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STATE RECORDS

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

JAN 2 3 2025

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of Croghan

DEPARTMENT OF STATE

Local Law No. 1 **of the year 20**25

A local law to Repeal and Replace Local Law 1 of 2022 - Zoning Law
(Insert Title)

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

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of Croghan **as follows:**

SEE ATTACHED

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2025 of the ~~(County)(City)~~(Town)~~(Village)~~ of Croghan was duly passed by the Town Board on January 13 2025, in accordance with the applicable provisions of law.

(Name of Legislative Body)

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)

(Name of Legislative Body)

(repassed after disapproval) by the _____ and was deemed duly adopted

(Elective Chief Executive Officer)*

on _____ 20☐☐, in accordance w ith the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)

(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____ 20____.

(Elective Chief Executive Officer)*

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

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)~~(Town)~~(Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved)~~(not approved)~~

(Name of Legislative Body)

~~(repassed after disapproval)~~ by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

(Elective Chief Executive Officer)*

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

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

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

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Megan E. Simpson
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 1/14/25

(Seal)

THE TOWN OF CROGHAN

ZONING LAW

Repealing and Replacing Local Law Number 1 of 2022
Effective January 2025

Adopted January 13, 2025

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ARTICLE I. ENACTING CLAUSE, TITLE, PURPOSE

Section 110 Enacting: Clause

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

Section 120 Title

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

Section 130 Purpose of the Zoning Law

The purpose of the Town of Croghan Zoning Law is to promote and guide development in an orderly and efficient manner. This will reduce use conflicts, promote traffic safety, enhance and protect the historical and recreational attributes of the Town, retain and improve land values, encourage quality development, ensure wise use of the sources and promote the general health and welfare of the Town residents. This law is designed to protect existing development while providing some control of growth so that future development will not be a detriment to the Town and its residents.

This zoning law has been made with reasonable consideration, among other things, as to the character of the Town and its suitability for particular uses, and with a view to conserving the value of buildings and encouraging the use of land appropriately throughout the Town.

Low density development, scenic views, clean air and water, extensive forest lands, open space and outdoor recreation opportunities all contribute to the unique rural character of the Town. Orderly and responsible development of the Town will help preserve these attributes and help assure the unique community vitality of the Town of Croghan.

Section 140 Conflict with Other Laws

This local law in no way affects the provisions or requirements of any other federal, state, or local law or regulations. Where this local law is in conflict with any other such law or regulation, the more restrictive shall apply. This law is intended to repeal and replace the Town's current zoning law.

ARTICLE II APPLICABILITY

Section 210 Type of Zone

For the purpose of this law, the entirety of the Town of Croghan is hereby designated as one zone, which shall be designated as Rural Residential, with specific properties included in the Solar Energy System Overlay District. The Solar Energy System Overlay District will allow consideration of use of the Town's solar energy resources through Ground-Mounted Solar Energy Systems and to regulate or prohibit the placement of such systems so that the public health, safety, and welfare will not be jeopardized. Strong consideration was also applied to the locations based on the potential visual impacts on the Black River Trail, a scenic byway that runs along the western edge of the Adirondack Wilderness. It should be noted that this Solar Energy System Overlay District has been built from the foundation set by the 2021 Lewis County Agricultural Enhancement Plan where Priority Farmland was identified through a variety of factors, including the amount of road frontage,

percentage of high-quality soils, percentage of parcel available for farming, and whether it is a parcel with a primary agricultural use.

A. Medium and Large-Scale Solar Energy Systems are only permitted within areas identified in Attachment A: "Solar Energy System Overlay District Map" of this law and are subject to all other standards contained herein.

B. Solar Energy System Overlay District Exceptions. Notwithstanding the provisions of the Solar Energy System Overlay District, the Town may, in the Town's sole discretion, upon application and public hearing, grant an exception to the regulations of the Solar Energy System Overlay District for proposed Solar Energy System projects which meet the following criteria:

i. No Visual Impacts: The proposed Solar Energy System development shall not have any significant adverse impacts on the surrounding area, as determined by the Town Board.

ii. Limited Forest Impact: The proposed Solar Energy System development shall not impact more than one (1) acre of mature forest, as defined in this Law.

iii. Prime Agricultural Land Impact: The proposed development shall not be located on prime farmland, as defined by this Law and/or USDA, unless an appropriate agrivoltaics use and premium compensation through Community Host Benefit Agreements can be agreed upon by the Town or Planning Board, Applicant, and Property Owner.

iv. The Town Board shall consider all relevant factors, including but not limited to: the size and scale of the proposed development, the location of the development within the Town, and the potential impacts on the surrounding environment and community, in determining whether to grant an exception under this Law.

Section 220 Exempted Uses

The following land use activities are exempted from the requirements of this law. However, this law does not supersede, modify, or replace procedural or substantive requirements of other local, state, or federal laws or regulations which may apply to the development, or the necessity that the applicant comply with those laws and regulations and obtain all necessary permits and certificates there under, including those of New York State's Uniform Fire Prevention and Building Code, and no use prohibited by any other law shall be deemed allowable by virtue of this section.

A. All uses and activities other than commercial and industrial uses, certain solid waste management facilities other than those described in Subsection F below, campgrounds, and uses specifically regulated in this law.

B. Home occupations except as described below in Section 230 and except accessory dwelling units. Accessory dwelling units are permitted in the Town of Croghan with a zoning permit if it is determined that the construction or conversion intended to create an accessory dwelling unit demonstrates that it is clearly incidental and secondary to the primary residential dwelling.

C. Dairy farming, the raising of crops or livestock, and other agricultural pursuits

including maple syrup production with construction value of less than one million dollars.

D. Ordinary repair or maintenance of existing structures for commercial and industrial uses, and campgrounds.

E. Exterior alterations or additions to a commercial or industrial structure, which will not increase the gross floor area of the existing structure by more than twenty-five percent (25%) within any five (5) year period.

F. The following solid waste management facilities and activities:

1. Disposal areas and/or burning of solid waste located within the property boundaries of a single-family dwelling or farm for solid waste generated from that dwelling or farm.

2. Disposal areas for waste pesticides by the farmer who used them if the farmer complies with Title 6 of the New York State codes, rules and regulations.

3. Solid waste from nonhazardous inactive landfills which has been excavated as part of a construction project and is being returned to the same excavation or other excavation containing similar solid waste or otherwise relocated within the landfill's existing footprint.

4. Disposal areas under the jurisdiction of government agencies for animals that are killed on local roads and State and County highways.

5. Land application facilities.

6. Used oil collection enters.

7. Land filling of uncontaminated materials including land clearing debris; bricks, concrete, other masonry material, soil and rock.

8. Temporary transfer, storage, treatment, incinerator and processing facilities located on site and used exclusively for the management of solid waste generated at that location or at a location under the same ownership.

G. Junkyards.

H. Manufactured home parks and travel trailer parks which are subject to the Town of Croghan Manufactured Home and Travel Trailer Law.

I. Telecommunication towers and antennas less than sixty (60) feet in height which are

accessory to residential, commercial and industrial uses

Section 230 Uses Requiring Site Plan Review

All new commercial, industrial uses, and communications towers within the Town which have not been substantially constructed by the effective date of this law, and exterior alterations or additions to a commercial or industrial structure, (except as noted in Section 220) shall require site plan review and approval before being undertaken. This shall also include home occupations that:

A. Generate increased traffic, parking, sewage, water use, or noise in excess of what is normal for a residential dwelling; and/or

B. Create a hazard to person or property, results in electrical interference, or becomes a nuisance resulting in a complaint. All such complaints shall be in writing and shall be filed with the Zoning Officer who shall properly record and investigate such complaints in a timely manner; and/or

C. Result in the significant outward change in appearance of the residential dwelling or accessory structure that is not typical of a residential use; and/or

D. Exceed 4 full-time equivalent employees in addition to members of the family residing in the household. (Full-time equivalent shall mean at least 32.5 hours/week).

Certain uses shall also require a special use permit as described in Section 240.

Section 240 Uses Requiring Special Use Permit

The following uses, which have not been substantially constructed by the effective date of this law, shall require a Special Use Permit before being undertaken:

A. Transfer stations designed and permitted by the NYSDEC to handle less than 400 tons/year of solid waste.
B. Recycling facilities
C. Industrial use (heavy)
D. Telecommunication tower and antenna.
E. Commercial, industrial, and agricultural pursuits with construction values of more than one million dollars.
F. All solid waste transfer facilities which are not exempt under Section 220 or prohibited under Section 250 of this law, including but not limited to, composting facilities, waste tire storage facilities, construction and demolition debris processing facilities, and petroleum contaminated soil processing facilities.
G. Tier 2 Battery Energy Storage Systems
H. Medium and Large-Scale Solar Energy Systems
I. Mining

Section 250 Prohibited Uses

The following uses are hereby prohibited from being newly sited, newly constructed, or transferred to another location within the Town of Croghan:

A. Solid waste landfills.
B. Construction and demolition debris landfills.
C. Incinerators, except when located on the site of, and accessory to, agricultural uses, a commercial, industrial, or licensed health care facility.
D. Regulated medical waste landfill.
E. Transfer stations designed and permitted by the N.Y. State DEC to handle more than 400 tons/year of solid waste.
F. Accessory dwelling units as accessory uses to multifamily dwellings, commercial or industrial uses.

Section 260 Nonconforming Uses of Land or Structures

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

A. Any change in use of land or structure which by enactment or amendment of this Law is made non-conforming is prohibited.
B. Any alteration or enlargement of use which by enactment or amendment of this Law is made non-conforming is prohibited, with the exception of one- and two-family dwellings.
C. The only use constitutionally protected is the specific use that existed at the time it became non-conforming. This is to include the same customer/traffic volume at the time that the use became non-conforming.

ARTICLE III. DEFINITIONS

ACCESS: Entranceway for automobiles to leave or enter a property or lot from a public road or private road.

ACCESSORY DWELLING UNIT (ADU): A subordinate dwelling unit located either within a principal residential dwelling, (inclusive of garage if attached thereto), or within an approved detached accessory structure, having its own ingress and egress and providing independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation. All ADUs shall meet the requirements of habitable space as defined by the New York State Uniform Fire Prevention and Building Code.

ACCESSORY STRUCTURE: A structure incidental and subordinate to the principal structure located on the same lot as the main structure, occupied by or devoted to an accessory use. Where an accessory structure is attached to the main structure in a substantial manner, as by a wall or roof, such structure shall be considered part of the main structure. Examples include but are not limited to: garages, storage sheds, satellite dishes, or similar structures.

ACCESSORY USE: A use incidental and subordinate to the principal use and located on the same

lot with such principal use.

ADVERSE NOISE IMPACTS: A sound level condition that creates, imposes, aggravates or leads to inadequate, impractical, or unsafe conditions on a site proposed for development.

AGRICULTURAL USE: A use which is directly related to the raising of livestock, or the growing of crops for the sale of agricultural produce, including farm structures, storage of agricultural equipment, horticultural and fruit operations, riding and boarding stables, and the like, or other commonly accepted agricultural operations, and as an accessory use the sale of agricultural or forest products raised on the property.

AMBIENT NOISE: Any continual or intermittent sound rated at or above 40-45 dBA.

AMBIENT SOUND: The average level of undifferentiated background sound perceived in an area at any given time exclusive of any distinguishable extraneous sounds or noises. Statistically, the long-term residual ambient sound level for an area is expressed as the L90 value, i.e., the level that is exceeded 90% of the time.

ANSI: American National Standards Institute.

ANTENNA: Any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

APPLICANT: The person(s)/legal entity, which except where otherwise provided herein, shall be the lot owner or his/her designated representative.

AUTOMOBILE: A road vehicle with four wheels, powered by an internal combustion engine or electric motor able to carry several people. Automobile size shall refer to the standard size of a full-sized car measuring roughly 6 feet wide by 18 feet long.

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

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM: An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

BATTERY ENERGY STORAGE SYSTEM: One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric automobile. A battery energy storage system is classified as a Tier 1 or

Tier 2 Battery Energy Storage System as follows:

A. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.
B. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area.

BATTERY ENERGY STORAGE SYSTEM BUILDING-MOUNTED: A Battery Energy Storage System attached to any part of a building or structure that has an occupancy permit on file with the Town and/or County, and that is either the principal structure or an accessory structure on a recorded parcel.

BATTERY ENERGY STORAGE SYSTEM GROUND-MOUNTED: A Battery Energy Storage System that is not a Building-Mounted Batter Energy Storage System.

BOARDING HOUSE: A building other than a hotel or motel containing a shared kitchen and/or dining room in which at least three but not more than six sleeping rooms are offered for rent, with or without meals.

BUFFER AREA: An undeveloped part of a lot or an entire lot specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties.

BUILDING: A structure designed to be used as a place of occupancy, business, storage, or shelter. The term "building" shall include the term "structure".

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

BUILDING INSPECTOR: Authorized official responsible for planning and evaluating construction projects to ensure they meet building codes and regulations. Their work helps ensure the safety of building occupants and the overall quality and sustainability of the built environment.

BUILDING, PRINCIPAL: The building on a lot that houses the primary use on a parcel of land.

CAMPGROUNDS: Land on which are located five (5) or more cabins, tent sites, campsites, shelters, or other accommodations suitable for seasonal or temporary living purposes, for rent, lease, or for the purpose of financial gain by the owner excluding manufactured homes, and travel trailers subject to the Town of Croghan manufactured home and travel trailer law.

CELL: The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

COMMERCIAL USE: This shall include but not be limited to the following: all wholesale and retail sales and services; and also including sales and service for new and used automobiles; manufactured homes; boats; recreational vehicles; farm machinery; and other large items stored outdoors for retail sales; agricultural uses; business or institutions providing overnight accommodations; institutional dwellings; care or confinement facilities; tree nurseries; storage and parking facilities; laundromats; restaurants; retail gasoline outlets; animal hospitals; airports; essential facilities; slaughterhouses; motor vehicle repair/paint shops; campgrounds; and warehouses.

COMMERCIAL WIND ENERGY CONVERSION SYSTEM (WECS): A commercial machine with a generating capacity equal to or greater than 500 kW that converts the kinetic energy of wind into electricity (also called a "wind turbine").

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

COMPOSTING FACILITY: A solid waste management facility used to provide aerobic, thermophilic, decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

CONSTRUCTION AND DEMOLITION DEBRIS: Solid waste resulting from the construction, remodeling, repair and demolition of utilities, structures, and roads; such as wood (including painted, treated and coated wood and wood products), wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles and other roof coverings, asphaltic pavement, glass, electrical wiring and components containing no hazardous liquids, and pipe and metals that are incidental to any of the above.

CONSTRUCTION AND DEMOLITION DEBRIS PROCESSING FACILITY: A processing facility that receives and processes construction and demolition debris by any means excluding landfilling or incineration.

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

1. The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
2. No other occupancy types are permitted in the building.
3. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.

4. Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:

    a. The areas do not occupy more than 10 percent of the building area of the story in which they are located.

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

DRAINAGE: A system of swales, ditches and culverts, catch basins, and piping to convey stormwater runoff to retention areas and stabilized discharge points.

DRIVEWAY: The established or traveled way leading to a particular building from the margin of a public or private road.

DWELLING: Building or part thereof used as living quarters for one family. The terms "dwelling", "one family dwelling", "two family dwelling", or "multiple-family dwelling" shall not include a motel, hotel, boarding house, tourist home or similar activity.

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

ENFORCEMENT OFFICER: An individual designated by resolution of the Town Board to assume, undertake, and exercise the duties and responsibilities reposed with that office by the provisions of this law.

EROSION CONTROL: Use of reseeding, revegetation, mulch placement, artificial matting, rip rap, or other methods to prevent soil erosion.

ESSENTIAL FACILITIES: The operation or maintenance by municipal agencies or public/private utilities of telephone dial equipment centers; electrical or gas substations; water treatment; water, gas, and electric storage and transmission facilities and lines; telecommunication towers, pumping stations; power generation facilities; and similar facilities, operated or maintained by municipal agencies or public/private utilities.

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

FLOODPLAIN: Any land area susceptible to being inundated by floodwaters from any source as delineated on Federal Emergency Management Agency (FEMA)'s Flood Hazard Boundary Map (FHBM) and following NFIP regulations.

GEOTHERMAL CLOSED-LOOP SYSTEM: Closed-loop systems use a ground loop (typically made

of polyethylene or PVC piping) that circulates water or antifreeze to exchange heat with the ground or a groundwater source. For closed-loop residential and smaller commercial systems, horizontal "slinky" configurations are often used. Vertical configurations, which can have column wells of up to 400 feet deep, are often used for large commercial systems. Closed-loop systems can also be submerged in bodies of water.

GEOTHERMAL ENERGY SYSTEMS: Are a system of ground-source heat pumps that can also be designed as direct exchange systems, which circulate a refrigerant through a copper pipe instead of a typical ground loop. Direct exchange systems are highly efficient at heat extraction and rejection.

GEOTHERMAL OPEN-LOOP SYSTEM: Open-loop systems circulate water for heat extraction and rejection directly from local groundwater sources. This can reduce the installed cost due to less piping and enhance system efficiency due to improved heat transfer.

GLARE: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects

GRADING: The leveling of land for site development purposes including construction of roads, building construction, drainage areas, and parking.

GROSS FLOOR AREA: The total interior floor area of a building, multiplied by the number of floors.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure that generates electricity for onsite or offsite consumption.

GRUBBING: The removal of root systems incident to surface growths of trees and vegetation.

