energy system type development proposed the developer should complete studies of the potential impacts to landing facility traffic patterns, air navigation, and radar or instrument approach procedures.
8. Utility connection.

If the proposed small WECS is to be connected to the power grid through net metering, the applicant shall provide written evidence that the electric utility service provider that services the proposed site has been informed of the applicant's intent to install an intermittent customer-owned electric generator.
  9. Approved wind turbines.

The manufacturer and model of the wind turbine to be used in the proposed small WECS must have been approved by New York State Energy Research and Development Authority, or a similar list approved by the State of New York, if available. NYSERDA uses the "Unified List of Wind Turbines"
  10. Clearing.

Clearing of natural vegetation shall be limited to that which is permitted by applicable laws, regulations, and ordinances.
  11. Operations.
    - a. All small WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. "Operational condition" includes meeting all permit conditions.
    - b. Should a small WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Town of Croghan Code Enforcement Office/Lewis County Code Enforcement Officer to cure any deficiency. c. An extension of the ninety-day period may be considered, but the total period may not exceed 180 days.
  12. Abandonment.
    - a. At such time that a small WECS is scheduled to be abandoned or discontinued, the applicant will notify the Zoning Code Enforcement Officer by certified United States mail of the proposed date of abandonment or discontinuation of operations.
    - b. Upon abandonment or discontinuation of use, the owner shall physically remove the small WECS within 90 days from the date of

abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Town of Croghan Code Enforcement Officer.

- c. Restoration of the location of the small WECS to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the after-conditions.
  - d. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out of service for a continuous twelve-month period. After the 12 months of inoperability, the Town of Croghan Code Enforcement Officer may issue a notice of abandonment to the owner of the small WECS. The owner shall have the right to respond to the notice of abandonment within 30 days from notice receipt date.
  - e. The Zoning Code Enforcement Officer shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides reasons for the operational difficulty, provides a reasonable timetable for corrective action, and demonstrates that the small WECS has not been abandoned.
  - f. If the owner fails to respond to the notice of abandonment or if after review by the Town of Croghan Code Enforcement Officer (??) it is determined that the small WECS has been abandoned or discontinued, the owner of the small WECS shall remove the wind turbine and tower at the owner's sole expense within 120 days of receipt of the notice of abandonment.
  - g. If the owner fails to physically remove the small WECS after the notice of abandonment procedure, the Town shall have the authority to enter the subject property and physically remove the small WECS at the owner's sole expense.
13. Violations; prior installations.
- a. It is unlawful for any person to construct, install, or operate a small WECS that is not in compliance with this chapter or with any condition contained in the site plan review approval pursuant to this section.
  - b. Small WECS installed prior to the adoption of this section are exempt.
14. Severability.
- Should any provision of this section be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this section as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Section 940 Commercial (Large) Wind Energy Conversion Systems (WECS).

NOTE: Combined with Purpose statement at beginning.

- A. Applications Requirements for Commercial Wind Energy Systems.  
A complete special use permit application for a Commercial WECS shall include the following materials unless specifically waived by the Planning Board. Such information shall be in addition to any information required by the Town, under any related Local Law or Ordinance.

Ten copies of the application shall be submitted to the Town, payment of all application fees shall be made at the time of the application submission. If any waivers are requested, waiver application fees, if any, shall be paid at the time of receipt of the application. In addition, the applicant shall provide the Planning Board additional copies necessary to coordinate the review with involved agencies pursuant to SEQRA.

1. Name, address, telephone number of the applicant, if an agent represents the applicant, the application shall include the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
2. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (1) confirming that the property owner is familiar with the proposed applications and (2) authorizes the submission of the application.
3. Address, or other property identification, of each proposed tower location, including Tax Map section, block, and lot number.
4. A description of the project, including the number and maximum rated capacity of each WECS.
5. A site plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:
  - a. Lot lines and physical dimensions of the WECS Site
  - b. Location, approximate dimensions and types of major existing structures and used on the WEF Site, public roads, and adjoining properties within five hundred (500) feet of the boundaries of the proposed WECS Site.
  - c. Location and elevation of each proposed WECS.
  - d. Location of all above ground utility lines on the WECS Site or within one radius of the Total Height of the WECS, transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.
  - e. Location and size of structures above 35 feet within a five hundred-foot radius of the proposed WECS. For purposes of this

- requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.
- f. To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower location equal to one thousand two hundred fifty (1,250) feet.
  - g. Location of each residential structure, both on the WECS Site and off the WECS Site, that is located within two thousand five hundred (2,500) feet from the nearest individual wind turbine, as well as the specific distance from the nearest individual wind turbine to each residential structure.
  - h. All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.
  - j. Visual impacts. A visual analysis and photo simulations of the wind turbines.
    - (1) It is inherent that WECS may pose some visual impacts due to the tower height needed to access the wind resources. The purpose of this section is to reduce the visual impacts without restricting the owner's access to the wind resources.
    - (2) The applicant shall demonstrate through project site planning and proposed mitigation that the WECS' visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, turbine design or appearance, buffering, and screening of ground-mounted electrical and control equipment. All electrical conduits shall be underground.
    - (3) The color of the small WECS shall either be the stock color from the manufacturer or painted with a white or off-white non-reflective, unobtrusive color that blends in with the surrounding environment.
    - (4) A small WECS shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small WECS.
- 6. Existing roads shall be used to provide access to the facility site, or, if new roads are needed, the amount of land used for new roads shall be minimized and the new roads shall be located so as to minimize adverse environmental impacts.
  - 7. Vertical drawing of the wind turbines showing Total Height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each wind turbine of the same type and Total Height.

8. Landscaping Plan depicting existing vegetation and describing any areas to be cleared and the specimens proposed to be added, identified by species and size of specimen at installation and their locations.
9. Lighting Plan showing any FAA-required lighting as well as all other proposed lighting. The application should include a copy of any determination by the Federal Aviation Administration to establish required markings and/or lights for each structure that is part of the facility, but if such determination is not available at the time of the application, no building permit for any lighted facility may be issued until such determination is submitted.
10. List of property owners, with their mailing address, within 500 feet of the lot lines of the proposed Site.
11. Decommissioning Plan: The applicant shall submit a decommissioning plan, which shall include the following information at a minimum:
  - a. the anticipated life of the Commercial WECS ;
  - b. the estimated decommission costs in current dollars;
  - c. how said estimate was determined;
  - d. the method of ensuring that funds will be available for decommissioning and restoration; the method, such as by annual re-estimate-by a licensed engineer,
  - e. that the decommissioning cost will be kept current; and
  - f. the manner in which the Commercial WECS will be decommissioned and the WECS Site restored, which shall include at a minimum, the removal of all structures and debris to a depth of 3 feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner.
12. Complaint Resolution: The application will include a complaint resolution process to address complaints from any resident or property owner. The process in addition to the avenues available under this Law, shall as a condition precedent to arbitration use an independent mediator to attempt to resolve the complaint, and include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint through mediation. In the event the matter is not resolved in mediation, it shall be subject to litigation in a Court having competent jurisdiction and venue
13. An application shall include at a minimum, the following information relating to the construction/installation of the Commercial Wind energy Conversion System:
  - a. construction schedule describing commencement and completion dates
  - b. description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.
  - c. Storm water management Erosion and Sediment control plan.

14. Applications for Wind Measurement Towers subject to this Local Law may be jointly submitted with the Commercial WECS application.
15. For each proposed Commercial WECS, include make, model, picture and manufacturer's specifications, including noise decibels data. Include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
16. Completed Part I of the Full Environmental Assessment Form.
17. If the applicant agrees in writing in the application that the proposed Commercial WECS may have a significant adverse impact on the environment it may submit a Draft Environmental Impact Statement ("DEIS"), and the Planning Board shall issue a positive declaration of environmental significance.
18. The applicant, either with the application, or, in the event of a positive declaration under SEQRA, as part of any DEIS submitted by the applicant with respect to the application for a Zoning Permit shall submit such studies as the Planning Board reasonably determines to be necessary. Such Studies shall be conducted by a qualified consultant as to each of the identified impacts or potential impacts, which study or studies shall include, at a minimum, a detailed analysis of the existing conditions, any potential adverse impacts, and the measures to be taken by the applicant mitigate or eliminate such impacts.
19. In addition to the materials required in accordance with this section, complete applications should include any additional study or assessment determined to be required by the lead agency during the review of the project pursuant to SEQRA. No application shall be determined to be complete until a formal environmental finding has been made.
20. The application shall, prior to the receipt of a Building Permit, provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and the applicable Transmission Owner.
21. A statement, signed under penalty of perjury, that the information contained in the application is true and accurate.