HOME OCCUPATION: A commercial or light industrial use conducted on the property within a dwelling, manufactured home, or accessory structure in accordance with applicable provisions of this law.

HOTEL: A building containing primary sleeping units with internal access only, for the purpose of furnishing lodging, with or without meals, for transient occupancy; and with management maintaining a register, and providing daily housekeeping and other incidental services, including desk, telephone, or bellboy services.

INCINERATOR: An enclosed device using controlled flame combustion to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no combustible materials.

INDUSTRIAL USE, HEAVY: A facility or site which manufactures, assembles, fabricates, stores; processes or packages products from raw materials or component parts which may result in the

generation of hazardous waste or pollutants regulated by State and Federal Laws or Regulations.

INDUSTRIAL USE, LIGHT: A facility or site which manufactures, assembles, fabricates, stores, processes or packages a product for wholesale or retail sale, from raw materials or component parts, which does not result in the production of significant hazardous waste or pollutants regulated by New York State or Federal Laws or Regulations.

JUNK VEHICLES, JUNKYARDS, JUNKYARD ITEMS: Are as defined by County of Lewis Junkyard Law, Local Law No. 3 of 2021, as may be amended from time to time, and are incorporated in this Local Law by this reference.

LAND APPLICATION FACILITY: A site where septage, food processing waste, sewage sludge or other similar organic waste material is applied to the soil surface or injected into the upper layer of the soil to improve soil quality or provide plant nutrients.

LAND CLEARING DEBRIS: Vegetative matter, soil and rock resulting from activities such as land clearing and grubbing, utility line maintenance or seasonal or storm-related cleanup such as trees, stumps, brush and leaves and including wood chips generated from these materials. Land clearing debris does not include yard waste which has been collected at the curbside.

LAND FILLING: The use of uncontaminated land clearing debris, bricks, concrete,' other masonry material, soil and rock for grading and fill to establish level ground surfaces.

LANDFILL: Land or a facility or part of one where solid waste or its residue after treatment is intentionally placed, and at which solid waste will remain after closure, excluding a land application facility, and injection wells.

LOT: A parcel of land whose boundaries are established by deed or survey, and entirely owned by the same person or persons.

MANUFACTURED HOME: A structure (formerly defined as a mobile home), transportable in one or more sections, which is at least eight feet in width and 32 feet in length, which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities. A manufactured home shall be construed to remain a manufactured home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. This definition shall not be construed to include factory-manufactured homes known as "modular homes" bearing an insignia issued by the State Fire Prevention and Building Code Council as required in 9 NYCRR 1212. The term "Manufactured home" shall not include any self-propelled recreational vehicle.

MANUFACTURED HOME PARK: A lot which includes three or more manufactured home sites.

MANUFACTURED HOME SITE: A plot of land sufficiently improved and equipped to accommodate the placement thereon, and occupancy of a manufactured home, together with so much of the surrounding real estate as is reserved exclusively to serve that manufactured home and its occupants.

MATURE FOREST: Any unimproved land in excess of one (1) acre with trees that are predominantly six (6) inches in diameter or greater.

MINING: The extraction or removal of sand, gravel, clay, topsoil, mulch, stone, water, or other natural material deposits for use and/or sale, except that the extraction of oil and/or natural gas shall not be allowed. This term shall be interpreted to exclude mining on-site for agricultural purposes and to exclude the removal of soil, loam, sand, gravel or quarried stone when incidental to, or connected with a proposed subdivision or site plan or the removal of excess excavated material for any building, complex of structures or project that is authorized and in accordance with this Law.

MODULAR HOME: All known as 'factory manufactured homes', these are assembled in a factory but are not built upon a permanent chassis and are constructed or installed in accordance with State Law at the building site. These have no dimension restrictions and may not be distinguished by law from any other site-built housing. They are defined in Executive Law § 372(8) as "a structure designed primarily for residential occupancy constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in manufacturing facilities, intended or designed for permanent installation, or assembly and permanent installation, on a building site."

MOTOR VEHICLE: To include road permittable vehicles, such as automobiles, vans, motorcycles, trucks, and self-propelled construction equipment in addition to off-road vehicles not limited to, all-terrain vehicles (ATV), utility task vehicles (UTV), snowmobiles, dirt bikes and farming equipment.

MOTEL: A building or group of buildings, whether detached or in connected units, used as individual sleeping units with exterior access only designed primarily for travelers and providing for accessory off- street parking facilities.

NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL): A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

NEC: National Electric Code.

NFPA: National Fire Protection Association.

NON-DEDICATED-USE BUILDING: All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

NON-PARTICIPATING PROPERTY: Any property that is not a participant included in a battery energy storage or solar energy system agreement.

NON-PARTICIPATING DWELLING: Any dwelling located on non-participating property.

NOISE: Any loud, discordant or disagreeable sound or sounds. More commonly, in an environmental context, noise is defined simply as unwanted sound. Sound generated by projects may become noise due to land use if there are receptors surrounding them. When lands adjoining a

proposed project contain residential, commercial, institutional, or recreational uses, noise is likely to be a matter of concern to residents or adjacent landowners.

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

PARKING SPACE: An area reserved for the parking of an automobile.

PARTICIPATING PROPERTY: A battery energy storage or solar energy system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage or solar energy system owner (or affiliate) regardless of whether any part of a battery energy storage or solar energy system is constructed on the property.

PERSON: Any individual, group of individuals, partnership, firm, corporation, association, or other legal entity.

PHYSICAL SYSTEM OCCUPANCY: As it pertains to a solar energy facility and/or system – any physical infrastructure, whether above or below ground, any components contained within security fencing, any substations, any components used for battery storage, all panels and panel components.

POWER GENERATION FACILITY: Facilities at which wind energy, fossil fuels, water energy or other energy source is converted to another form of energy, such as thermal, electrical, or mechanical protected from dissipation and distributed to a user or users. Facilities designed for on-site use shall be considered accessory structures to the principal use, and subject to the same review or approval requirements for the principal use, either exempt, requiring site plan review or special use permit.

PRIVATE ROAD: A deeded, established or proposed route, other than a public road, which affords automobile access to multiple lots.

PUBLIC ROAD: An established route for automobile traffic which, under applicable law, constitutes a municipal, state, or federal highway.

RECYCLABLE: Solid waste that exhibits the potential to be used repeatedly.

RECYCLING FACILITY: A solid waste processing facility, other than collection and transfer vehicles, at which non-putrescible recyclables are separated from the solid waste stream or at which previously separated non-putrescible recyclables are processed.

REGULATED MEDICAL WASTE: Regulated medical waste defined in 6NYCRR Part 360 Solid Waste Management Facilities Title 6 of The Official Compilation of Codes, Rules and Regulations, effective

November 26, 1996, and as amended.

ROAD RIGHT-OF-WAY: The extreme margins of potential development of a road, as determined by deed, dedication, or other public record. In the absence of a definitive public record, a road's margins shall be deemed to be 25 feet from its centerline.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

RUNOFF: Surface water that flows onto, within, and/or off of the site area.

SCREENING: Vegetation, fencing, or earthen materials used to block visibility toward and/or away from a site. Screening may also be used to lessen noise impacts from a particular site or from adjacent land uses.

SEQR REVIEW (STATE ENVIRONMENTAL QUALITY REVIEW): Review of an application according to the provisions of the State Environmental Quality Review Act, 6NYCRR, Part 617 (Statutory Authority: Environmental Conservation Law, Section 8-0113).

SIGN: A name, identification, description, display, or illustration, or any other visual display, which is affixed to, or painted, or represented directly or indirectly upon a building, structure, or piece of land, which directs attention to an object, product, place, activity, person, institution, organization, industry, landmark or business.

SIGN, FREE STANDING: A sign that is attached to, erected on or supported by some structure such as a pole, mast, frame, or other structure that is not itself an integral part of or attached to a building or other structure having no principal function other than the support of the sign.

SITE: The spatial location of an actual or planned structure or set of structures (such as a building, town, or structure). Wind Energy Conversion (WECS) sites are all parcels of land making up the WECS project. Battery Energy Storage System and Solar Energy Systems sites are all parcels of land making up the respective project.

SITE PLAN: Maps, drawings, and supportive data describing the project proposal or development plan on which illustrates the existing or proposed conditions of the lot.

SMALL WIND ENERGY CONVERSION SYSTEM (WECS): Small wind systems are defined as wind turbines with generating capacities between 1 kW and 100 kW. Small wind systems are rated by their potential generating capacity. The maximum output in watts of the turbines generator is used as a base comparison.

SOLAR ENERGY EQUIPMENT: Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into

electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment.

SOLAR ENERGY SYSTEM, AGRICULTURAL: An on-farm, Small-Scale Solar Energy System that primarily provides the energy required to operate a farm operation as defined by New York State Agriculture and Markets Law 305-a. These may be roof-mounted or ground-mounted systems. However, if this Small-Scale Solar Energy System produced more than the subject farm operation needs, the farm may sell the excess power generated.

SOLAR ENERGY SYSTEM, BUILDING INTEGRATED: A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other façade material, semitransparent skylight systems, roofing materials, and shading over windows primarily intended for producing electricity for onsite use.

SOLAR ENERGY SYSTEM, LARGE-SCALE: A Solar Energy System that produces energy primarily for supplying more than 20MW of electrical energy into a utility grid for wholesale or retail offsite sale or consumption whether generated by photovoltaics or building-mounted.

SOLAR ENERGY SYSTEM, MEDIUM-SCALE: A Solar Energy System or Solar Thermal System that is ground or building-mounted and produces more than 25kW and up to 20MW of electricity for offsite sale and consumption.

SOLAR ENERGY SYSTEM, SMALL-SCALE: A roof-mounted, building-integrated, or ground-mounted solar energy system or solar thermal system servicing primarily the building or buildings on a parcel on which the system is located for on-site consumption for either residential or business use, and limited to building-integrated, roof-mounted, and ground-mounted solar collectors that produce less than 25kW of electricity.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electricity.

SOLID WASTE: All putrescible and non-putrescible materials or substances discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard, or rejection, including but not limited to garbage, refuse, industrial commercial and medical waste, sludges from air or water control facilities and paper mills, rubbish, ashes, incinerator residue, demolition and construction debris, and offal but not including sewage, septage and other diluted water carried materials or substances and those in gaseous form.

SOLID WASTE MANAGEMENT FACILITY: Any facility employed beyond the initial solid waste collection process and managing solid waste, including but not limited to: storage areas or facilities; transfer stations; rail-haul facilities; landfills; disposal facilities; solid waste incinerators; refuse-derived fuel processing facilities; pyrolysis facilities; construction and demolition debris processing facilities; land application facilities; composting facilities; surface impoundments; used oil storage, reprocessing, and refining facilities; recyclables handling and recovery facilities; waste tire storage facilities and regulated medical waste processing facilities. The term includes all structures,

appurtenances, and improvements on the land used for or in conjunction with the management or disposal of solid waste.

SOUND: An oscillation in pressure, stress, particle displacement or other physical parameter in a medium with internal forces (American National Standards Institute terminology).

SOUND LEVEL: The sound-pressure level or weighted pressure level, in decibels, as measured by the use of a metering characteristic and the weighing A, B, and C (American National Standards Institute terminology).

SPECIAL USE PERMIT: A permit for a use which must be approved by the Town Board granting permission to issue a zoning permit.

STRUCTURE: Anything constructed or built; or building of any kind, which requires location on the ground, or is attached to something having a location on the ground, including but without limitation, swimming pools, covered patios, towers, poles, sheds, signs, tanks, etc. excepting outdoor areas, such as paved areas and walkways.

TELECOMMUNICATION TOWER: A structure on which transmitting and/or receiving antennae/ antennas are located.

TOTAL HEIGHT: The height of the tower and the furthest vertical extension of the blade tip of the WECS.

TOURIST HOME: A private home with rooms for rent, usually for one night, to tourists, travelers, etc.

TOWER: Towers are made of tubular steel, steel lattice or concrete and taller towers help generate more electricity since the wind rate increases with height.

TOWER HEIGHT: The tower height is the height above grade of the fixed portion of the tower structure to the highest vertical reaching apparatus.

TRANSFER STATION: A solid waste management facility other than a recycling facility, used oil collection center, or a construction and demolition debris processing facility, where solid waste is received for the purpose of subsequent transfer to another solid waste management facility for further processing, treating, transfer or disposal.

TRAVEL TRAILER: A vehicle that is a self-propelled, towable or truck mounted unit not more than 8 feet in width or 40 feet in length adapted, intended or used as temporary sleeping quarters for one or more persons in connection with vacation, camping or other recreational pursuits. These also may be considered camping trailers.

TRAVEL TRAILER PARK: A lot which includes three or more travel trailer sites.

TRAVEL TRAILER SITE: A parcel of land within a travel trailer park which has been equipped with

the necessary utilities and improvements for the temporary placement thereon of a single travel trailer.

TREE SURVEY: A survey of all trees on any parcel proposed to be included in a Medium or Large-Scale Solar project, which identified and locates each tree greater than six (6) inches in diameter at breast height (dbh), including the number of each species, the average diameter at breast height for each species, a map of concentrations or trees on the project site, and identification of which trees are proposed to be removed.

UNIFIED SOLAR PERMIT, NYS: A permit that allows municipal authorities to streamline the permitting process while providing a consistent and thorough review of solar photovoltaic (PV) applications and installations. Adoption of the New York State Unified Solar Permit process combines a standardized building and electrical permitting process for Grid-Tied, small-scale solar PV installations under the New York State Energy Research and Development Authority (NYSERDA) program, to benefit both the municipality having jurisdiction and the applicant. Applicable to Lewis County Local Law No. 3 of the Year 2017.

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

USE, PRINCIPAL: The specific purpose for which land or a building is designed, arranged, or intended, or for which it is principally utilized.

USE, TEMPORARY: An activity conducted for a specified limited period of time. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work.

USED OIL COLLECTION CENTER: Any site or facility that accepts, aggregates and/or stores used oil collected from commercial, service or retail establishments and do-it-yourself oil changers, who bring used oil to the collection center in shipments of no more than 55 gallons.

WASTE TIRE: Any tire that is no longer being used for its intended purpose. This shall include tire casings separated for retreading and tires with sufficient tread for resale except when stored indoors at a bona fide commercial establishment.

WASTE TIRE STORAGE FACILITY: A site on which 1,000 or more waste tires are stored, placed, piled, or otherwise located except when used as part of an agricultural operation.

WATER, GROUND: The water that infiltrates into the ground, accumulating and saturating the spaces in earth material.

WATER, SURFACE: Water contained in streams, rivers, ponds, wet areas, lakes and other water bodies and watercourses, or that drains across land.

WETLANDS: Any lands or water that are defined as wetlands according to the NYS Freshwater

Wetlands Act, Section 24-0107(1), and are mapped pursuant to 6NYCRR 664 and filed with the State, County, or Town Clerk.

WIND ENERGY CONVERSION SYSTEM (WECS): A machine that converts the Kinetic energy in the wind into a usable form (commonly known as "wind turbine" or "windmill").

ZONING PERMIT: A permit issued under this law by the Enforcement Officer, allowing the change of use, alteration, or construction of any building or structure.

ARTICLE IV SITE PLAN OBJECTIVES

All land use activities requiring site plan approval shall be accompanied by a proposed site plan. In considering and acting on site plans, the Town Board shall consider the public health, safety, welfare, comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area. The Town Board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the objectives in this section.

Section 410 Vehicular Access

That proposed access points are not excessive in number, but adequate in width for two (2) automobiles to pass without incident, grade with culvert if needed, alignment, and visibility; not located too close to intersections or places of public assembly; and other similar safety considerations.

Section 420 Circulation and Parking

That adequate off-road parking and loading spaces are provided to prevent parking of automobiles on public highways by any persons connected with or visiting the development, that the interior circulation system is adequate to provide safe accessibility to all required parking lots, and that it provides adequate separation of pedestrian and vehicular movements.

Section 430 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 440 Natural Features

That the proposed use, together with its sanitary and water services, and stormwater 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 450 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 V SITE PLAN REVIEW

Section 510 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 by the 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 520 Application for Site Plan Review

To apply for a 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 530 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 any additional 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. Existing hydrologic features together with a grading and drainage plan showing existing and proposed contours at a maximum of five-foot intervals;
I. Location, type of construction and exterior dimensions of all buildings and manufactured 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, material and type of construction of all proposed permanent signs.

T. Location and development of all proposed buffer areas, including a diagram 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. Any other elements integral to the proposed development as 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, which will be noted with the reasons the Town Board justifies the waiver in the respective Board Meeting Minutes.

Section 540 Specifications of Materials to be Submitted

A. Site Plan Map: The site plan map shall be drawn at scale of one hundred (100) feet to one inch or larger. Existing topography at a contour of not more than ten (10) 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 550 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.

The Town Board may retain consulting services from engineers, architects, landscape architects, lawyers, planners, or other professional services during the course of site plan reviews and special use permit reviews conducted pursuant to this law. The applicant shall pay a review fee which shall be agreed to by the Town Board and the applicant via a simple letter agreement. Such agreement shall state the Town's best estimate for fees discussed with the applicant and shall also name a maximum amount to be charged. The Town Board may require the applicant to deposit such funds as may be necessary to pay for these services with the Town Clerk in advance.