B. Development Standards for Commercial WECS

The following standards shall apply to all WECS, unless specifically waived by the Planning Board:

1. All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.
2. No television, radio, or other communication antennas may be affixed or otherwise made part of any Commercial WECS.
3. In order to minimize any visual impacts associated with Commercial WECS, no advertising signs are allowed on any part of the Commercial WECS,

- including fencing and support structures.
4. Lighting of tower. No tower shall be lit except to comply with FAA requirements. Written verification of lighting requirements for Commercial WECS from FAA is required. Minimum - security lighting for ground level facilities shall be allowed as approved on the Commercial WECS development plan.
  5. All applicants shall use measures to reduce the visual impact of Commercial WECS to the extent possible. Commercial WECS shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished white or gray in color. Commercial WECS consists of wind turbines whose appearance, with respect to one another, is similar within and throughout the Project, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any pair of the tower, hub, or blades.
  6. The use of guy wires is disfavored. A Commercial WECS using guy wires for tower support shall incorporate appropriate measures to protect the guy wires from damage, which could cause tower failure.
  7. No Commercial WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems can be reasonably expected to produce electromagnetic interference with signal transmission or reception. No Commercial WECS shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a Commercial WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference.
  8. The Fort Drum Joint Land Use Study (JLUS) lists a number of compatibility issues and areas that would potentially impact continued viability of the Wheeler Sack Army Airfield operation and training activities. The JLUS should be examined to ensure any potential Commercial WECS locations within the Town of Croghan will not create conflicts with the Fort Drum activities or the Town of Croghan Comprehensive Plan goals, objectives and strategies.
  9. All solid waste and hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all appropriate rules and regulations.
  10. Commercial WECSs shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided. The use of previously developed areas will be given priority wherever possible. All top- soil disturbed during construction, reconstruction or modification of Commercial WECS shall be stockpiled and returned to the site upon completion of the activity which disturbed the soil.

11. Commercial WECS shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity.
12. Commercial Wind Energy Conversion Systems shall be located in a manner consistent with all applicable State and Federal wetlands laws and regulations.
13. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable State and Federal laws and regulations.
14. If the proposed Commercial WECS is to be connected to the power grid through net metering, the applicant shall provide written evidence that the electric utility service provider that services the proposed site has been informed of the applicant's intent to install an intermittent customer-owned electric generator.
15. The maximum total height of any wind turbine within a Commercial WECS shall be five hundred (500) feet.
16. The substation used in conjunction with a WECS shall be sited in a manner that will have the least intrusive impact upon adjacent residences and shall be sheltered and or screened with a physical barrier and/or vegetation in a manner to eliminate its views from such residences. The Planning Board shall assess such siting in accordance with the requirements of this Local Law.
17. In processing any application for a Commercial WECS or in reviewing such project under SEQRA, the Planning Board shall consider any applicable policy or guidelines issued by the New York State DEC (i.e., visual impacts, noise impacts).
18. If it is determined that a Commercial WECS is causing stray voltage issues, the operator shall take the necessary corrective action to eliminate these problems including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy stray voltage issues is grounds for revocation of the Zoning Permit for the specific Commercial WECS causing the problems.
19. Turbine blades shall pass no closer than thirty (30) feet to the ground during operation of the facility.
20. To the greatest extent possible WECS, together with all above ground facilities, underground cables and wires, and all permanent access roads shall be positioned along existing fence lines, hedge rows or tree rows and/or as near the edge of any fields as possible to minimize disruption to pasture land or tillable land. Following construction, the site shall be graded and seeded and restored to its preconstruction condition or better.
21. Commercial WECS shall be deemed Type I projects under SEQRA. The Planning Board may be responsible for the review of the proposed project under SEQRA, and may, where appropriate, act as lead agency under SEQRA and shall coordinate its review with all other involved agencies in accordance with the requirements of Q\_NYCRR Part 617 (State Environmental Quality Review Act regulations).