Section 560 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 and Water Conservation District, 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 500 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 on the matter under consideration, which includes all of the following:

- General Municipal Referral Form
- State Environmental Quality Review (SEQR) Environmental Assessment Form (EAF) and associated materials used by the referring body to make a determination of significance pursuant to the SEQR. Part 1 is required by the County Planning Board to review the action.
- Copy of the accepted application submitted by the applicant or project sponsor to the referring body
- Copies of all maps and plans submitted to the referring body
- If applicable, a copy of the full text of the ordinance or local law being

proposed, adopted or amended.

Section 570 SEQR 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 580 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 provided to the applicant ten (10) days prior to the hearing.

Section 590 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 provided 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 provided to the applicant along with a letter stating the Town Board's reasons for disapproval.

Section 595 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 VI SPECIAL USES

Section 610 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 620 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 enforcement officer.

Section 630 Considerations

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

The Town Board may disapprove the issuance of a special use permit or prescribe such appropriate conditions and safeguards as may be required so 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 Town of Croghan Land Use Plan for the community.

B. Utilities and services: that the utilities and services for the proposed use, including water supply, sewage disposal, drainage facilities, 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 areas, and that existing natural scenic features are preserved to the greatest extent possible.

Section 640 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 VII. DESIGN STANDARDS

Section 710 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, State, 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. Seasonal Uses shall be interpreted as utilization for four (4) months or less out of a calendar year.
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 year-round.
7. The minimum maintained width of driveways shall be twenty-four (24) feet which allows for incoming and outgoing automobiles 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 parking/loading standards may be required by the Town Board in appropriate circumstances:

1. On-site pedestrian and automobile 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 the lot frontage to delineate access points.
5. Where possible, parking/loading areas should be located to the sides or

rear of the structure, facility, attraction or building.

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 Fir, 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. A wall, fence, or earthen berm with proposed location, height, and design may be substituted for the required planting, if deemed appropriate by the Town Board.
5. Where the existing topography and/or landscaping provides adequate screening, the Town Board may modify or waive the planting and/or buffer area requirements. Should a reduction or waiver be granted, the decision and justification will be noted in the respective Town Board Meeting Minutes or official record.

E. Lighting
Adequate lighting shall be provided on a site to ensure safe movement of persons, motor 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. 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.
5. One sign per entrance that identifies the development is permitted and should be compatible with the general environment of the project site.

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 to the original extent as practical. All drainage facilities shall be designed for a 25-year storm, minimum. If the site is within a designated and or regulated floodplain/flood zone, the Town Board may request drainage facilities be designed for up to a 100-year storm, maximum. 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 the 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 VIII. SPECIAL USE PERMIT ADDITIONAL REQUIREMENTS

Section 805 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 relevant in the interest of the public health, safety, or general welfare or inappropriate to a particular special use.

Section 810 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 good faith efforts to secure shared use from existing towers. Written requests and responses for shared use shall be provided.
4. 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 any 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. The above mentioned setback distances shall be considered the minimum yard dimension requirements for the respective facility type. 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 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 automobiles 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 the required signs displaying owner contact information, safety instructions and any pertinent information relative to first responders. 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.

Section 815 Mining

A. The removal of soil, loam, sand, gravel, or quarried stone for sale, except when incidental to, or connected with the construction of a building on the same premises, shall be permitted only upon receipt of a special use permit.
B. Mining operations within the Town shall require the submission of an application for a special use permit. The Town shall have the authority to place conditions on mining operations regarding the following:

1. Ingress and egress to public thoroughfares controlled by the Town;
2. Routing of mineral transport vehicles on roads controlled by the Town;
3. Requirements and conditions concerning setbacks from property boundaries and public thoroughfare rights-of way, natural or man-made barriers to restrict access, dust control, and hours of operation; and
4. Enforcement of reclamation requirements contained in Mined Land Reclamation Permits issued by the State;
5. The Town has the right to monitor groundwater impacts resulting from natural products operations and/or the reclamation of mines

C. Prior to issuing a special use permit for uses relating to Mining Operations, the Town Board shall find that such natural products operation will not endanger the stability of adjacent land or structures nor constitute a detriment to public welfare, convenience, or safety by reason of excessive dust, noise, traffic, or other condition. The Town Board may specify any reasonable requirements to safeguard the public health, safety, and welfare in granting such permit, including the following:
   1. The slope of material in such topsoil, sand, gravel, clay, and other earth shall not exceed the normal angle of repose of such material.
   2. The top and the base of such slope shall not be nearer than two hundred (200) feet to any property line nor nearer than two hundred (200) feet to the right-of-way line of any street or highway.
   3. No excavation, blasting or stock piling of materials shall be located within two hundred (200) feet of any public road or property line.
   4. A plan for restoration and rehabilitation of a natural products operation shall accompany the application for a permit and shall assure conformance with the public health, safety, and welfare. The Town Board, upon approval of such plan, shall require a performance bond or other security to assure rehabilitation of natural products operations in conformance therewith.
   5. A plan for safeguarding the public health, safety, and welfare in natural products operation areas shall accompany the application for a permit and shall be approved by the Town Board.
   6. Proper screening, as determined by the Town Board, shall be provided by the natural products operation in order to screen all activities from view from a public street or public right-of-way. Similar screening shall be provided where excavating activities adjacent to a residential district would have or are having a harmful effect on residential use or development, as determined by the Town Board.
   7. No power-activated sorting machinery or equipment shall be located within six hundred (600) feet of any public road or other property line and all such machinery shall be equipped with satisfactory dust-elimination devices.
   8. All excavation slopes in excess of one (1) to one (1) shall be fenced. Said fence shall be a minimum of six (6) feet high and be galvanized chain link, solid wood, or other industrial-grade fencing material acceptable to the Town Board.
   9. Expansion of an existing (established prior to this law) non-conforming quarrying operation beyond the existing designated mining area for the parent parcel shall not be permitted.

D. Mine Special Use Permits must provide the following in addition to the requirements previously

set forth herein:

1. All documents submitted by the applicant to the DEC and the applicable state mining permit, if one has been issued, along with all documents referenced in the state mining permit.
2. Proposed hours of operation and blasting schedule.
3. A description of the proposed mining operation, including the type of material to be mined, equipment to be used, approximate tonnage for each year of the next five-year period, and the anticipated useful life of the mine.

E. The Town Board shall determine whether the proposed use will adversely affect the character of the neighborhood, surrounding area, and compatibility with surrounding land uses. Should the Town Board determine a proposal would have an adverse impact, denial shall be made, and documented justifications shall be included in corresponding Board Meeting Minutes upon proper review procedures stipulated within this law.

ARTICLE IX. GUARANTEE OF SITE IMPROVEMENTS

Section 910 General

Subsequent to the granting of site plan approval and/or a special use permit, a zoning permit shall be issued after all approval conditions are met 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 920 Performance Guarantee Options

So 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 930 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 940 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 (1) 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 9 50 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 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 X. RENEWABLE ENERGY LAW

Section 1010 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-, medium- 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 1020 Geothermal 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 unless municipally owned/operated.

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 roadways, 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 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 1030 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.
   b. No modification or alteration to an existing small WECS shall be allowed without full compliance with this section. Existing in this case shall mean October 26, 2021, the filing date of Local Law #2 of 2021.
   c. 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 (the box-like cover that sits on top of the turbine's tower and houses the turbine's generating components) 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, including but not limited to driveways, parking lots, nature trails and 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. The expense of a noise study will be the developer's responsibility, should it be deemed necessary.

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 from the finding date.

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 on 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 has been informed of the applicant's intent to install an intermittent customer-owned electric generator at the proposed site.

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 ninety (90) days after written notice from the Lewis County Code Enforcement Officer to cure any deficiency.

    c. An extension of the ninety (90) days may be considered, but the total period may not exceed one hundred eighty (180) days per occurrence.

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 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 twelve (12) months of inoperability, the 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 thirty (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 Code Enforcement Officer has 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. Removal charges shall be levied on the owner's taxes.

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 1040 Commercial (Large) Wind Energy Conversion Systems (WECS)

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 (10) 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, wavier 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, email address, and 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, and 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.
    i. Visual impacts. A visual analysis and photo simulations of the wind turbines.
    j. 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.
        (1) 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.
        (2) The color of the 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.

(3) 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 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 with spacing depicted.

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 dete1mination 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. Financial Assurance in the form of a security deposit, escrow account, bond or a manner otherwise acceptable to the Town, shall be secured by the Owner or Operator, for the purpose of adequately performing decommissioning in an amount equal to the Professional Engineer's certified estimate of removal and decommissioning costs. The financial assurance shall be reviewed by the Town Attorney annually in January, to ensure the Owner or Operator and bond maintain the necessary assurances for decommissioning;

f. Identification of and procedures for the Town of Croghan access to Financial Assurances;

g. A provision that the terms of the Decommissioning Plan shall be binding upon the Owner or Operator or any of their successors, assigns, or heirs;

h. That the decommissioning cost will be kept current; and

i. 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 three (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. Stormwater 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 portion of the structure or site fencing.
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 Land Use 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 topsoil 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. Stormwater 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 dwellings and shall be sheltered and or screened with a physical barrier and/or vegetation in a

manner to eliminate its views from such dwellings. 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 annually on or before December 31st.

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. This Road Use Agreement should include videos and photographs of pre-construction road conditions, among other details.
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 principal structure 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 de commissioned 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. 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 can be found at: https://agriculture.ny.gov/.

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 100 feet from state-identified and/or federally-identified wetlands. The setback of 1,250 feet from lot lines may be adjusted 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 on the proposed tower.
3. 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.

J. Permit Revocation.

Operation. A Commercial WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational conditions include 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 respective Zoning Enforcement Officer, to correct any deficiency. The Planning Board may extend the 180 days reparation period once, for no more than an additional 180 days upon justified evidence requiring additional time.

Section 1050 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, email, and 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 Environmental Assessment Form.

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. 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.
3. 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.

Section 1060. Battery Energy Storage Systems

A. Purpose

1. The requirements of this Local Law shall apply to all battery energy storage systems permitted, installed, or modified in the Town of Croghan after the effective date of this Local Law, excluding general maintenance and repair.
2. Battery energy storage systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
3. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Local Law.
4. As defined in Article III, Battery Energy Storage Systems, as a stand-alone unit separate from a Solar Energy System, Battery Energy Storage Systems are not equivalent to Solar Energy Systems. Therefore, the Town of Croghan Solar Energy System Overlay District Map does not apply to stand-alone Battery Energy Storage Systems.

B. General Requirements

1. A building permit and an electrical permit shall be required for the installation of all battery energy storage systems.
2. Issuance of permits and approvals by the Town Board shall include review pursuant to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6NYCRR Part 617 ("SEQRA").
3. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town of Croghan Zoning Law.

C. Permitting Requirements for Tier 1 Battery Energy Storage Systems.

1. Building-mounted and Ground-mounted Tier 1 Battery Energy Storage Systems shall be permitted, subject to the Uniform Code and a Zoning Permit and is exempt from site plan review.
2. Ground-mounted Tier 1 Battery Energy Storage Systems are permitted as accessory structures and are subject to the following requirements:
    i. The height of the ground-mounted Tier 1 Batter Energy Storage System and any mounts shall not exceed 15 feet.
    ii. The total surface area of the ground-mounted Tier 1 Battery Energy Storage System on the lot shall not exceed 5% lot coverage.
    iii. The ground mounted Tier 1 Battery Energy Storage System is not the primary use of the property.
    iv. The ground mounted Tier 1 Battery Energy Storage System is located in a side or rear yard.
    v. The ground mounted Tier 1 Battery Energy Storage System shall comply with the minimum setbacks for accessory structures applicable to the zoning district in which the battery energy storage system is sited.
    vi. The ground mounted Tier 1 Battery Energy Storage System shall be screens from adjacent dwellings through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.

D. Permitting for Tier 2 Battery Energy Storage Systems.

Tier 2 Battery Energy Storage Systems are permitted through the issuance of a Special Use Permit and shall be subject to the Uniform Code and application requirements outlined in this Section.

1. Applications for the installation of Tier 2 Battery Energy Storage System shall be:

i. Reviewed by the Building Inspector for completeness. An application shall be complete when it addresses all matters listed in this Local Law including, but not necessarily limited to:
    1) Compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code; and
    2) Matters relating to the proposed battery energy storage system and Floodplain, Utility Lines and Electrical Circuitry, Signage, Lighting, Vegetation and Tree-cutting, Noise, Decommissioning, Site Plan and Development, Special Use and Development, Ownership Changes, Safety, and Permit Time Frame and Abandonment. Applicants shall be advised within ten (10) business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
ii. Subject to a public hearing to hear all comments for and against the application. The Town Board of the Town of Croghan shall have a notice printed in a newspaper of general circulation in the Town of Croghan at least five (5) days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 200 feet of the property at least ten (10) days prior to such a hearing. Proof of mailing shall be provided to the Town Board at the public hearing.
iii. Referred to the County Planning Department pursuant to General Municipal Law § 239-m, if required.
iv. Upon closing of the public hearing, the Town Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Town Board and Applicant.

2. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

3. Signage.

    i. The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.
    ii. As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

4. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

5. Vegetation and Tree-Cutting. Areas within ten (10) feet on each side of Tier 2 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

6. Wetlands. The Town 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 100 feet from state-identified and/or federally-identified wetlands.

7. Noise. The one-hour (1-hour) average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of 60 dBA as measured at the outside wall of any non-participating dwelling or occupied community building. Applicants shall submit equipment and component manufacturers' noise ratings to demonstrate compliance. The applicant may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.

8. Decommissioning.

    i. Decommissioning Plan. The applicant shall submit a decommissioning plan, which is inclusive of above ground and underground components, developed in accordance with the Uniform Code, to be implemented upon abandonment and/or in conjunction with removal from the facility. The decommissioning plan shall include:

        1) A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;
        2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
        3) The anticipated life of the battery energy storage system;
        4) The estimated decommissioning costs and how said estimate was

determined;

5) The method of ensuring that funds will be available for decommissioning and restoration;
6) The method by which the decommissioning cost will be kept current;
7) The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and
8) A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.
9) Decommissioning Fund. The owner and/or operator of the energy storage system, shall continuously maintain a fund or bond payable to the Town of Croghan in a form approved by the Town Clerk's Office for the removal of the battery energy storage system, in an amount to be determined by the Town of Croghan for the period of the life of the facility. This amount will be reviewed and updated on an annual basis. This fund 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.

9. Site plan application. For a Tier 2 Battery Energy Storage System requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:

i. Property lines and physical features, including roads, for the project site.
ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
iii. A three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
iv. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
v. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.
vi. Name, address, email address, phone number, and signature of the project Applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.

vii. Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, Battery energy storage system commissioning shall be conducted by a New York State (NYS) Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Building Inspector prior to final inspection and approval and maintained at an approved on-site location.

viii. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.

ix. Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code.

x. Erosion and sediment control and stormwater management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Town Board.

xi. Prior to the issuance of the building permit or final approval by the Town Board, but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer.

xii. Emergency Operations Plan. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and the local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:

1) Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
2) Procedures for inspection and testing of associated alarms, interlocks, and controls.
3) Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
4) Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially

dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.

5) Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
6) Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
7) Other procedures as determined necessary by the Town of Croghan to provide for the safety of occupants, neighboring properties, and emergency responders.
8) Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures including proper personal protection equipment.

10. Special Use Permit Standards.

i. Setbacks. Tier 2 Battery Energy Storage Systems shall be set back at least 100 feet from any adjacent lot lines.

ii. Height. The maximum height of structures dedicated to Tier 2 Battery Energy Storage Systems shall be 300 feet, excluding poles and associated lines involved in connecting to existing transmission lines.

iii. Fencing Requirements. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a seven (7) foot high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.

iv. Screening and Visibility. Tier 2 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfere with ventilation or exhaust ports. Vegetative screening must be kept alive and healthy during the duration of the project's lifetime; all expired plantings must be replaced within a reasonable timeframe.

v. Safety. All applicable Emergency Service Agencies and Personnel shall receive initial and annual on-site drills and training, provided by the applicant, to ensure that the procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions are fully understood prior to operations. Any costs for training and required emergency services equipment

shall be supplied by the applicant.

11. Ownership Changes. If the owner of the battery energy storage system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the Building Inspector and ZEO of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification to the Building Inspector or ZEO in writing. The special use permit and all other local approvals for the battery energy storage system would be void if a new owner or operator fails to provide written notification to the Building Inspector in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this Local Law.

E. Safety

1. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:

   i. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
   ii. UL 1642 (Standard for Lithium Batteries),
   iii. UL 1741 or UL 62109 (Inverters and Power Converters),
   iv. Certified under the applicable electrical, building, and fire prevention codes as required.
   v. Installed following NFPA 855- Standard or the Installation of Stationary Energy Storage Systems.
   vi. Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations, and safety standards may be used to meet system certification requirements.

2. Site Access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire departments and Lewis County Emergency Services Director.

3. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

F. Permit Time Frame and Abandonment.

1. The Special Use Permit and site plan approval for a battery energy storage system shall be valid for a period of 24 months, provided that a building permit is issued for construction and/or construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Town Board, within 24 months after approval, the Town Board may extend the time to complete construction for no more than 180 days. If the owner and/or operator fails to perform substantial construction after 36 months, the approvals shall expire.
2. The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than one (1) year. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of Croghan may, at its discretion, enter the property and utilize the available bond and/or security for the removal of a Tier 2 Battery Energy Storage System and restoration of the site in accordance with the decommissioning plan. The Town of Croghan may impose a lien on the property to cover any decommissioning costs not covered by the bond or security.

ARTICLE XI. SOLAR ENERGY

Section 1110 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 1120 Applicability

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

All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the New York State Uniform Fire and Building Code, as well as may be required by the Public Service Commission regulations.

Section 1130 Small-Scale, Agricultural, and Building-Integrated Solar Energy Systems

Small Solar Energy Systems, as well as the general maintenance of such systems, do not require Site Plan Review and shall be considered Accessory Structures allowed in any zone, including the Solar Energy Overlay District. Such systems shall be required to obtain a building permit and/or NY State Unified Solar Permit from the Town of Croghan ZEO prior to placement and operation unless the Town exempts farm structures from requiring building permits and shall also meet all other requirements pertaining to Accessory Structures.
The following conditions shall be met:

A. Roof-mounted Solar Energy Systems shall be installed parallel to the roof surface on which they are mounted, shall not extend higher than the highest point of the roof surface on which they are mounted, or the top of the surrounding parapet, or more than 18" above the flat surface of the roof, whichever is greater.

B. All solar panels shall have an anti-reflective coating.

C. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building containing the system.

Section 1140 Medium-Scale Solar Energy Systems

Medium-Scale Solar Energy Systems are permitted within the Solar Energy System Overlay District, subject to receiving Site Plan Approval and a Special Use Permit from the Town of Croghan Town Board. Mandatory considerations include: the visual effect of the proposed solar installation on scenic and historic resources and viewsheds, impacts on community character, compatibility of the proposed Solar Energy System with adjacent and other nearby land uses, compatibility with agriculture farmlands, managing stormwater runoff, and the effect of the proposed installation on ecologically sensitive land or water resources.

The total acreage allotted to Medium-Scale Solar Energy Systems within the Town shall not collectively exceed a total of one hundred (100) acres. For purposes of this provision, a Medium-Scale Solar Facility's "total acreage" shall be calculated based on physical infrastructure. Meaning, allotted acreage within the Town shall be calculated by physical system occupancy, not tax parcel acreage. Additionally, the parcels participating in a Medium-Scale Solar Facility must each have a minimum tax parcel acreage of at least twenty (20) acres.

The following application materials are required for Medium-Scale Solar Energy Systems:

A. If the property of the proposed project is to be leased, legal consent between all parties, including easements and other agreements.

B. If the applicant does not complete construction of the project within 18 months after beginning construction, this may be deemed an abandonment of the project and require implementation of the decommissioning plan to the extent applicable. The Town may notify the operator and/or owner to complete construction and installation of the facility within 180 days from the notification date. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the Decommissioning Plan. The Decommissioning Plan must bee completed within 180 days of notification by the Town.

C. Blueprints showing the layout of the Solar Energy System signed by a Professional Engineer and/or Registered Architect. Plans shall show the proposed layout of the entire Solar Energy System along with a description of all components, whether on-site or off-site, existing vegetation, existing or proposed access, gates, parking areas, mounting systems, inverters, panels, fencing, proposed clearing and grading of all sites involved, and proposed buffering and screening.

D. Stormwater runoff calculations, drainage plan, clearing, and grading plans. The clearing and grading plan shall also include methods to stockpile, reduce erosion of topsoil, and reuse all topsoil from the site. If one (1) acre or more of land is to be disturbed the applicant shall also submit a preliminary Stormwater Pollution Prevention Plan consistent with NYS DEC or local MS4 requirements. Clearing and/or grading activities are subject to review by the Town Board and shall not commence until the issuance of the Site Plan Approval.

E. Photo simulations shall be included showing the proposed Medium-Scale Solar Energy System in relation to the building/site along with elevation views and dimensions, and photo simulations of the proposed Medium-Scale Solar Energy System, solar collectors, and other components. The Town Board may require photo simulations to be provided from specific roads or other public areas that may be impacted. In the course of its review of a proposal for development, the Town Board may require an applicant to submit a viewshed analysis that meets the procedures identified within the New York State Department of Environmental Conservation's SEQRA publication entitled "Assessing and Mitigating Environmental Impacts."

F. Part I of the Full Environmental Assessment Form completed, unless deemed a Type II action pursuant to Part 617 (SEQR).

G. Details of any proposed noise that may be generated by inverter fans, or other noise-generating equipment that may be included in the proposal. The Town Board may require a noise analysis to determine potential adverse noise impacts.

H. Property operation and maintenance plans shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming, snow removal, and fence maintenance, as well as any proposed use of pesticides or herbicides.

I. Landscaping and screening plans shall describe the methods and types of screening proposed, including but not limited to existing vegetation, topography, fencing and structures, and detailing the number, location, size, and species of vegetation to be planted on-site, and the size and extent of berms. A plan showing appropriate performance criteria specifying minimum plant sizes and measures to be taken in the event that the proposed vegetation fails to survive, flourish, or otherwise meet said performance criteria shall be submitted with a building permit application. If at all possible, earth berms should be utilized for the screening of any Medium-Scale Solar Energy System.

J. A location map of the connection point to the grid shall be provided along with a description of any easements or rights-of-way, clearing, infrastructure, apparatuses, and equipment that may be necessary or required to connect to the grid.

K. Decommissioning plans are required to ensure the proper removal of all above ground and underground components of Medium-Scale Solar Energy Systems. A Decommissioning Plan shall also be submitted with a building permit application.

Compliance with this Decommissioning Plan must specify that after the Medium-Scale Solar Energy System can no longer be used, it shall be removed by the applicant or any subsequent owner. The decommissioning plan shall also include:

1. Provisions describing the triggering events for decommissioning of the Solar Energy System;
2. Provisions for the removal of structures, debris and cabling, including those below the soil surface;
3. Provisions for the restoration of the soil and vegetation. 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;
4. A timetable approved by the Town Board for site restoration;
5. An estimate of the decommissioning costs certified by a Professional Engineer. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. Cost estimates shall consider inflation. Removal of Medium-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan.
6. Financial Assurance. The applicant shall be required to provide the finances necessary to remove the Medium-Scale Solar Energy System. The applicant shall provide the town with United States Currency in an amount determined by the Town Board and Town attorney to cover the expense of removal of the system and remediation of the landscape in the event the Town must remove the facility. The Town shall hold the funds in an escrow account until the time of decommissioning. In the event the decommissioning funds held by the Town exceed that needed for complete decommissioning of the solar facility, the amount remaining from the original funds provided to the Town shall be returned to the facility. The amount of money provided to the Town shall be 115% of the cost of removal of the Medium-Scale Solar Energy System and restoration of the property. The financial assurance shall be reviewed by the Town Clerk annually in January;
7. Identification of and procedures for the Town of Croghan access to Financial Assurances;
8. A provision that the terms of the Decommissioning Plan shall be binding upon the Owner or Operator or any of their successors, assigns, or heirs;
9. A provision that the Town of Croghan, its officials, employees, agents, or contractors shall have the right of access to the site, (pursuant to reasonable notice, to effectuate or complete removal and decommissioning);
10. Removal of machinery, equipment, tower, and all other materials related to the projects is to be completed within one year of decommissioning. If the Medium-Scale Solar Energy System is not

decommissioned after being considered abandoned, the municipality may remove the system and restore the property with the funds described in Section 1140(J)(6).

11. The Decommissioning Plan shall also include an expected timeline for execution.

L. If in the course of the delivery, installation, maintenance, dismantling, removal, or transport of the Solar Energy System, or any components thereof, the property of the Town of Croghan, including but not limited to roadways, shoulders, drainage structures, signage, guide rails, etc., is/are damaged by the efforts of the applicant or any agents thereof, the applicant shall, within thirty (30) days of completing construction, completely replace and/or repair all damage in consultation with the Town Highway Superintendent.

M. The following standards shall be required:

1. Anti-Glare. All solar collectors and related equipment shall be surfaced, designed, and coated with anti-reflective materials and shall be sited to minimize glare reflected onto adjacent dwellings and roadways.
2. Height and Setback. All ground-mounted Solar Energy Systems:
   i. Shall not exceed 20' in height when oriented at maximum tilt, unless there is an acceptable/viable Agrivoltaics use that requires this height to be increased, in which case a written waiver can be issued. The height of arrays shall be measured from the highest natural grade below each solar panel to its maximum potential height.
   ii. Enclosure fence shall be located at least 150 feet from the centerline of any State Road or at least 50 feet from the centerline of any County or Town road.
   iii. Enclosure fence shall be located at least 100 feet from the side or rear non-participating property lot lines.
   iv. Solar Panels shall be placed at least 250 feet from an occupied dwelling not involved in the project.
   v. Solar Energy System inverters and battery systems should be placed near the center of the project, where practicable, in order to reduce noise propagation from the site.
3. Fencing. All Medium-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the up-to-date owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be approved by the Town Board. Solar equipment shall not be used for displaying any advertising.
4. Screening. All Medium-Scale Solar Energy Systems that are viewable from any public road shall be required to provide landscaping along the entire street frontage to ensure the site is screened and harmonious with the character of the property and surrounding area. Vegetative screening must be kept alive and healthy during the duration of the project's lifetime; all expired plantings must be

replaced within a reasonable timeframe. Appurtenant structures such as inverters, batteries, equipment shelters, storage facilities, and transformers, should be screened from adjoining dwellings. The Town Board can waive this requirement if sufficient justification is provided by the applicant that proves the site contains appropriate screening without needing street screening.

5. Stormwater Management. The Solar Energy System shall be designed with the ground cover as pervious to the maximum extent practicable so that stormwater infiltrates as sheet flow across the system. If solar panels are constructed in such a manner as to promote effective infiltration of rainfall, the Solar Energy System may be considered pervious for stormwater pollution prevention purposes. Other structures such as, but not limited to, transformers, buildings, or paved entrance roads shall be considered impervious. The following criteria shall be used to establish a Solar Energy System as pervious cover:
   i. Solar Panels must be positioned to allow water to run off their surfaces;
   ii. Soil with adequate vegetative cover must be maintained under and around the panels; and
   iii. The area around the panels must be adequate to ensure proper vegetative growth under and between the panels.
6. Wetland Protection. Solar Energy Systems shall avoid designated wetlands as defined by the New York State Department of Environmental Conservation and/or any Federal Agency to the extent practicable. Impacts that cannot be practicably avoided may be properly permitted or allowed by the applicable regulatory authority. The Town 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 100 feet from state-identified and/or federally-identified wetlands.
7. Protection of Critical Environmental Areas. No Solar Energy System shall be installed on Critical Environmental Areas (CEAs) as defined by the New York State Department of Environmental Conservation.
8. Protection of Agricultural Resources. Siting of any Medium-Scale Solar Energy System located on lots that contain Prime Farmland or Farmland of Statewide Importance shall be prioritized on portions of the lot that do not contain Prime Farmland or Farmland of Statewide Importance to the extent practicable. Medium-Scale Solar Energy Systems on Prime Farmland or Farmland of Statewide Importance shall be required to seed, buffer, or border areas around the periphery of solar panel areas with native perennial vegetation designed to attract pollinators. To the

maximum extent practicable, Medium-Scale Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.

N. Protection of Forested Land. The Town of Croghan strongly discourages project locations that result in significant loss of land and natural resources, including farm and forest land, and encourages rooftop siting. Significant tree cutting is problematic because of the important water management, cooling, and climate benefits trees provide. For these reasons, the following environmental considerations shall be addressed:

1. Due to potential endangered species impacts, water management concerns, cooling, and climate benefits, prior to a decision from the Town Board, the applicant must consult with and receive approval from United States Fish and Wildlife Service and New York State Department of Environmental Conservation prior to application submittal to the Town of Croghan.
2. Removal of more than one (1) acre of a Mature Forest during any phase of development is prohibited.
3. An applicant shall provide a Tree Survey with the application for the site prepared by a qualified professional. If the proposed layout of the project does not impact trees or Mature Forest due to existing conditions. The Board may waive the Tree Survey requirements if they possess extensive knowledge of the area of impact that confirms that the proposal does not impact trees or a Mature Forest.
4. If an applicant proposes to remove or cut any mature trees (trees greater than six (6) inches in diameter at breast height (dbh) during construction of the project, the applicant shall plant a tree at a ratio of 2:1 – two (2) trees for each tree removed or cut. The requirement to plant trees on a 2:1 ration shall be a condition of approval. The exact species of replacement tree and location for planting shall be determined by the Board. If a tree with a diameter of six (6) inches or more is removed in connection with the site plan or clearing, a tree of a similar size and species may replace the removed tree as a ratio of two-to-one. Additionally:
   i. Any tree proposed to be removed or cut in connection with the project shall be shown on the Tree Survey, and the location of each replacement tree shall also be shown on the applicant's plan, together with a table showing the size, species, etc. of the proposed replacement tree.
   ii. Applicants shall include a replanting or tree mitigation (landscaping plan) for the replacement of any trees, including the species, quantity, and locations of the trees to be replaced on the site pursuant to this section. The replanting and landscaping plan shall

specify the minimum height of trees to be installed. Twelve (12) months after all plantings have been installed, the applicant shall provide the Board with a report regarding the survival of trees and plantings, with all trees in need of replacement noted on the approved landscaping plan. Trees and plantings that have died or are damaged shall be replaced within sixty (60) days, weather permitting, of the Board's letter specifying the trees/plantings that must be replaced by the applicant/owner of the project at the applicant/owner's expense.

iii. The Board will determine if the trees used for screening purposes count towards the on-site tree replacement requirements under this section.

5. Utility Connections. All utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way. Underground infrastructure shall be exempt from lot coverage, setback, and other bulk regulation requirements.
6. Unsafe Structures. Due to added visual impacts and possible emergency access issues, any unsafe, vacant, and/or condemned structures on any participating parcels within the solar project site, including structures between solar components and the public right of way, shall be removed before construction. The removal of said structure(s) shall be at the cost of the applicant and/or applicable property owner(s).

Section 1150 Large-Scale Solar Energy Systems

Large-Scale Solar Energy Systems are permitted in the Solar Energy Systems Overlay District through the issuance of Site Plan Approval and a Special Use Permit, in which the Town Board will review each application concurrently, subject to the requirements set forth in this Law. All procedures including, but not limited to, sketch plan review, public hearing, and time frames pursuant to the zoning law shall be met.

All application and standards requirements for Medium-Scale Solar Energy Systems set forth above shall also apply to Large-Scale Solar Energy Systems, with the addition of the following stipulations:

A. If the applicant does not complete construction of the project within 24 months after beginning construction, this may be deemed as abandonment of the project and require implementation of the decommissioning plan to the extent applicable. The Town may notify the operator and/or owner to complete construction and installation of the facility within 180 days from the notification date. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the Decommissioning Plan. The Decommissioning Plan must be completed within 180 days of notification by the Town.

B. Upon cessation of activity of a constructed facility for a period of one year, the Town may notify the owner and/or operator of the facility to implement the Decommissioning Plan. Within 180 days of notice being served, the owner and/or operator can either restore operation equal to 80% of approved capacity or implement the Decommissioning Plan.

C. If the owner and/or operator fails to fully implement the Decommissioning Plan within the 180-day time period, the Town may, at its discretion, provide for the restoration of the site in accordance with the Decommissioning Plan and may recover all expenses incurred for such activities from the defaulted owner and/or operator. The cost incurred by the Town shall be assessed against the property, shall become a lien and tax upon the property, and shall be enforced and collected with interest by the same officer and in the same manner as other taxes.

D. Any and all Decommissioning Plans must include plans for the removal of all system components, whether above ground or underground.

E. If in the course of the delivery, installation, maintenance, dismantling, removal or transport of the Solar Energy System or any components thereof the property of the Town of Croghan, including but not limited to roadways, shoulders, drainage structures, signage, guide rails, etc., is damaged by the efforts of the applicant or any agents thereof, the applicant shall, within 30 days of completing construction, completely replace or repair all damage in consultation with the Town Highway Superintendent.

F. Acreage Limitations. Large-Scale Energy Systems shall not collectively occupy more than a total of One Thousand Five Hundred (1500) acres in the Town of Croghan. For purposes of this provision, "total acreage" shall be calculated based on physical infrastructure. Meaning, allotted acreage within the Town shall be calculated by physical system occupancy, not tax parcel acreage. Additionally, the parcels participating in a Large-Scale Solar Facility must each have a minimum tax parcel acreage of at least twenty (20) acres.

G. All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the up-to-date owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be approved by the Town or Planning Board. Solar equipment, nor fencing, shall not be used for displaying any advertising.

H. Vegetation shall be maintained below the solar panels. The ground within the fenced perimeter shall not be tamped, compressed, or similar treatments to inhibit the growth of natural vegetation. The Town Board may allow for co-usage of the lands under and around installed solar panels for grazing or growing of crops that could be grown or harvested without damaging or interfering with the Solar Energy System. The Town may mandate the planting of native pollinator species as ground cover as a mediation mechanism.

I. The Town Board may require methods to mitigate adverse impacts to wildlife, wildlife

habitats, travel corridors, or migration routes. These may be but are not limited to use of fencing that allows for an 8" to 12" space at the bottom that allows wildlife passage or other use of lights, colors, or decoys.

J. Wetland Protection. Solar Energy Systems shall avoid designated wetlands as defined by the New York State Department of Environmental Conservation and/or any Federal Agency to the extent practicable. Impacts that cannot be practicably avoided may be properly permitted or allowed by the applicable regulatory authority. The Town 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 100 feet from state-identified and/or federally-identified wetlands.

K. All roadways associated with the Large-Scale Solar Energy System shall remain unpaved and of pervious surfaces. Roadways leading to a Large-Scale Solar Energy System must be at least twenty (20) feet in width. Internal roadways located within a Large-Scale Solar Energy System Facility must be at least sixteen (16) feet in width.