C. Required Safety Measures for Commercial WECS

1. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
2. If the participating contiguous property owner submits a written request that fencing be required then the Planning Board shall review what nature or type of fence is required, if any. The color and type of fencing for each wind turbine installation shall be determined on the basis of individual applications as safety needs dictate. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of the fence around each tower or group of towers and any building (or on the tower or building if there is no fence), containing emergency, contact information. The Planning Board may require additional signs based on safety needs.
3. No climbing pegs or tower ladders shall be located closer than twelve (12) feet to the ground level at the base of the structure for freestanding single pole or guyed towers.
4. Each wind turbine shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.
5. Existing snowmobile and/or ATV trails shall be posted to warn of potential Ice throw dangers from the Commercial WECS.
6. Copies of all reports concerning operating and safety inspections for each Commercial WECS shall be filed with the Town Clerk.

D. Traffic Routes

1. Construction of Commercial WECS pose potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Special Use Permit conditions may limit Commercial WECS-related traffic to specified routes and include a plan for disseminating traffic route information to the public. Factors in establishing such routes shall include:
  - a. Minimizing traffic impacts from construction and delivery vehicles, including impacts on local residential areas;
  - b. Minimizing WECS related traffic during times of school bus activity;
  - c. Minimizing wear and tear on local roads; and
  - d. Minimizing impacts on local business operations.
2. The Applicant shall demonstrate that it has entered into an agreement with the Town and/or County of Lewis relative to the use of roads.
3. The applicant is responsible for repair of all damages to Town Roads

occurring during the construction or maintenance of a Commercial WECS in accordance with its agreement with the Town.

4. Noise Standards for Wind Energy Conversion Systems:
  - a. The Sound Level statistical sound pressure level (L) (10) due to any Commercial WECS operation shall not exceed ambient noise levels (exclusion of the development proposed) by more than 5 dBA at the nearest lot line.
  - b. Any Sound level falling between two whole decibels shall be the lower of the two.

E. Setbacks for Commercial WECS

Structures and wind turbines for Commercial WECS shall be set back from lot lines, measured from the center of the applicable component part of the Commercial WECS the following minimum distances:

1. 1250 feet from offsite lot lines;
2. 800 feet minimum from the high water mark in any river or lake.

F. Abatement

1. If any Commercial WECS remains non-functional or inoperative for a continuous period of one (1) year, the applicant agrees that, without any further action by the Planning Board, the Commercial WECS shall be decommissioned and removed at his own expense. Removal of the system shall include at a minimum the removal of the entire above ground structure, including transmission equipment and fencing, from the lot. This provision shall not apply if the applicant demonstrates to the Planning Board or Town Board that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after a public hearing.
2. Decommissioning Bond/ Fund Plan -The applicant, or successors, shall provide a continuously maintained fund or bond payable to the Town of Croghan in a form approved by the Town Attorney, for the removal of non-functional towers and appurtenant facilities, in an amount to be determined by the Town Board, for the period of the life of the facility or other plan acceptable to the Town Board. This fund or plan may consist of a letter of credit from a State of New York licensed- financial institution. All costs of the financial security shall be borne by the applicant. All decommissioning funding requirements shall be met prior to commencement of construction.

G. Agriculture and Markets compliance.

The New York State Department of Agriculture and Markets guidelines for

agricultural mitigation for WECS projects shall be adhered to both inside and outside of agricultural districts. Specific information is located at: [www.agmkt.state.ny.us](http://www.agmkt.state.ny.us), "Construction Projects Affecting Farmland."

H. Wildlife Concern:

The Planning Board shall determine the potential impact on important bird areas, as identified by the New York Audubon Society, other recognized habitats such as any nearby New York State wildlife management areas, and any locally recognized priority habitat areas such as those set aside for bats and any areas considered "sensitive," which may include but not be limited to areas such as bird conservation areas or areas covered under mitigation for species such as grassland birds; and at least 500 feet from state-identified wetlands. The setback of 1,250 feet from off-site lot lines may be adjusted may be to be greater or lesser at the discretion of the reviewing body, based on topography, land cover, land uses, and other factors that influence the flight patterns of resident birds.

I. Aviation compliance.

1. Commercial

WECS shall be built to comply with all applicable Federal Aviation Administration guidelines, including but not limited to 14 CFR Part 77, Sub part b, regarding installations close to airports, and the New York Aviation regulations. Evidence of compliance or non-applicability shall be submitted with the application.