L. Traffic and Roadway Impacts. The Town Board may require a traffic impact assessment to evaluate potential adverse impacts on public roads. This may include New York State Department of Transportation review if the project is accessed from a state highway.

M. All Large-Scale Solar Energy Systems shall be adequately screened with a combination of vegetative buffers, earth berms, or landscaping from all public rights-of-way and adjacent residential uses to the extent practicable.

N. Appropriate landscaping and/or site design features, including both the maintenance of existing natural vegetation and the introduction of new plantings consisting of a naturally appearing blend of deciduous and coniferous species, shall be required to help screen the facility and accessory structures from roads, neighboring dwellings, and other uses. Any existing tree or group of trees which stands within or near a required planting area may be used to satisfy the screening and tree planting requirements. Vegetative screening must be kept alive and healthy during the duration of the project's lifetime; all expired plantings must be replaced within a reasonable timeframe.

O. The design, construction, operation, and maintenance of any Large-Scale Solar Energy System shall minimize glare into neighboring properties and public roads in excess of that which already exists.

P. Artificial lighting of Large-Scale Solar Energy Systems shall be limited to lighting required for safety and operational purposes and shall be directed downward and not spill onto adjacent properties to the extent practicable.

Q. Where feasible, all utilities serving the site shall be underground. If solar storage batteries are included in the Solar Energy System, the batteries must be placed in a secure container or enclosure meeting the requirements of the International Building Code, International Fire Prevention Code, and NFPA 70. When the batteries are no longer in use, they shall be disposed of in accordance with the International Building Code, International Fire Prevention Code, and NFPA 70 as well as the local laws of the Town, and any other applicable laws or regulations.

R. The manufacturer or installer's identification, contact information, and appropriate signage shall be posted at the site and clearly visible. All emergency contact information shall be displayed and updated within 15 days of any changes. The Town, County Planning Department, County Emergency Management Services, and Fire District should be notified in writing of the emergency contact information within 15 days of any changes.

S. Following the construction of a Large-Scale Solar Energy System, all disturbed areas where the soil has been exposed shall be reseeded with grass and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust. Pollinator-friendly vegetation is preferred.

T. When any Large-Scale Solar Energy System is installed, before it becomes active, the owner of the site and/or Solar Energy System must contact the Town's emergency responders to make arrangements for a meeting at the site to review the components of the Solar Energy System and to be educated on safety issues and procedures in the event emergency response is needed. This shall include detailed discussion related to the location of labeled warnings, access to the site and information on emergency disconnection of the system. All required training and required emergency services equipment should be at the cost of the application. In addition, the Town Board may require a plan for installation regarding the location of placards which provide mutual aid responders with sufficient information to protect them when responding to calls on site.

U. If the ownership of a Solar Energy System or any of its components changes, the Special Use Permit and Site Plan Approvals shall remain in full force and effect providing all conditions of the Special Use Permit, including bonding, letters of credit or continuing certification requirements or obligations, including maintenance continue to be obligations of successor owners. The change in ownership shall be registered with the Town Clerk with a copy to the Code Enforcement Officer within 15 days of the change. The Town Clerk shall notify the Town Board of such change. The special use permit and all other local approvals for the solar energy system would be void if a new owner or operator fails to provide written notification to the aforementioned individuals in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes as new applications under this Local Law.

V. Unsafe Structures. Due to added visual impacts and possible emergency access issues, any unsafe, vacant, and/or condemned structures on any participating parcels within the solar project site, including structures between solar components and the public right of

way, shall be removed before construction. The removal of said structure(s) shall be at the cost of the applicant and/or applicable property owner(s).

Section 1160 Solar Energy System Application & Review Costs

The Town Board may retain consulting services from engineers, architects, landscape architects, lawyers, planners, or other professional services during the course of review related to Medium Scale and/or Large-Scale Solar Facilities. The applicant shall pay a review fee which shall be agreed to by the Town Board and the applicant via a simple letter agreement. Such agreement shall state the Town's best estimate for fees discussed with the applicant and shall also name a maximum amount to be charged. The Town Board may require the applicant to deposit such funds as may be necessary to pay for these services with the Town Clerk in advances.

Section 1170. Glare Assessments

Both Medium-Scale and Large-Scale Solar Energy System applicants should consult with the Wheeler-Sack Army Airfield and the Watertown International Airport early and throughout the planning process to ensure that a proposed project meets all FAA or other military requirements for such airfield. Proof of written submission of the project plan to the Airfield and Airport are required.

In order to prevent unwanted visual impacts to air control towers and airplane pilots, all applicants for Medium-Scale and Large-Scale Solar Energy Systems shall conduct a glare analysis.

Section 1180. Host Community Agreement

A. While Large-Scale Solar Energy Facilities may benefit the Town, they will also impose costs such as requirements for infrastructure additions or improvements, environmental impacts, needs for new and/or enhanced public safety and emergency services response, ascetic and quality of life concerns, loss of farmland, erosion of tax base, and other foreseen and unforeseen impacts.

Existing revenue sources are not sufficient to fund and/or offset the detrimental impacts of Large-Scale Solar Development in the Town.

It is both authorized by New York State Statute and desirable for the Town to provide for a requirement that developers of Large-Scale Solar Energy Systems enter into an agreement with the Town prior to commencement of operation of such facilities to ensure that such developers provide for an ongoing level of support, care, and maintenance of the facilities during their useful life, pay to the Town a fee as shall be determined by the Town to be necessary to offset the costs and impacts to the Town incident to a facility's development and/or operation, and to address such other matters as are determined by the Planning Board and/or the Town Board to be necessary or advisable conditions to the development of any such facility. This agreement shall also ensure that the benefits of these solar energy

resources are available to the entire community, and the Town of Croghan may require the applicant to also include such benefits as part of said agreement. Such an agreement is hereinafter referred to as a "host community agreement."

B. Prior to the issuance of a building permit for any Large-Scale Solar Energy System, the operator shall enter into a Host Community Agreement with the Town of Croghan. The Host Community Agreement shall:

1. Contractually obligate the operator to comply with any terms and conditions of any special use permit approval of the Town or Planning Board;

2. Provide for payment by the applicant to the Town of associated impact fees to be used and applied by the Town to pay for and/or to offset the costs and impacts incurred by and/or arising due to the development and/or operation of the solar energy system. In order to ensure that the benefits of the project's solar energy resources are available to the entire community, this agreement shall also make funds available for non-profit and community development projects at the discretion of the Town Board; and

3. Provide for such other contractual requirements as may be necessary given the specific elements of a particular project; and

4. Provide for payment by the applicant to the Town of associated fees relative to the use of Prime Agricultural Land for a Solar Energy System on property outside of the Town of Croghan Solar Energy System Overlay District as negotiated and approved by the Town of Croghan in Article II Section 210.B.iii; and

5. In the event that the operator and/or owner shall enter into an agreement with the Lewis County Industrial Development Agency ("LCIDA") to provide for an abatement in real property taxes or other tax exemption or abatement, be cross-defaulted with the agreements between the operator and/or owner and the Lewis County Industrial Development Agency.

C. Agrivoltaics. The Town of Croghan recognizes that farming and agriculture are important aspects of New York State's overarching goal of safeguarding the environment. The Town of Croghan further recognizes that the use of solar energy should not be to the detriment of agriculture, but rather should be in harmony with agriculture. Thus, the Town encourages applicants to respect such values held by the State and the Town by including aspects of agrivoltaics in host community benefit agreements. The Town is particularly interested in agrivoltaics initiatives that incorporate the farming of fruits and/or vegetables underneath, and/or in close proximity to, solar panels. Such use would assist in mitigating the loss of valuable farmland.

ARTICLE XII. INCENTIVE ZONING

Section 1210 Purpose and Objectives

A. It is the purpose of this article to empower the Town Board to provide for a system of zoning incentives, or bonuses, as the Town Board deems necessary and appropriate consistent with the purposes and conditions set forth in New York Town Law § 261-b and with the Town of Croghan Land Use Plan.

B. Incentive zoning shall apply within the Rural Residential District of the Town of Croghan. Incentive zoning shall be restricted to added benefits. Incentives shall be granted only when the community benefits or amenities offered would not otherwise be required or likely to result from the applicable planning process before the Town Board. Such benefits must also be determined to have no significant environmentally damaging consequences and that such incentives or bonuses are compatible with the development otherwise permitted. Such benefits shall be in addition to any items that are or that would be required under other provisions of this chapter or State law, including any mitigation measures required pursuant to the State Environmental Quality Review Act.

C. Allowable benefits for which incentives may be granted. The following may be offered either on or off the site of the subject application by an applicant:
   1. Permanent conservation of natural areas or agricultural lands;
   2. Provision of passive or active open space and related improvements;
   3. Permanent protection of scenic views;
   4. Public Parks and recreational facilities;
   5. Public access to waterfronts;
   6. Cultural or historic facilities deeded to the municipality or qualified not-for-profit agencies;
   7. Public infrastructure improvements such as roadways, extended sidewalks, safe routes to schools, and/or electric vehicle infrastructure.

D. Incentives permitted include:
   The Town Board may grant the following incentives to the applicant on a specific site and/or project:
   1. Decreases in required minimum lot area, setbacks or other bulk standards;
   2. Increases in lot coverage, building heights, or other standards;
   3. Any other waivers of provisions of this law as deemed necessary and appropriate by the Town Board for the achievement of the community benefit or amenity.

E. Procedure and criteria for approval:

   1. Authorization of zoning incentives is subject to approval by the Town Board of preliminary site plan approval. Applicants may seek non-binding input from

the Town Board as to whether the proposal is worthy of consideration prior to the submission of the application.

2. For non-residential developments, applications for zoning incentives in exchange for community benefits shall be processed in accordance with the site plan review procedures named herein and shall include sketch plan and preliminary site plan layouts for the proposed incentive development of the site.

3. To evaluate the adequacy of the proposed benefit(s) to be accepted in exchange for the proposed incentive(s), the following information shall be provided by the applicant with its application for subdivision or site plan approval:

    i. A description of the proposed amenity or amenities outlining the benefits that will accrue to the community;
    ii. The economic value of the proposed amenity or amenities to the Town as compared with the economic value of the proposed incentive or incentives to the applicant;
    iii. A preliminary demonstration that there is adequate sewer, water, transportation, waste disposal and fire protection facilities serving or proximate to the proposed development to handle the additional demands the incentive and amenity may place on such facilities beyond the demand that would otherwise occur with conventional development; and
    iv. An explanation as to the way in which the amenity will implement physical, social or cultural policies of the Town of Croghan Land Use Plan and this Law.

4. All applicable requirements of the State Environmental Quality Review Act ("SEQRA") shall be complied with as part of the review and hearing process before the Planning Board.
5. Upon receipt of the application, the Town Board shall hold a public hearing on the proposal. For Town Board public hearings on incentive zoning requests, notice of the hearing shall be published in the official newspaper of the town at least five (5) days prior to the date of the hearing.
6. For approval of an amenity/incentive proposal, the Town Board shall determine that the proposed amenity provides sufficient public benefit to provide the requested incentive. Thereafter, the Town Board is authorized to act on the application for approval pursuant to the regulations of this Law. The Town Board shall also determine whether the amenity/incentive proposal prompts a site plan review or special use permit.

ARTICLE XIII. ADMINISTRATION/ENFORCEMENT

Section 1310 Compliance

Unless noted otherwise herein, no zoning permit, site plan approval, special use permit or certificate of occupancy shall be issued by the County, except upon authorization and determination of the Town Board that construction is in conformity with an approved site plan.

Section 1315 Enforcement Officer

A. The Lewis County Enforcement Officer, pursuant to agreement between the Town and County, or an Enforcement Officer appointed by the Town Board, will carry out the duties assigned by this local law.

B. If appointed, the Enforcement Officer shall be responsible for the overall inspection of site improvements including coordination with the Town Board and other officials and agencies, as appropriate.

C. The Enforcement Officer's authorities shall include:

1. Issue zoning permits, to include site plan review and special use permits, and certificates of occupancy.
2. Refer appropriate matters to the Zoning Board of Appeal or Town Board.
3. Revoke permits and certificates of occupancy where there is false, misleading or insufficient information or where the applicant has varied from the terms of the application.
4. Issue stop work orders, appearance tickets, and refer violations.

Section 1320 Permit Expiration

Unless stated otherwise herein, a zoning permit issued under this law shall expire five (5) years from the date of issue if construction is not substantially started. Such permits may be renewed on a yearly basis.

Section 1325 Existing Uses and Structures

Any use that would otherwise be subject to this law, which has been discontinued for a period of five (5) years or more, shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered to be in existence provided such use or structure has been substantially constructed prior to the effective date of this law.

Section 1330 Temporary Permits

Temporary permits may be issued upon approval by the Town Board (as meeting the intent and purpose of this law) for a period not exceeding one (1) year. Such temporary permits are conditioned upon agreement by the owner or operator to remove any equipment upon expiration of the temporary permit or to bring the use into compliance by a specified time. Such permits may be renewed once for a period not exceeding one (1) year upon approval of the Town Board barring reasonable circumstances.

Section 1335 Amendments

The Town Board may amend, supplement, or repeal the regulations and provisions of this law

after public notice and public hearing pursuant to applicable requirements of the State of New York.

Section 1340 Further Rules and Regulations

The Town Board may, after a public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this local law.

Section 1345 Violations and Penalties

A. Whenever a violation of this law occurs, the Town Board or any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Town Board who shall properly record and the Zoning Enforcement Officer (ZEO) shall immediately investigate such complaint. If the complaint is found to be valid, the ZEO shall issue a Violation Notice and/or Stop Work Order requiring all work to cease until the violation is corrected. If the violation is not corrected within the specified time the Town shall take action to compel compliance.

B. Pursuant to Section 150.20 (3) of the Criminal Procedure Law, the Town Board is hereby authorized to issue an appearance ticket to any person, firm, or corporation causing a violation of this law, and shall cause such person, firm, or corporation to appear before the Town Justice.

C. Pursuant to Town Law Section 268, and as amended, any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this law shall, upon conviction, be deemed guilty of a violation.

A violation of this law shall be punishable by a fine not exceeding three hundred-fifty dollars ($350), or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred-fifty dollars ($350), nor more than seven hundred dollars ($700), or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars ($700), nor more than one thousand dollars ($1,000), or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

D. The Town Board may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this law.

Section 1350 Appeals

A. A Zoning Board of Appeals is hereby created. The Zoning Board of Appeals shall consist of five members as set forth in Section 267 of the Town Law, or in the alternative the town board may enter into an agreement pursuant to Article 5-G of the General Municipal Law and Section 284 of the Town Law to establish a cooperative zoning board of appeals. In the event of a cooperative zoning board of appeals, membership shall be as per the contractual agreement and may otherwise vary from provisions of Section 267 of the Town Law as may be set forth in that agreement.

B. The powers of the Zoning Board of Appeals shall be to interpret this law and to grant area variances and use variances in accordance with the standards set forth in Section 267-b of the Town Law and as may be otherwise provided by law.

C. The procedure before the Zoning Board of Appeals shall be in accordance with Section 267-a of the Town Law except as may be specifically modified by inter-municipal agreement should the town elect to enter into a cooperative Zoning Board of Appeals, in which event such procedures shall be strictly governed by the inter-municipal agreement.

D. This local law specifically supersedes those provisions of Section 267 of the Town Law requiring that there be three or five members of the board of appeals, that the terms be staggered, that the Town Board select the chairman, and the voting power of members of the zoning board of appeals in the event that the town should enter into an inter-municipal agreement pursuant to Section 284 of the Town Law and Article 5-G of the General Municipal Law in which event the inter-municipal agreement shall govern those factors.

Section 1355 Waivers

The Town Board may waive, subject to appropriate conditions, the provisions of any or all standards and/or requirements herein set forth if in the special circumstances of a particular application such standards are not in the interest of the public health, safety, and general welfare or strict adherence to such standards and/or requirements would cause unnecessary hardship for the applicant without achieving public benefit objectives. The Town Board must state its reasons for granting any waivers in writing and file the same along with the site plan application and supporting documents. Under no circumstances may the Town Board waive statutory requirements or procedures including, but not limited to, those related to permits required, public hearings, SEQR, County Planning Board review, etc.

Section 1360 Severability

The provisions of this local law are severable. If any article, section, paragraph, or provision of this local law shall be ruled invalid, such invalidity shall apply only to the article, section, paragraph, or provision(s) as judged invalid, and the rest of this local law shall remain valid and effective.

Section 1365 Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

Office of the Town Clerk
Megan E. Simpson

Town of Croghan

9882 State Route 126, Suite A
Castorland, NY 13620
315-346-1212, ext. 1
croghanclerk@gmail.com

FILED
STATE RECORDS
FEB 10 2025
DEPARTMENT OF STATE

February 4, 2025

Correction

NYS Department of State
Div. of Corp., State Records
One Commerce Plaza, 99 Washington Ave.
Albany, NY 12231

The map for the Town of Croghan Local Law 1 of 2025 was accidentally omitted. Included, please find the omitted Town of Croghan Solar Energy Overlay District Map.

Filed 1/23/25

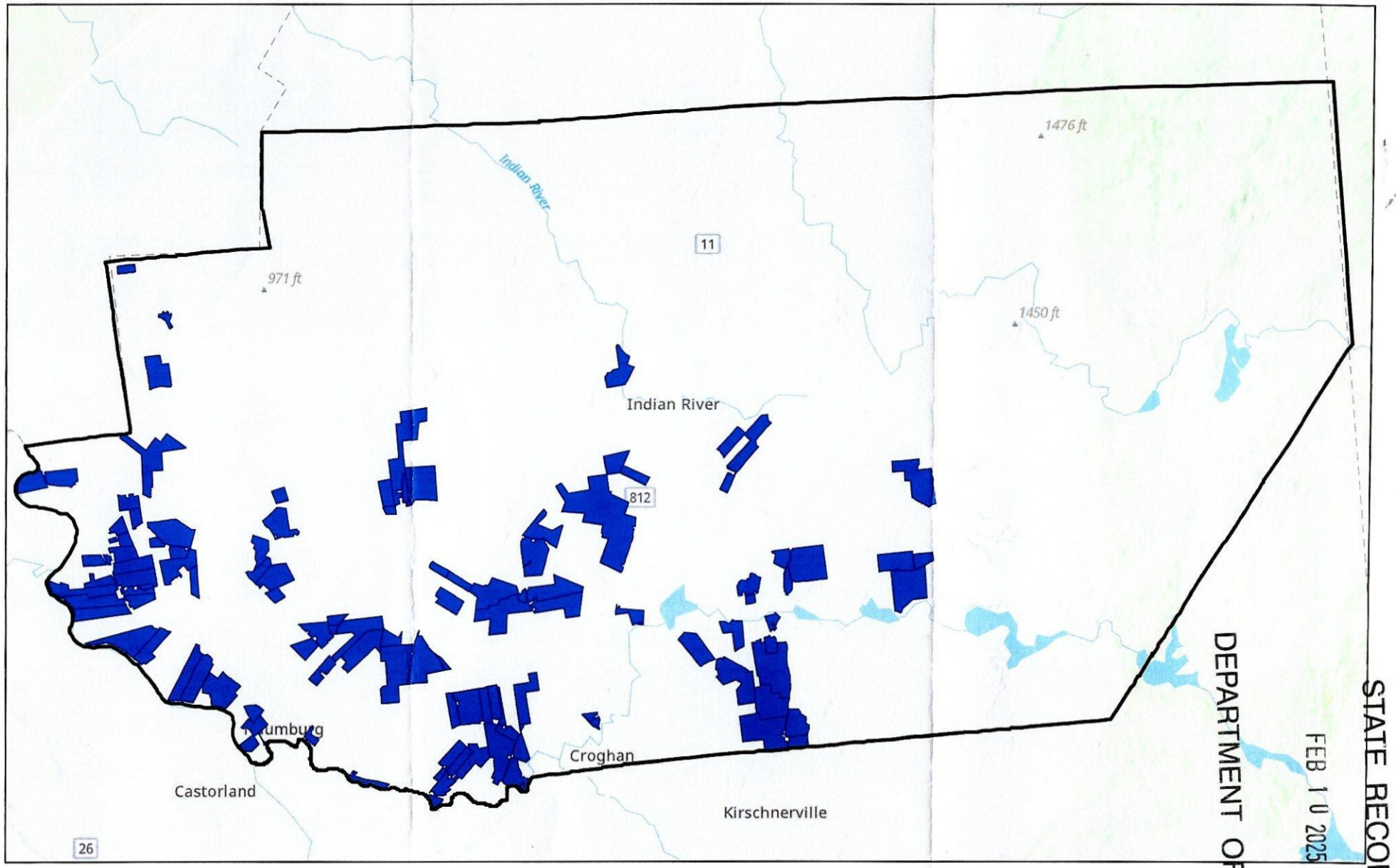
Sincerely,

Megan E. Simpson

Megan E. Simpson
Town Clerk

RECEIVED
STATE RECORDS
FEB 10 2025
DEPARTMENT OF STATE

Town of Croghan Solar Energy Overlay District



10/18/2024

Solar Energy Overlay District

1:190,000

0 1 2 4 mi

0 1.75 3.5 7 km

Esri, NASA, NGA, USGS, Province of Ontario, Esri Canada, Esri, TomTom, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA, USFWS,

TOWN OF CROGHAN, NY

LOCAL LAW NO. 6 OF 2025

A LOCAL LAW AMENDING AND SUPPLEMENTING THE TOWN OF CROGHAN ZONING LAW, LOCAL LAW NO. 6 OF 2025, TO ESTABLISH REGULATIONS FOR COMPRESSED AIR ENERGY STORAGE SYSTEMS AND TO AMEND PROVISIONS REGARDING BATTERY ENERGY STORAGE SYSTEMS AND SOLAR ENERGY SYSTEMS

SECTION 1. TITLE.

This "Local Law" shall be known as a "Local Law Amending and Supplementing the Town of Croghan Zoning Law, Local Law No. 1 of 2025, to Regulate Energy Storage and Generation Systems."

SECTION 2. PURPOSE AND INTENT.

The current land use regulations of the Town of Croghan do not adequately address the unique characteristics and potential impacts of large-scale Battery Energy Storage Systems, Solar Energy Systems, and Compressed Air Energy Storage Systems (CAESS). The purpose of this Local Law is to amend and supplement the Town of Croghan Zoning Law, Local Law No. 1 of 2025, to establish clear and comprehensive standards for the permitting, installation, operation, and decommissioning of these energy storage and generation systems within the Town. This law aims to encourage the development of alternative energy systems while safeguarding the public health, safety, and welfare of the Town residents, including, but not limited to addressing potential impacts on roads, public safety, emergency services, groundwater, noise, visual aesthetics, infrastructure, agriculture, sensitive environmental resources, and community services and amenities.

SECTION 3. USE DESIGNATIONS.

Article II, (Applicability), Section 240 of the Town of Croghan Zoning Law is hereby amended by adding a new subsection to read as follows:

"J. Compressed Air Energy Storage Systems (CAESS)."

SECTION 4. PRELIMINARY SITE EVALUATIONS.

Article II, (Applicability), of the Town of Croghan Zoning Law is hereby amended by adding a new Section to read as follows:

Section 270. Preliminary Site Evaluations and Studies.

Projects subject to the jurisdiction of the Town of Croghan Zoning Law may require certain site evaluations and studies during the application development and project review phases. The following evaluations and studies may be conducted without prior approval from the Town Board provided they are conducted in a manner that minimizes environmental impact and are limited to the minimum extent necessary to complete the task:

A. Land Surveys and Field Testing: The use of temporary stakes, flags, or other markers for the purpose of land surveying. This also includes limited, localized soil borings or percolation tests necessary for engineering or site suitability analysis.

B. Environmental and Ecological Investigations: The establishment of small, temporary access paths and the minor trimming of vegetation necessary to conduct environmental assessments, wetland delineations, and wildlife studies.

C. Geotechnical Investigations: The drilling of test pits or borings required to determine the subsurface conditions of the site and construction of associated temporary access roads.

D. Other Necessary Studies and Evaluations. Any other limited and temporary ground disturbance or vegetation removal activity required to complete a technical study or evaluation that is a prerequisite for a complete development application.

SECTION 5. SEQRA TYPE I ACTIONS.

Article II, (Applicability), of the Town of Croghan Zoning Law is hereby amended by adding a new Section to read as follows:

Section 280. SEQRA Type I Actions.

In accordance with the provisions of the New York State Environmental Quality Review Act (SEQRA, 6 NYCRR Part 617), the Town Board of the Town of Croghan hereby designates the following uses as Type I Actions:

A. Compressed Air Energy Storage Systems (CAESS). Due to the inherent scale, complexity, and potential for significant environmental impacts, the establishment, construction, or expansion of any CAESS, as defined herein, is hereby classified as a Type I Action under the New York State Environmental Quality Review Act (SEQRA, 6 NYCRR Part 617).

SECTION 6. DEFINITIONS.

Article III, (Definitions), of the Town of Croghan Zoning Law is hereby amended by revising the term "Applicant" and adding new definitions in appropriate alphabetical order:

APPLICANT – Any person, firm, partnership, association, corporation, company, or organization that submits an application to the Town for the purpose of obtaining a permit or approval for a project. For the purposes of the Town of Croghan Zoning Law, the term "Applicant" shall also include any and all future owners, successors, assignees, or operators of an approved project, who shall be held to the same standards, conditions, and requirements as the original Applicant.

ADVANCED – COMPRESSED AIR ENERGY STORAGE SYSTEMS (A-CAESS): A type of Compressed Air Energy Storage System (CAESS) that captures and reuses the heat generated during air compression for use during air expansion, thereby significantly enhancing overall energy efficiency and minimizing or eliminating the need for supplemental fuel combustion during electricity generation. Such systems are distinguished by their integrated thermal management and may include specific components such as thermal energy storage tanks.

COMPRESSED AIR ENERGY STORAGE SYSTEMS (CAESS): An electromechanical energy storage facility that stores energy by compressing air and containing it within a purpose-built storage location, which may include, but is not limited to, underground caverns (such as hard rock or salt domes) or large tanks. When energy is needed, the compressed air is expanded through a turbine to generate electricity on demand. CAESS typically comprises components including, but not limited to, air compressors, storage reservoirs, turbines, generators, heat exchangers, storage tanks, electrical

switchyard or substation, electric generation tie-line, and associated ancillary, control and safety equipment. For the purposes of this law, CAESS shall include Advanced-Compressed Air Energy Storage Systems (A-CAESS) but shall not include photovoltaic (solar) arrays or panels used for the purpose of generating electricity.

CAVERN: An underground space, natural or man-made, used for the storage of compressed air as part of a CAESS.

FULL LOAD: The maximum operational capacity of a CAESS, including both the compression and generation cycles. For the purpose of this article, "full load" is considered to be the condition under which the CAESS is operating at its maximum rated electrical or air compression output.

SHAFT: A vertical passageway from the ground surface to an underground cavern or underground facility, and used for access, ventilation, equipment installation, and the operation of the CAESS.

STORAGE RESERVOIR: A surface reservoir used to hold water that maintains hydrostatic pressure within a CAESS or for other operational needs.

SECTION 7. SUPPLEMENTAL REGULATIONS.

Article VII, (Special Use Permit Additional Requirements), of the Town of Croghan Zoning Law is hereby amended by adding a new Section 820 to read as follows:

Section 820. COMPRESSED AIR ENERGY STORAGE SYSTEMS (CAESS)

A. Applicability. The requirements of this Section shall apply to all Compressed Air Energy Storage Systems (CAESS) proposed for installation, construction, modification, or operation after the effective date of this Local Law.

B. Permitting Requirements and Procedures.

1. **Special Use Permit and Site Plan Review Required**. All CAESS shall be permitted through the issuance of a Special Use Permit by the Town Board, following the procedures outlined in Article VI, (Special Uses) of this Law, and shall be subject to Site Plan Approval in accordance with the procedures of Article V, (Site Plan Review) of this Law.

C. Application Requirements. In addition to the general application and submission requirements for Special Use Permits (Article VI, Section 640) and Site Plan Review (Article V, Section 530), a complete application for a CAESS shall include, but is not limited to, the following:

1. **Project Description:** A detailed description of the proposed CAESS, encompassing all major system components and their respective functions, on and off the project site. This description shall also specify the system's maximum rated capacity, operational characteristics, and estimated lifespan.
2. **Required Permits and Approvals.** A comprehensive list of all local, county, state, and federal permits and approvals required for the proposed CAESS, along with a detailed status of each.
3. **Site Plan:** A site plan and an associated narrative prepared by a New York State licensed professional engineer, clearly depicting and describing:
    a. Lot lines and physical dimensions of the CAESS project site along with all existing structures, roads, and infrastructure.

b. Location, elevations, dimensions, materials, and key design performance parameters and capacity for all major project components, both above and below ground, on and off the project site, shall be provided in sufficient detail to allow an evaluation of potential environmental impacts of the project in compliance with this Law and 6 NYCRR Part 617. This submission shall include a description of all project components, including, but not limited to: roads, shafts, caverns, storage reservoirs, structures, equipment, utility service lines (electricity, water, natural gas, sewer - both above and below ground), substations, interconnection points, storage facilities, maintenance facilities, fencing, and any other ancillary facilities or structures associated with the CAESS.
c. Proposed changes to the landscape, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
d. Proposed site access and on- and off-site parking and construction laydown areas.

4. **Geology and Hydrogeology Report:** A complete and thorough analysis of the geology, hydrogeology, and groundwater quality of the project site and surrounding areas conducted by a New York State licensed professional geologist or professional engineer. This shall include, but is not limited to, the following:
    a. Hydrogeologic Conditions Analysis. An analysis of the regional, local, and site hydrogeologic conditions shall be provided to the Town Board for review and approval. An outline of this analysis will be provided to the Town Board for prior review and approval. This analysis will be based in part on a review of available records, reports, and mapping from several sources, including, but not limited to, the New York State Department of Environmental Conservation, Department of Health, United States Geological Survey, U.S. Natural Resource Conservation Service, New York State Geological Survey, and any other reasonably available published and unpublished data and reports. The applicant will supplement this review with necessary field investigations on the project site and in the surrounding area in order to define the following:
        i. Geological Context: The subsurface geology, including the type, thickness, and depth of the bedrock and surficial deposits.
        ii. Groundwater and Surface Water Flow: The location and characteristics of hydrogeologic units (including the principal water-bearing units), the depth to ground water, the direction of groundwater flow, recharge and discharge areas, seasonal variations in water levels, surface water drainage patterns, wetlands, and the relationship between groundwater and surface water.
        iii. Water Quality: Baseline groundwater and surface water quality, including any known contaminants or specific water quality issues.
        iv. Vulnerability: An assessment of the vulnerability of local groundwater and surface water resources to contamination or other impacts from the proposed project.
    b. Water Supply Well Survey and Well Monitoring Program. A plan for both an initial water supply well survey and a long-term well monitoring program shall be prepared and submitted to the Town Board for review and approval. This program shall incorporate and take into consideration applicable information from the Hydrologic Conditions Analysis required in Section 820.C.4.a, along with the following elements:

i. Water Supply Well Survey Area Delineation: Provide a description and map of the area surrounding the project site where a survey of public and private water wells will be conducted (Well Survey Area). The extent of the Well Survey Area shall be informed by the Hydrogeologic Conditions Analysis required in Section 820.C.4.a. The minimum boundaries must encompass a one-mile radius downgradient and a quarter-mile radius upgradient of the project site's property boundaries.

ii. Water Supply Well Survey: A water supply well survey in the agreed upon Well Survey Area shall be conducted through a combination of mailings, interviews, site visits, and other means to identify the well owners, and ascertain the approximate location of wells, their elevation and depth, the age and usage of the wells, the well construction (diameter, depth, casing, screening, etc.), the likely stratigraphic unit utilized by the wells, the well's water level and yield (if known), perceived water quality, and any other relevant information. Well owners should also be asked if they would be willing to sign an agreement to have a water level measuring/recording device installed for future monitoring and if they are willing to have water quality sampling conducted. Documentation must be provided to the Town Board regarding the efforts to contact well owners in the agreed survey area. A report and associated map(s) documenting the results of the water well survey will be submitted to the Town Board. The protocol for conducting the water supply well survey shall be provided to the Town Board for review and approval prior to commencing the survey.

iii. Long-Term Water Supply Well Monitoring Program: Following the initial water supply well survey, the applicant will institute a monitoring program. A schedule for ongoing water level and water quality monitoring within the well survey area must be provided to the Town Board for review and approval. Monitoring will commence at least one year prior to construction to establish baseline conditions, continue throughout the construction phase, and then be conducted at a minimum of twice per year for the entirety of the facility's operations. The long-term monitoring program must be submitted to the Town Board in advance for approval and shall include:

    (1) A list of all constituents to be tested, including their respective detection limits and analytical methods. Specific water quality constituents consistent with the elements and compounds proposed to be used in the construction and operation of the CAESS, along with additional applicable constituents that may have been identified in the Hydrologic Conditions Analysis required in Section 820.C.4.a.

    (2) Locations where the applicant has the right to safely install water well monitoring and recording devices and where homeowners have consented to water quality sampling.

    (3) Procedures for data management, analysis, reporting, and a clear protocol for notifying the Town Board and homeowners of any exceedances or significant trends.

c. Monitoring Wells and Storage Reservoir Plan. The applicant shall prepare and submit to the Town Board for prior review and approval plans for the installation and testing of monitoring wells and the storage reservoir. The applicant shall commit to implementing the approved plan for testing the monitoring wells within the study area upgradient and downgradient of the project site, prior to, during, and after construction and during operation of the CAESS. The plan shall include a work plan detailing proposed locations, drilling methods, depths, construction specifications, well sampling intervals, duration, and types of laboratory analyses. The Monitoring Wells and Storage Reservoir Plan shall include characterization of any surface reservoir sludge, solid waste, petroleum, hazardous substances, hazardous waste, and/or process waste to be stored, generated, transported, and/or disposed of during construction and operation phases including manufactured

d. Responsibility for Adverse Impacts to Water Supplies. In the event that the construction, operation, or any related activities of the CAESS directly cause or contribute to adverse impacts on public or private drinking water supplies within or hydrologically connected to the water supply well survey area, as determined by data collected pursuant to this Section, the Applicant/Operator shall be solely responsible, at its sole cost and expense, to promptly and fully correct such adverse impact. Such corrective actions shall include, but may not be limited to, providing an alternative potable water supply of comparable quantity and quality, remediation of the affected source, and/or compensation for direct damages. The goal is to restore the water supply negatively impacted by the project to its pre-impact condition, consistent with all applicable public health and environmental standards.