2. Fort Drum. The applicant shall notify Fort Drum personnel in the Plans, Analysis, and Integration Office as soon as possible upon application submission to determine potential impacts on Fort Drum airfield and training activities. The applicant should provide a letter from Fort Drum with comments of the proposed tower.

3. Wate1town International Airport. The applicant shall file a Notice of Proposed Construction or Altercation, FAA Form 7460 Airport Airspace Analysis, and notify the Airport Manager as soon as possible upon application submission to determine potential impacts on the airport. If warranted by the energy system type development proposed the developer should complete studies of the potential impacts to landing facility traffic patterns, air navigation, and radar or instrument approach procedures.

J. Permit Revocation

Operation-A Commercial WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a Commercial WECS become inoperable, or should any part of the Commercial WECS be damaged, or should a Commercial WECS violate a permit condition, the owner or operator shall remedy the situation within 180 days after written notice from the Town Zoning Enforcement Officer, to correct any

deficiency. The Planning Board may extend the 180-day period for good cause shown.

### Section 950 Wind Measurement Towers

Wind site assessment is typically conducted using Wind Measurement Towers (anemometer towers) to determine the wind speeds and the feasibility of using particular Sites.

No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated in the Town except pursuant to a Special Use Permit issued pursuant to Local Law.

#### A. Applications for Wind Measurement Towers

An application for a Wind Measurement Tower shall include:

1. Name, address, telephone number of the applicant. If an agent represents the applicant, the application shall include the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
2. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that their property owner is familiar with the proposed applications(s) and (ii) authorizing the submission of the application.
3. Address of each proposed tower location, including Tax Map section, block, and lot number
4. A site plan showing the location of the proposed Wind Measurement Towers, lot lines, proposed and existing structures, setbacks from lot lines and access driveway.
5. Decommissioning Plan, including a security bond for removal.
6. SEQR Short or Long EAF.

#### B. Standards for Wind Measurement Towers

1. The distance between a Wind Measurement Tower and the lot line shall be at least one and a half times the Total Height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties as long as all properties are owned or leased by the developer of the Wind Measurement tower.
2. Special Use Permits for Wind Measurement Towers may be issued for a period of up to twenty- six (26) months. Permits may be renewed if the Wind Measurement Tower is in compliance with the conditions of the Special Use Permit. Such permit may be renewed at the discretion of the Planning Board.

3. Anchor points for any guy wires for a Wind Measurement Tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from three (3) to eight (8) feet above the ground.
4. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for Wind Power projects shall be adhered to for Wind Measurement Towers located on land both inside and outside New York State Certified agricultural districts.

## **ARTICLE X SOLAR ENERGY**

### Section 1010 Solar Energy Systems

#### A. PURPOSE

The purpose of these Solar Energy regulations are to advance and protect the public health, safety, and welfare of the Town of Croghan including:

1. Taking advantage of a safe, abundant, renewable, and non-polluting energy resource;
2. Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; and
3. Increasing employment and business development in the region by furthering the installation of Solar Energy Systems.

### Section 1020 Applicability

The requirements of this law shall apply to all Solar Energy Systems installed or modified after its effective date, excluding general maintenance and repair and Building-Integrated Photovoltaic Systems.

### Section 1030 Roof-Mounted Solar Energy Systems

- A. Zoning Permit. Roof-Mounted Solar Energy Systems that use the electricity onsite or offsite are permitted as accessory uses when attached to any lawfully permitted building or structure. A zoning permit shall be obtained through the Town of Croghan Zoning Enforcement Officer, prior to installation.
- B. Height. Roof-Mounted Solar Energy Systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.
- C. Aesthetics. Roof-Mounted Solar Energy System installations shall incorporate, when feasible, the following design requirements:

1. Panels facing the front yard must be mounted at the same angle as the roofs surface with a maximum distance of eighteen inches (18") between the roof and highest edge of the system.
  2. Roof mounted structures shall be color-coordinated to harmonize with roof material and other dominant colors of the structure.
  3. All solar collectors shall be installed so as to prevent any glare and heat that is perceptible beyond applicant property's lot lines.
- D. Roof-Mounted Solar Energy Systems that increase the overall height of the structure by more than eighteen (18) inches, shall require a Special Use Permit by the Planning Board.

Section 1040 Small-Scale/On-Site Solar Energy Systems

25 kW → 1.9 MW

- A. Zoning Permit. Small-Scale/On-Site Solar Energy Systems are permitted as accessory structures. A zoning permit shall be obtained through the Town of Croghan Zoning Enforcement Officer, prior to installation.
- B. Height and Setback. Small-Scale/On-Site Solar Energy Systems shall not exceed sixteen (16) feet in height when oriented at maximum tilt. They shall be setback at least twenty (20) feet from side and rear lot lines. All solar collectors must be located in compliance with NYS Department of Environmental Conservation (DEC) and Federal Flood Plain regulations and specifications as they pertain to waterways, waterbodies, and designated wetlands.
- C. All such Systems shall be installed in the side or rear yards.
- D. Glare. All solar collectors shall be installed so as to prevent any glare and heat that is perceptible beyond subject property's lot lines. Particular attention shall be paid to panel orientation with regard to airport runway locations, and airplane flyover/approach patterns to minimize potential glare impacts on pilots.

Section 1050 Large-Scale Solar Energy Systems

- A. Large-Scale Solar Energy Systems are allowed through the issuance of a Special Use Permit subject to the requirements set forth in this Section. Applications for the installation of Large-Scale Solar Energy Systems shall be submitted to the Planning Board for its review and action, which can include approval, approval with conditions, and disapproval.
  1. All Large-Scale Solar Energy Systems shall be designed by a NYS licensed architect or licensed engineer and installed in conformance with the applicable International Building Code, International Fire Prevention Code and National Fire Protection Association (NFPA) 70 Standards.

2. All solar collectors must be located in compliance with DEC and Federal Flood Plain regulations and specifications as they pertain to waterways, waterbodies, and designated wetlands.
- B. Application requirements for Large-Scale Solar Energy Systems. The following items are required.
1. 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.
  2. Plans showing the layout of the Solar Energy System signed by a Professional Engineer or Registered Architect shall be required.
  3. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
  4. Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
  5. Glint and Glare Report is required to determine potential impacts to the Watertown International Airport and Wheeler-Sack Army Airfield.
  6. Decommissioning Plan. To ensure the proper removal of Large-Scale Solar Energy Systems, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of a Special use permit under this Section. The Decommissioning Plan must specify that after the Large-Scale Solar Energy System can no longer be used, the applicant or any subsequent owner shall remove it. 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. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. Cost estimations shall take into account inflation. Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan. If the Large-Scale Solar Energy System is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property use the surety/bond to cover these costs to the municipality.

7. Sureties/Bond. The applicant shall be required to provide sureties, as set forth, for the removal of the Large- Scale Solar Energy System. Pursuant to the execution of the decommissioning plan, the application shall provide the Town with a bond in an amount determined by the Town Board, but in no case less than 20% of the component/material cost (adjusted for inflation for 20 years into the future after installation) to cover the expense of removal of the system and remediation of the landscape, in the event the Town must remove the facility. The bond shall be in the form acceptable to the Town Attorney, which include but are not limited to a letter of credit, perpetual bond, or any combination thereof. The amount shall be reviewed every five years, by the Town Board and shall be adjusted if deemed necessary due to inflation or other cost increases. If the bond is deemed to be adjusted, the application shall have 90 days from notice to provide an adjustment bond.
8. Fort Drum. The applicant shall notify Fort Drum personnel in the Plans, Analysis, and Integration Office as soon as possible upon application submission to determine potential impacts on Fort Drum airfield and training activities. The applicant shall provide a letter from Fort Drum with comments.
9. Watertown International Airport. The applicant shall notify the Airport Manager as soon as possible upon application submission to determine potential impacts on the airport. The applicant shall provide a letter from the Manager with comments.