5. **Wastewater Management Plan:** Specifics regarding the proposed conveyance, storage, distribution, generation, handling, use, and/or treatment of any sewage, process wastes, aqueous-carried wastes, petroleum, hazardous substances, hazardous waste, solid waste, and/or process wastes. This shall include estimated types and quantities of such materials and the amount of wastewater to be generated. A description of all pollution control measures and activities proposed to prevent on-site disposal and potential contamination of groundwater or surface water, including spill response activities, shall be provided.
6. **Stormwater Management Plan:** Details regarding existing and proposed stormwater management facilities, runoff, and a preliminary Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-25-001), or its most current revision. Construction shall not commence until applicable stormwater permits are approved and received by the Town.
7. **Traffic Impact Assessment:** An assessment of the potential adverse impacts on public roads within the Town of Croghan due to construction and operation traffic, including an estimate of daily vehicle trips broken down by vehicle size classification (e.g., passenger cars, heavy trucks, construction equipment), proposed routes, gross weights and heights of loaded vehicles, and a plan for disseminating traffic information. The Traffic Impact Assessment study area shall be determined in consultation with the Town of Croghan and Lewis County. The Traffic Impact Assessment study area will be based on all proposed haul and traffic routes, including the truck haul routes to be evaluated in accordance with Section 820.C.10, (Noise and Vibration Technical Report and Monitoring) of this Article. The applicant shall demonstrate entry into a Road Use

Agreement with the Town and/or County of Lewis, including, but not limited to, pre-construction road condition documentation.

8. **Public Safety and Hazard Mitigation Plan:** A comprehensive plan confirming safety issues during construction and operation phases. At a minimum, this plan must include procedures for:
    a. Safely shutting down, de-energizing, or isolating equipment.
    b. Inspecting and testing all alarms.
    c. Responding to emergencies such as fires, explosions, releases, or rescues.
    d. Properly handling and managing damaged equipment.
9. **Emergency Services Coordination Plan:** A plan detailing coordination with local fire departments, Lewis County Director of Emergency Management, and other relevant emergency responders. This plan must include provisions for initial and annual on-site drills and training. It shall also assess the need for additional emergency services equipment or vehicles. If it is determined that the project requires new equipment or vehicles, the applicant shall provide them at their own cost. The Plan shall be reviewed and endorsed by a third-party professional selected by the Town Board, the cost of which shall be full reimbursed by the Applicant.
10. **Noise and Vibration Technical Report and Monitoring.** The Applicant shall provide a detailed Noise and Vibration Technical Report prepared by a qualified professional. This report shall demonstrate that potential adverse impacts on human and wildlife well-being from noise and vibrations generated during the construction and operation of the proposed CAESS and ancillary equipment will be avoided or mitigated to the maximum extent practicable. An outline of the report and draft protocols for conducting all required analyses shall be provided to the Town Board for prior review and approval. At a minimum, the report shall include the following:
    a. Introduction and Terminology. The report shall include a foundational narrative explaining the basic principles of both acoustics and vibration, as relevant to the proposed CAESS and its potential impacts. This discussion must define key concepts, including sound pressure level (with an explanation of decibel weighting scales such as dBA, dBC, and Z-weighted), frequency (pitch), the nature of tonal components, and characteristics of impulsive noise. For vibration, the discussion shall explain vibration amplitude (including measurement units like inches/second or millimeters/second and methods like Peak Particle Velocity - PPV and Root Mean Square- RMS), vibration frequency (Hz), differentiate between continuous, intermittent, and impulsive vibration, describe principles of vibration propagation through the ground and structures.
    b. Study Area and Sensitive Receptors.
        i. Study Area: The initial study area for the noise and vibration analysis shall extend to a one-mile radius from the project site. The Town Board reserves the right to expand this study area if impacts or the potential for impacts are found to extend beyond the initial one-mile radius. Additionally, all roads within the Town proposed for hauling material off-site or deliveries to the site, regardless of the distance from the project site, must be identified.
        ii. Identification of Sensitive Receptors: A clear identification and mapping of all noise and vibration-sensitive receptors situated within the approved study area is required. This includes but is not limited to:
            (1) Occupied Buildings: Residential dwelling units, educational, medical and dental facilities, museums/historic uses and sites, and similar uses and sites.
            (2) Commercial and Industrial Operations: Businesses, manufacturing, and

industrial operations.

(3) Infrastructure: Drinking water wells, water and sewer infrastructure, electrical and communication equipment, and monitoring/control systems.

iii. During construction and operation phases, newly constructed sensitive receptors within the approved study area must be added to the monitoring plan.

iv. All identified sensitive receptor sites shall be submitted to the Town of Croghan Town Board for its final review and approval.

c. Existing Conditions Data Collection.

i. Baseline Noise and Vibration Characterization: Documentation of existing pre-construction ambient noise and vibration levels at all identified sensitive receptor sites shall be provided. This data must include both daytime and nighttime measurements to accurately quantify the proposed facility's potential contribution to the sound and vibration environment during construction and operation.

ii. Vibration Baseline: Identify existing sources of vibration, if any, and characterize existing vibration levels in the study area. Measurements should characterize dominant frequencies and amplitudes of existing ambient vibration, using appropriate metrics (e.g., Peak Particle Velocity - PPV).

d. Noise and Vibration Thresholds. The applicant must provide proof and demonstrate that noise and vibration generated during construction and operation will not exceed the following limits:

i. Construction Noise. This includes noise generated by all construction activities, including off-site truck traffic associated with the project.

(1) Incremental Increase: The project must incorporate feasible construction noise mitigation measures when the total noise level (construction combined with ambient) at the property line of any receptor sites exceeds the ambient noise level by 6 dBA or more during the daytime or nighttime.

(2) Absolute Limit: Construction noise shall not exceed an absolute limit of 80 dBA (1-hr Leq) during the daytime and 70 dBA (1−hr Leq) during nighttime at the property line of any receptor site.

(3) Truck Traffic. For truck traffic, the analysis shall consider factors such as estimated daily and hourly truck traffic volumes, typical operating speeds, proposed hours of operation, and the noise characteristics of the vehicles used for hauling and deliveries. The cumulative noise from multiple truck passes over the measurement period shall be assessed against these limits.

ii. Operational Noise:

(1) Incremental Increase: Operational noise shall not increase the total noise level by 6 dBA or greater over ambient at the property line of any receptor site during the daytime or nighttime.

(2) Absolute Limit: The absolute operational noise shall not exceed 55 dBA Ldn at the property line of a receptor site when the facility is operating at full load.

iii. Tonal and Low-Frequency Noise:

(1) Operational low-frequency noise shall not exceed 60 dBC (1-hr Leq) at the property line of any receptor site when the facility is operating at full load.

iv. Construction Vibration.

(1) Potential Building Damage: U.S. Bureau of Mines Report of Investigations 8507 Figure B—1 (Siskind et. al. 1980) maximum allowable PPV at all

sensitive receptor sites/structures.

(2) Building occupant annoyance: 72 Vdb (re 1 micro-inch/sec).

v. Operation Vibration.

(1) The facility design must not result in any perceptible increase in ground vibration at receptor sites.

(2) The operational vibration criteria for building occupant annoyance is 72 VdB (re 1 micro-inch/sec).

e. Analysis of Construction Impacts and Mitigation.

i. A comprehensive environmental analysis of noise and vibration impacts shall be presented for the construction phase, inclusive of all construction vehicles and equipment (including truck routes), along with a detailed proposal and modeling of specific mitigation measures (e.g., acoustic enclosures, noise barriers, silencers, vibration isolation, or operational scheduling).

ii. The application shall include manufacturer-provided sound power levels, spectral data, and vibration levels or signatures for each piece of equipment.

iii. The vibration impact assessment shall identify potential vibration sources (e.g., blasting, drilling, pile driving), predict vibration levels at receptor sites, and evaluate potential impacts against relevant standards for human annoyance, structural integrity, and interference with sensitive equipment.

f. Cumulative Effects of Noise and Vibration. A thorough discussion on the cumulative effects of noise and vibration from the proposed project, in conjunction with other existing or reasonably foreseeable future noise-generating and vibration-generating activities in the area, shall be provided. This analysis shall be limited to those uses or activities that are existing, under construction, or formally proposed or approved by the Town Board at the time of submission and located within the approved study area.

g. Analysis of Operational Noise and Vibration Impacts and Mitigation.

i. An analysis shall be presented for the operational phase of the CAESS. The analysis must include modeling results and a written narrative demonstrating that the proposed system, with all planned mitigation, meets the sound and vibration levels established in this law, including the specific provisions for tonal and low-frequency noise, in accordance with this Section. Compliance with these standards shall be demonstrated by explicitly comparing the modeled operational sound and vibration levels against the baseline conditions documented under Section 820.C.10.c.

h. Construction and Operational Noise and Vibration Monitoring Plan and Requirements.

i. The applicant shall develop a plan for and commit to conducting noise and vibration monitoring during both construction and commercial operation. The plan will be submitted to the Town Board for prior review and approval and include:

(1) Monitoring Locations. Identified sensitive receptor sites within the approved study area and along designated truck routes.

(2) Sensitive Receptor Condition Survey. If blasting is proposed, the applicant shall conduct pre- and post-construction condition surveys of all identified sensitive receptor sites located within the Study Area to be determined in consultation with and approved by the Town Board. The purpose of these surveys is to document the existing condition of

structures prior to construction activities and to identify any potential damage that may be attributable to noise and/or vibration from the project.

(3) Measurement Frequency. The frequency and duration of measurements (e.g., continuous monitoring during specific high-impact activities, periodic spot checks).

(4) Equipment and Methodology. The type of monitoring equipment to be used and the methodologies for data collection, ensuring consistency with baseline measurements and applicable standards.

(5) Dedicated Point of Contact: The applicant shall designate and maintain a readily accessible and publicly advertised local point of contact (e.g., telephone number, email address, online portal) for receiving and promptly responding to noise and vibration complaints from the public during construction and throughout the operational life of the CAESS. This contact information shall be provided to the Town Board and prominently displayed on the project site in a location accessible to the public, as well as on the Town's website.

(6) Complaint Protocol: A clear, written protocol for documenting, investigating, and responding to all noise and vibration complaints within a specified timeframe (e.g., forty-eight (48) hours for initial contact, seven (7) days for initial investigation report to the complainant and Town). This protocol shall include: (1) Procedures for recording details of the complaint (date, time, nature of complaint, location of complainant). (2) Methods for investigating the complaint, which may include site visits, direct communication with the complainant, operational data review, and, if warranted, post-commissioning noise and/or vibration measurements in the vicinity of the complaint. (3) A commitment to provide a written response to the complainant and the Town Board, outlining the findings of the investigation and any proposed corrective actions.

ii. Reporting. During the construction phase and for the first two years of commercial operation, the applicant shall submit quarterly reports. After the first two years of operation, reports shall be submitted twice per year. Each report shall include the results of ongoing monitoring along with any complaints received, the outcomes of any investigations, and any corrective actions taken.

iii. Corrective Action Plan: In the event that noise or vibration exceeds the limits established by this Article, the applicant shall, at its own expense, develop and submit to the Town Board for approval a corrective action plan within a specified timeframe (e.g., thirty (30) days of validation). This plan shall identify: (1) The root cause(s) of the unexpected impact. (2) Detailed proposed measures to mitigate the impact (e.g., construction method and timing adjustments, equipment adjustment, additional acoustic baffling, operational scheduling changes, equipment replacement, or other engineering controls). (3) A timeline for implementation of the corrective measures. (4) A commitment to conduct post-mitigation verification measurements to demonstrate compliance with approved limits and the effectiveness of the corrective actions.

iv. Ability to Mandate Further Action: The Town Board reserves the right, based on

the nature and frequency of complaints or the findings of independent investigations, to require additional noise and vibration monitoring, studies, or mitigation measures at the applicant's expense throughout construction and the operational life of the CAESS to ensure ongoing compliance and protection of public health and welfare, if investigations confirm that measured noise or vibration levels exceed the numerical limits established by this law.

v. Responsibility for Adverse Impacts from Noise and Vibration. If the construction, operation, or any related activities of the CAESS cause noise and/or vibration levels at the sensitive receptor sites identified in Section 10.b of this Article to exceed the thresholds established in Section 10.d of this Article, or directly or proximately cause damage to the sensitive receptor sites, the Applicant will be solely responsible. At their own expense, the applicant must promptly and fully correct these exceedances. Corrective actions will include compensation for confirmed damage, and, where applicable, may include implementing additional mitigation measures and/or modifying operational procedures.

i. Noise and vibration effects on wildlife. Based on relevant literature, the applicant shall provide a qualitative discussion of potential effects of CAESS construction and operation on wildlife (including, but not limited to, state or federally designated rare, threatened, or endangered species) to inform the Town Board's evaluation of the project's effects under SEQRA.

11. Visual Impact Assessment (VIA) and Mitigation Plan: The application shall include a comprehensive Visual Impact Assessment (VIA) and Mitigation Plan prepared in accordance with NYSDEC Program Policy DEP-00-2, "Assessing and Mitigating Visual and Aesthetic Impacts", as amended. This VIA shall evaluate the potential for adverse visual and aesthetic impacts on identified sensitive receptor sites approved by the Town Board from the CAESS and all associated ancillary equipment (e.g., above-ground interconnections, lighting, infrastructure), including temporary construction equipment. The assessment shall include, but not be limited to, the following components:

a. Inventory of Aesthetic Resources and Sensitive Receptors:
    i. Identification and mapping of all publicly accessible aesthetic resources of statewide and local significance within the project's viewshed, as defined by DEP-00-2 (e.g., State/National Register of Historic Places, State Parks, Scenic Byways, designated scenic vistas, public recreational areas, and locally designated aesthetic resources from adopted comprehensive plans or zoning).
    ii. Identification and characterization of visually sensitive receptors, including, but not limited to, residential areas, schools, healthcare facilities, and areas of significant public gathering or recreation.

b. Viewshed Analysis:
    i. A detailed viewshed analysis (e.g., digital viewshed mapping) to delineate areas from which the proposed CAESS components would be visible. This analysis shall account for existing topography and significant vegetation (including both leaf-on and leaf-off conditions if vegetation screening is relevant).
    ii. Line-of-sight profiles from key Town Board approved sensitive receptors and/or designated aesthetic resources to the project site.

c. Visual Simulations and Representation: High-quality, representative photographic simulations of the proposed CAESS (temporary and permanent elements) from identified key viewpoints. These viewpoints shall be selected in consultation with and approved by the Town Board, with input from relevant agencies (e.g., NYSDEC, OPRHP), and shall include:
    i. Views from highly sensitive receptors (e.g., property lines of residences, and within recreational areas).
    ii. Views from designated aesthetic resources.
    iii. "Worst-case scenario" views (e.g., closest public vantage points, views where the project is most prominent).
    iv. Both existing (pre-construction) and simulated (construction and post-construction) views.
    v. Where vegetation screening is proposed as mitigation, simulations must include both leaf-on and leaf-off conditions.
d. Interpretation of results, including qualitative and quantitative assessment of the nature and degree of visual change resulting from the project.
e. Analysis of Facility Characteristics and Operational Effects:
    i. Discussion of the appearance of the facility during construction and upon completion, including building/structure size, architectural design, building, equipment, and tower colors and textures, and lighting (including lumens, location, and direction, and compliance with "dark-sky" principles).
    ii. Analysis and description of related operational effects of the facility, such as potential visible plumes, shading, or glare.
f. Visual Impact Mitigation Strategies:
    i. A detailed plan outlining specific measures designed to avoid, minimize, or mitigate identified adverse visual impacts, in accordance with DEP-00-2 guidance (e.g., site selection, facility layout optimization, use of non-reflective materials, painting to blend with the landscape, architectural design, screening through vegetation or berms, lighting design).
    ii. Visual simulations illustrating the effectiveness of proposed mitigation measures, where applicable.
g. Cumulative Visual Impact Analysis:
    i. A thorough discussion of the cumulative visual effects of the proposed project in conjunction with other existing or reasonably foreseeable future visually-prominent developments identified by the Town Board in the area of the CAESS.

12. **Decommissioning Plan:** In accordance with all applicable local, county, state, and federal regulations, a decommissioning plan shall be provided. This plan shall detail the physical removal of all above-ground CAESS components, structures, equipment, security barriers, and associated transmission lines upon abandonment or end of useful life, including proper disposal of all solid and hazardous waste. The plan shall also include provisions for site restoration of the surface of the site to its original state, or an approved alternative condition, along with a timetable for this restoration. All components shall be removed to an appropriate depth, while taking into account the practicality and the post-decommissioning site impacts (environmental, ground stability, site use, etc.) of such removals. The decommissioning of below-ground structures such as shafts, caverns, and ancillary structures will be consistent with the standard industry practices for similar structures and any applicable state and/or federal requirements to

avoid significant environmental and ground stability impacts." This plan must provide an estimated decommissioning cost certified by a NYS Licensed Professional Engineer. Furthermore, a Financial Assurance (e.g., bond or escrow account) shall be continuously maintained by the applicant in a form and amount approved by the Town Board and Town Attorney sufficient to cover estimated decommissioning costs. Decommissioning cost estimates shall be updated every five (5) years, and the amount of the Financial Assurance shall be adjusted accordingly.