C. Review Standards for Large-Scale Solar Systems.

1. Height and Setback. Large-Scale Solar Energy Systems shall not exceed twenty (20) feet in height when oriented at maximum tilt. Any structure and equipment shall be setback a minimum of 50 feet from non-participating lot lines.
2. Lot Size. Large-Scale Energy Systems shall be located on lots with a minimum lot size of 5 acres.
3. Prime soils, prime if drained, and soils of statewide importance that are in agricultural production are a valuable and finite resource. Proposed Large-Scale solar systems shall minimize the displacement of prime soils that are in agricultural production. The site plan shall depict the location and extent of prime soils, prime soils if drained, soils of statewide importance, and indicate whether the parcel(s) is/are receiving an agricultural valuation. The site plan shall also depict the location and extent of current agricultural uses on the land (e. g rotational crops, hay land, unimproved pasture,

support lands, and fallow lands) the location of diversions and ditches, and areas where tile drainage has been installed.

4. **Roadways.** In accordance with National Fire Protection Association, all access roads shall be a minimum of twenty (20) feet wide to assure adequate emergency and service access, unless otherwise permitted by the Fire Code Official. Dead end roads that are at least 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus, unless otherwise permitted by the Fire Code Official. Maximum use of existing roads, public or private, shall be made. Minimal access points shall be allowed by the Planning Board. A turnaround shall be provided at the gate.
5. **Structures for overhead collection lines** are to be located upon the nonagricultural areas and along field edges where possible. Electric interconnect cables and transmission lines are to be buried in agricultural fields wherever practical. Interconnect cables and transmission lines installed aboveground shall be located outside agricultural field boundaries. When above-ground cables and transmission lines must cross agricultural fields, taller structures that provide longer spanning distances and locate poles on field edges to the greatest extent practicable. All buried electric cables in cropland, hay land, and improved pasture shall have a minimum depth of 48 inches of cover. At no time is the depth of cover to be less than 24 inches below the soil surface. Purchased if possible in the Town of Croghan.
6. **Fences.** All Large-Scale Energy Systems shall be enclosed by fencing to prevent unauthorized access. The type of fencing shall be determined by the Planning Board. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts.
7. **Screening.** All Large-Scale Solar Energy Systems shall have the least visual effect practical, as determined by the Planning Board. Based on site specific conditions, including topography, adjacent structures, and roadways, reasonable efforts shall be made to minimize visual impacts by preserving natural vegetation, and providing landscape screening to abutting residential properties, public roads, and from public sites known to include important views or vistas, but screening should minimize the shading of solar collectors.. Appurtenant Structures such as inverters, batteries, equipment shelters, storage facilities, transformers, shall be screened.
8. **Signage.** Warning signs with the owner's contact information shall be placed on the enhance and perimeter of the fencing. Solar equipment shall not be used for displaying any advertising. All signs, flags, streamers or similar

items, both temporary and permanent, are prohibited on solar equipment except: (a) manufacturer's or installer's identification; (b) appropriate warning signs and placards; (c) signs that may be required by a federal agency; and (d) signs that provide a 24-hours emergency contact phone number and warn of any danger.

9. Glare. Solar panels shall be placed and arranged such that reflected solar radiation or glare shall be minimized onto non-participating buildings, non-participating properties, or public roadways. Exterior surfaces of all collectors and related equipment shall have a non-reflective finish. Particular attention shall be paid to panel orientation with regard to airport runway locations, and airplane flyover/approach patterns to minimize potential glare impacts on pilots based on the Glint and Glare Study.
  10. Noise. Noise producing equipment such as substations and inverters shall be located to minimize noise impacts on adjacent properties.
  11. Safety. The owner/operator shall provide a letter from the Fire Chief of the Carthage Fire Department that the Fire Department has reviewed the application and site plan with any comments. All means of shutting down the photovoltaic solar energy system shall be clearly marked on the site plan and building permit applications.
  12. The Planning Board may impose conditions on its approval of any Special Use Permit under this Section in order to enforce the standards referred to in this Section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQ RA).
- E. Abandonment and Decommissioning - Solar Energy Systems are considered abandoned after twelve (12) months without electrical energy generation and must be removed from the property. Applications for extensions are reviewed by the Planning Board for a period of six months. The site shall be restored to as natural a condition as possible within one (1) year of removal.

#### Section 1060 Solar Rights

- A. Pursuant to Chapter 263 of New York Town Law, all parcels within the Town of Croghan shall be permitted to enjoy access to direct sunlight.
- B. No structure shall be constructed or vegetation installed that limits direct solar access greater than 50 percent of the ground surface of adjoining lots to less than six hours (per day) on any day of the year.