13. **Host Community Agreement:** To the extent allowable by New York State law, the Town of Croghan encourages the applicant to enter into a Host Community Agreement to address community benefits and mitigate project-related impacts.
14. **Comprehensive Housing Plan:** A housing plan must be submitted that includes, at a minimum, an analysis of current housing availability and market impacts within Lewis County, including projections of employee housing needs and potential strain on affordability and rental rates. This plan must also outline strategies for providing quality housing necessary to meet any projected employee housing needs, in compliance with all relevant New York State and local building codes. It shall include a clear plan for the potential reuse to prevent long-term negative impacts. Furthermore, the plan must demonstrate proposed engagement with involved communities, a Housing Authority operating in Lewis County, and local housing developers for proper planning and siting, and to adequately address workforce housing needs and regional housing impacts Finally, a thorough analysis of the project's potential impacts on local school districts, projecting new student enrollment and assessing current capacities. This analysis must also extend to other critical community services such as emergency services, water and wastewater infrastructure, solid waste management, roads, transportation, and healthcare facilities. For all identified impacts the plan shall propose specific mitigation measures and financial contributions to ensure adequate service provision for both existing residents and the project's workforce.
15. **Security Plan:** A comprehensive Security Plan delineating proposed measures to address the security of the project site and any associated or newly constructed residential facilities intended to accommodate construction and operational project employees and their families. This plan shall include, at a minimum, details pertaining to site perimeter security (e.g., fencing specifications), access control systems and procedures, and a robust emergency contact protocol.

D. Development Standards. In addition to applicable standards set forth in Article VII, Section 710 of the Town of Croghan Zoning Law, the following standards shall apply to all Compressed Air Energy Storage Systems (CAESS):

1. **Minimum Setback:** All components of a CAESS, including all mechanical equipment and accessory structures, shall be set back a minimum of one hundred (100) feet from all project site property lines. Fencing, low-profile accessory structures/equipment, and security measures may be located within this required setback, taking into consideration the need to avoid or mitigate visual, noise, and vibration impacts.
2. **Vegetation Retention, Mitigation, and Justification:**
    a. Removal of trees shall be minimized. If mature trees (greater than six inches in diameter at breast height) are removed, a replacement ratio of two (2) trees for each tree

removed shall be a condition of approval, with species and location determined by the Town Board.

b. The Applicant shall be required to maintain the maximum practicable amount of existing vegetation within all setback areas, between construction operations/facility components and adjoining property lines, to serve as a visual and sound buffer. The application for a CAESS shall clearly demonstrate precisely why the removal of any existing vegetation within the setback areas is essential for the construction and/or safe and efficient operation of the facility. Any proposed removal of vegetation shall be explicitly justified as part of the visual and sound impact assessments required under Section 820(C)(10), (Noise and Vibration Technical Report and Monitoring), and Section 820(C)(11), (Visual Impact Assessment and Mitigation Plan). The application shall further demonstrate how, in the absence of such vegetation, sufficient visual, sound, and vibration impacts will be mitigated or avoided through alternative measures to ensure the continued protection of adjoining properties and the community, in accordance with the requirements of this Chapter.

3. **Height-Based Setback for Structures:** In addition to the minimum one hundred (100) foot setback required in subsection D(1) above, all structures associated with the CAESS shall be set back from all project site property lines a minimum distance equal to one and one-half (1.5) times their total height.

4. **Compliance with Other Requirements:** All CAESS components and structures shall also comply with all other applicable setback requirements set forth in this Law.

5. **Maximum Height.**

   a. No permanent buildings, structures, or other project elements shall exceed one hundred twenty (120) feet in height and no temporary buildings, structures, or other project element shall exceed one hundred seventy (170) feet in height measured from the lowest finished grade to the highest point of the building, structure, or other project element, except for overhead transmission lines and associated support structures necessary for project interconnection.

   b. The applicant shall make all efforts to limit the total height of all buildings, structures, and other project elements to the maximum extent practicable. This commitment will be achieved through strategic approaches such as optimized layout and siting, which involves strategically placing taller components within natural depressions or behind existing visual buffers. Additionally, efforts will focus on utilizing underground or partially buried components, designed to locate as much equipment as feasible below grade. The selection of low-profile equipment will be prioritized, choosing machinery and structures with inherently lower heights where performance allows. Further, the applicant should consider implementing consolidated footprints —combining multiple functions into fewer, more compact structures — to minimize overall vertical presence —and employ architectural design integration, using features that visually reduce perceived height, such as horizontal lines or varied massing. The applicant shall provide a written justification demonstrating that alternative approaches to limit the height of all buildings, structures, and other project elements are not practicable and detailing why the proposed height is essential for the project.

c. The applicant will coordinate with Fort Drum to assess and mitigate any potential impacts on military operations. Concurrently, the applicant shall engage with the Federal Aviation Administration (FAA) and other pertinent regulatory agencies to ascertain all mandated aviation lighting, marking, or other air navigation safety requirements. All such determined requirements shall be detailed and depicted on the project plans.

E. Fencing: CAESS, including all mechanical equipment, shall be enclosed by a seven (7) foot hig**h** fence with a self-locking gate to prevent unauthorized access, unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports. Warning signs with up-to-date owner contact information and emergency details shall be placed on the entrance and perimeter of the fencing.

F. Screening and Visibility: In accordance with Section820.C.11, the applicant shall all efforts to avoid and/or mitigate adverse visual impacts to the maximum extent practicable. These efforts, to be detailed in the required Visual Impact Assessment and Mitigation Plan, shall be consistent with NYSDEC Program Policy DEP-00-2, (Assessing and Mitigating Visual and Aesthetic Impacts). Any required vegetative screening shall be maintained and replaced as needed throughout the project's lifetime.

G. Lighting: All exterior lighting, except lighting required by Fort Drum and the FAA, shall be limited to the minimum illumination levels necessary for safety and operational purposes and shall be full cutoff, downward-directed, and shielded to prevent light trespass onto abutting properties, minimize glare, and reduce sky glow.

H. Utility Lines: All on-site utility lines shall be placed underground where reasonably practicable and as permitted by applicable law or authorized by the applicable utility.

I. Waste Management: All solid waste, hazardous waste, and construction debris shall be removed from the project site and managed in a manner consistent with all appropriate rules and regulations. Provisions for the off-site disposal of surface reservoir sludge, solid waste, petroleum, hazardous substances, hazardous waste, and/or process wastes shall be detailed.

J. Housing Standards: If new housing units are required for construction or operational personnel, all efforts shall be made to utilize high-quality, durable, site-built housing to the maximum extent practicable. The applicant may propose alternative construction methods, provided it is demonstrated that such methods meet comparable standards for quality and future reuse potential. All housing must be carefully planned and sited. The applicant shall engage with involved communities, a Housing Authority operating in Lewis County, and other applicable organizations and agencies to consider and plan for the reuse of housing after the project is complete.

K. Decommissioning and Abandonment.

1. Cessation of Operation and Abandonment:

a. Operational Cessation Determination. If a CAESS remains non-functional or inoperative for a continuous period of two (2) consecutive years, it shall be deemed to be in a state of operational cessation. For purposes of this Section, non-functional or inoperative means a condition in which the primary components of the CAESS are unable to operate as intended due to mechanical failure, disconnection from the grid, or other technical issues, and where such conditions are not due to planned maintenance, regulatory delay, market-based curtailment, economic conditions or

other circumstances outside of the reasonable control of the owner/operator. A CAESS shall not be considered non-functional or inoperative where the owner/operator demonstrates that the facility is viable and demonstrates good faith efforts to return the CAESS to operations.

b. Notice of Operational Cessation. After a public hearing and depending upon the circumstances regarding the CAESS inoperability or abandonment, the Town Board may issue a Notice of Operational Cessation or Abandonment to the owner/operator. The owner/operator shall have thirty (30) calendar days from the date of the Notice to submit a written response detailing the reasons for the operational cessation or abandonment and providing a comprehensive Active Restoration Plan. This plan shall include a reasonable timeline for corrective action to restore operations. This plan must demonstrate a good-faith effort to return the CAESS to functional status, or alternatively, propose to commence decommissioning in accordance with the approved decommissioning plan.

c. Review and Approval of Active Restoration Plan. The Town Board, acting reasonably and in good faith, and in coordination with and consistent with all applicable local, county, state, and federal laws, regulations, agencies, and agency approvals, may reject or modify any proposed Active Restoration Plan or timeline provided by the owner/operator. The Town Board may not unreasonably withhold its approval of the Active Restoration Plan or, in modifying the proposed Active Restoration Plan, may not implement constraints such that CAESS restoration becomes impracticable. The owner/operator shall diligently pursue the agreed-upon Active Restoration Plan.

d. Violation**.** Failure to respond to the Notice, provide an acceptable Active Restoration Plan, diligently adhere to an approved timeline, or demonstrably fail to restore operations as required by the approved plan, shall constitute a violation of this Law, subject to enforcement as provided by Town Law and this zoning law.

e. Abandonment Determination. Should the CAESS remain non-functional or inoperative for a period of twelve (12) months following the approval of an Active Restoration Plan or eighteen (18) months from the date of the Town Board's denial of an Active Restoration Plan), and absent compelling circumstances demonstrated by the owner/operator, it may then be deemed abandoned and constitute a public nuisance, presenting a potential health and safety risk.

2. Decommissioning Order. Any Decommissioning Order issued by the Town Board concerning a CAESS shall be made and executed in coordination with, and consistent with, all applicable local, county, state, and federal laws, regulations, and agency approvals. The Town Board may issue such an Order under any of the following circumstances:

a. Abandonment. The CAESS has been deemed abandoned in accordance with subsection 1.e. above.

b. Permit Termination. Lawful revocation of local, county, state or federal permits due to non-compliance with their approvals, associated conditions and applicable laws and regulations.

c. End of Useful Life. The CAESS has reached the end of its projected operational lifespan as defined in its approved plans, and no new approval(s) for continued operation are being sought or have been granted.

d. Imminent Hazard. The CAESS is found to pose an imminent and unmitigable threat to public health, safety, or the environment, as determined by a Professional Engineer, and the owner/operator has failed to promptly and effectively address the hazard as directed by the Town Board or other regulatory agencies.

e. Insolvency. The owner/operator declares bankruptcy or becomes insolvent, and no successor entity assumes responsibility for the CAESS's operation and decommissioning obligations.

3. **Removal Obligation.** Within sixty (60) days of the issuance of a Decommissioning Order, and where the removal of the CAESS is required, the owner/operator shall physically remove the CAESS pursuant to the approved decommissioning plan within the timeframe identified in the approved Decommissioning Plan in coordination with applicable approvals, laws, regulations and agencies. This period may be extended at the discretion of the Town Board. If the owner/operator fails to respond or remove the system, the Town Board may utilize the Financial Assurance to remove the system and restore the site. Any unrecovered costs incurred by the Town shall constitute a lien against the property, enforceable in the same manner as unpaid real property taxes.

L. General Provisions

1. The Town Board will consult with any local, county, state, or federal agency during its review of a proposed CAESS.

2. Enforcement. In addition to the provisions of Section820(K), (Decommissioning and Abandonment), any violation of this Section, or any condition or requirement imposed hereunder, shall be subject to the enforcement remedies, penalties, and procedures as fully set forth in Article XIII, (Administration and Enforcement) of the Town of Croghan Zoning Law, and pursuant to the applicable provisions of New York State Town Law.

3. The Town Board retains the authority to waive any enumerated application requirement, or portion thereof, if it is formally determined that such requirement is not essential or applicable to the review of a specific application. Any such waiver shall be documented by written findings, detailing the basis for the determination of non-applicability, which findings shall be formally incorporated into the official Town Board meeting minutes.

SECTION 8. BATTERY ENERGY STORAGE SYSTEMS

Article X, (Section 1060. Battery Storage Energy Systems) (D)(10)(ii) of the Town of Croghan Zoning Law is hereby amended to read as follows:

(ii) Height. The maximum height of structures dedicated to Tier 2 Battery Energy Storage Systems shall be 30 feet, excluding poles and associated lines involved in connecting to existing transmission lines.

SECTION 9. MEDIUM-SCALE SOLAR ENERGY SYSTEMS

Article XI, (Section 1140. Medium-Scale Solar Energy Systems) (M)(3) of the Town of Croghan Zoning Law is hereby amended to read as follows:

3. Fencing. All Medium-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access and ensure public safety. Fencing shall comply with the following standards:

   i. Security and Safety.
   Fencing shall fully enclose the solar facility and include a lockable access gate. Warning signs displaying the current owner's or operator's contact information shall be posted at all entrances and at reasonable intervals along the perimeter.

   ii. Fencing Material.
   The type, height, and design of the fencing shall be reviewed and approved by the Town Board as part of site plan review. In general, chain-link fencing may be used for standard security purposes; however, where agrivoltaic uses are proposed (e.g., livestock grazing or crop cultivation), the use of agricultural fencing (e.g., woven wire, high-tensile, post-and-rail, or other farm-appropriate materials) may be allowed in lieu of chain-link, subject to the following considerations:

      a. Fencing must be adequate to protect public safety while facilitating ongoing agricultural use;

      b. Placement and height shall accommodate access for farm operations (e.g., gates, tractor access);

      c. Electrified fencing shall include clear warning signage and follow applicable safety standards.

   iii. Design Compatibility.
   Fencing shall be designed to minimize visual intrusion on neighboring properties and roadways. The Town Board may require screening or vegetative buffers where fencing is visually prominent.

   iv. Prohibited Uses.
   Fencing and any part of the solar energy system shall not be used for advertising or promotional signage of any kind.

SECTION 10. MEDIUM-SCALE SOLAR ENERGY SYSTEMS

Article XI, Section 1180(C), (Agrivoltaics) of the Town of Croghan Zoning Law is hereby repealed in its entirety and a new Section 1190 is hereby established to read as follows:

Section 1190. Agrivoltaics

The Town of Croghan recognizes that farming and agriculture are foundational to the community's identity and critical to New York State's long-standing environmental and land stewardship goals. The Town further acknowledges that solar energy development should be compatible with, not in conflict

with, agricultural uses. To promote land-use synergy, the Town encourages applicants for Large-Scale Solar Energy Systems to incorporate agrivoltaic principles into project siting and design. This approach reflects the Town's interest in maximizing community benefit, sustaining working landscapes, and supporting the next generation of farmers and tradespeople as part of a just energy transition.

Agrivoltaics refers to the co-location of solar energy production and agricultural activities. Integration of such practices can help mitigate farmland loss, preserve rural character, and generate year-round productivity from land used for solar development. The Town encourages:

A. Host Community Agreements to include provisions that support agrivoltaic initiatives. Agrivoltaic initiatives may include:

    1. Fruit or vegetable cultivation beneath and/or adjacent to solar panels;

    2. Integration of grazing livestock or rotational forage crops;

    3. Pollinator-friendly native plantings that support regional agriculture and biodiversity;

    4. Use of elevated panel designs or strategic spacing that maintains sufficient light and access for farming beneath solar arrays;

    5. Partnerships with local farms or beginning farmers for land access and agricultural programming.

B. Workforce development opportunities connected to solar installation, maintenance, and agricultural co-use, including:

    1. Collaborations with local schools, BOCES, or colleges to support career and technical education in renewable energy, agriscience, and land stewardship.

    2. Internship or apprenticeship opportunities for local students and new entrants to agriculture or clean energy careers.

C. Supply chain planning that strengthens the local and regional economy by sourcing materials, equipment, or services from vendors within Lewis County or neighboring communities, where feasible.

D. Land access strategies that provide opportunities for beginning farmers, including land-sharing agreements, transitional grazing, or training partnerships.

SECTION 11. CONSULTANT FEES; ESCROW ACCOUNTS

The Town of Croghan Zoning Law is hereby amended by adding a new Article XIV to read as follows:

Section 1410. Consultant Fees; Escrow Accounts Authority to Retain Consultants. The Town of Croghan Town Board, Zoning Board of Appeals, Code Enforcement Officer, or Zoning Enforcement Officer (collectively, "Reviewing Authority") may retain engineering, planning, legal, technical, environmental, and other professional consultants ("consultant services") deemed reasonably necessary to assist in the review of applications, and in the inspection and approval of any installations, infrastructure, or improvements following final approval.

A. Applicant Reimbursement and Escrow. The applicant shall reimburse the Town of Croghan for the cost of

such consultant services. As soon as possible after submission of any application that will require consultant services, an escrow account shall be established, from which withdrawals shall be made to reimburse the Town for the costs of consultant services. The initial and any additional deposit amounts shall be determined by the Town Board based on the specific fee schedule of the retained professional(s) and the nature and complexity of the application. The applicant shall be notified of the required amounts, which will be provided to the Town and deposited into the escrow account. The consultants shall provide the Town with detailed invoices showing the services rendered for the time period billed, and the Town shall provide the applicant with an opportunity to review said invoices prior to payment.

B. Escrow Replenishment and Suspension of Review. When the escrow account balance falls to one-third (1/3) of its initial amount, the Town shall notify the applicant, who must replenish the account to the initial deposit within ten (10) business days. Failure to replenish may result in the suspension of the application review by the Reviewing Authority.

C. Final Payment and Refund. No building permit, certificate of occupancy, or other permit or approval shall be issued until all professional review fees have been fully reimbursed to the Town. Upon project approval or denial, or once all required inspections are completed and deemed satisfactory, any remaining balance in the escrow account, after final audit and payment of consultant fees, shall be refunded to the applicant. A computation of expended sums will be provided to the applicant.

D. Fee Collection. All fees required under this Law shall be collected by the Town through its bookkeeper or Town Clerk.

SECTION 12. SEVERABILITY.

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgement shall have been rendered, and the remaining provisions shall remain in full force and effect.

SECTION 13. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the Secretary of State in accordance with New York State Home Rule Law.