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New York State  
Department of State  
DIVISION OF CORPORATIONS,  
STATE RECORDS AND  
UNIFORM COMMERCIAL CODE  
One Commerce Plaza  
99 Washington Ave.  
Albany, NY 12231-0001  
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**Local Law Filing**

Pursuant to Municipal Home Rule Law §27

Local Law Number ascribed by the legislative body of the local government listed below:

1 of the year 2025

Local Law Title:

TOWN OF LEWIS LAND USE LAW

SEE ATTACHED

Be it enacted by the TOWN BOARD of the  
*(Name of Legislative Body)*

County     City     Town     Village  
*(Select one)*

of LEWIS as follows on the attached pages:  
*(Name of Local Government)*

**For Office Use Only**

FILED  
STATE RECORDS  
SEP 29 2025  
DEPARTMENT OF STATE

Department of State Local Law Index Number: 1 of the year 20 25

(The local law number assigned by the Department of State for indexing purposes may be different from the local law number ascribed by the legislative body of the local government.)

# Local Law Filing

(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 ascribed as local law number 1 of 20 25 of the (County)(City)(~~Town~~)(Village) of LEWIS was duly passed by the TOWN BOARD on JULY 21 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, ascribed as local law number \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_ and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_ in accordance with the applicable provisions of law.

(Name of Legislative Body)

(Elective Chief Executive Officer\*)

## 3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, ascribed as local law number \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_ and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was 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.

(Name of Legislative Body)

(Elective Chief Executive Officer\*)

## 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, ascribed as local law number \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_ and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_ in accordance with the applicable provisions of law.

(Name of Legislative Body)

(Elective Chief Executive Officer\*)

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

# Local Law Filing

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

I hereby certify that the local law annexed hereto, ascribed as local law number \_\_\_\_\_ of 20 \_\_\_\_ of the City of \_\_\_\_\_ having 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 thereto, ascribed as local law number \_\_\_\_\_ 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 the paragraph \_\_\_\_\_ above.

(Seal)

\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

September 23, 2025

\_\_\_\_\_  
(Date)

# **TOWN OF LEWIS LAND USE LAW**

**ADOPTED JULY 21, 2025**

**Local Law No. 1 of 2025**

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## **ARTICLE 1 – TITLE AND APPLICATION**

### **1.1 Official Title**

The official title of this law is “Town of Lewis Land Use Law.” As used in this document, it will be referred to as the “local law.”

### **1.2 Purpose**

The purpose of this local law is to:

1. Provide for the controlled growth of residential, commercial, and industrial uses of land consistent with the economic and social needs of the community without interfering with existing land use.
2. Preserve our rural character and protect our residential neighborhoods and property values.
3. Promote the health, safety, and general welfare of the community consistent with the objectives of Section 263 of the Town Law.
4. Be aware of and be consistent with the goals and policies common to adjacent communities.

### **1.3 Application**

This local law shall apply to all property within the Town of Lewis.

### **1.4 Preexisting Use of Property Which Would Comply With This Local Law**

The use of property in existence on the effective date of this local law which is in compliance with all previous applicable laws and which would also comply with the terms of this local law may continue. Any changes or modifications to such use must also conform to this local law.

### **1.5 Preexisting Use of Property Which Would Not Comply With This Local Law**

The use of property in existence on the effective date of this local law which otherwise complies with all applicable laws but which would not be permitted as a matter of right by the terms of this local law shall be considered nonconforming and subject to the provisions applicable to nonconformities set forth in Article 18 of this local law.

### **1.6 Preexisting Development of Property**

The development of property which started prior to the effective date of this local law and which complied with all applicable laws and permits may be completed provided that such completion takes place within any time periods otherwise applicable to such development, and if no time periods are specified, no later than one year from the effective date of this local law. The development of property which started prior to the effective date of this local law and which will not be completed within the above time frames shall comply with the requirements of this local law.

## **ARTICLE 2 – LAND USE DISTRICTS**

### **2.1 Establishment of Land Use Districts**

For the purpose of this law, the Town of Lewis is hereby composed of the following land use districts:

**CF Core Forest.** The areas within this district are a part of the large, contiguous, central portion of Tug Hill

characterized by forest cover, few public roads, headwater areas of major streams, and concentrations of wetlands. They contain no permanent residences and some seasonal residences. This district is intended to maintain the character of this land with dense vegetation, the resulting animal life, and pure water resources for creeks and streams.

**AF Agricultural/Forest.** The areas within this district are generally used for agricultural activities. Most of the land is open in character with some scattered spots of forest, wetland, and residential use. This district is intended to maintain the working land character.

**RR Rural Residential.** The areas within this district are sparsely settled, but generally accessible by county and town highways. Some forest and agricultural uses may be present. This district is intended to allow growth, but to limit interference with forest and agricultural uses.

**H Hamlet.** The areas within this district are now developed to some extent and include low and medium density residential uses with some commercial and institutional uses. This district is intended to keep uses compatible while maintaining and protecting existing resources.

**LLSO Large Scale Solar Overlay.** The large scale solar 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. It should be noted that this solar 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.

## 2.2 Land Use District Map

The land use districts are shown, defined and bounded on the map accompanying this law entitled "Land Use District Map," dated \_\_\_\_\_. This land use district map is hereby made a part of this law, and shall be on file in the office of the town clerk.

## 2.3 Interpretation of Land Use District Boundaries

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

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

## 2.4 Metes-and-Bounds Descriptions

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

## ARTICLE 3 -- DEFINITIONS

### 3.1 General

Except where specifically defined herein, all words used in this law carry their customary meanings. Words in the present tense include the future, words in the singular include the plural and the plural the singular, and the word "shall" indicates a mandate.

### 3.2 Specific Definitions

**Accessory Structure:** A detached structure which is of secondary importance to the principal structure of the lot and which is not used for human occupancy.

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

**Advertising Sign:** See *Sign, Advertising*.

**Airstrip:** Any facility for the purpose of engaging aircraft to flight including necessary facilities for the housing and maintenance of aircraft.

**Agricultural Structure:** Barns, storage buildings, equipment sheds, and other structures customarily used for agricultural purposes.

**Agricultural/Forest District:** Areas not adjacent to existing permanent roads in which uses require a minimum of five acres of land with a minimum lot width of 200 feet (if landlocked) or a minimum road frontage of 200 feet along seasonal or private roads.

**Agricultural Use:** The raising of crops, animals or animal products, limited forestry, and any other commonly accepted agricultural operations. Incidental mechanical processing and sale of products grown on the premises and the sawing of timber grown on the premises are included in the definition.

**Antenna:** A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, and microwave communications. The frequency of these waves generally range from 10 hertz to 300,000 megahertz.

**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 System:** One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle.

**Battery Energy Storage Systems, Small:** A battery energy storage system that has an aggregate energy capacity less than or equal to 600 kWh and, if in a room or enclosed area, consists of only a single energy storage system technology.

**Battery Energy Storage System, Large:** A battery energy storage system that has an aggregate energy capacity greater than 600 kWh or is comprised of more than one storage battery technology in a room or enclosed area.

**Bed and Breakfast:** See *Tourist Home*.

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

**Building Line, Front:** A line parallel to the front lot line touching that part of a structure closest to the front lot line.

**Building Line, Rear:** A line parallel to the rear lot line touching that part of a structure closest to the rear lot line.

**Building Line, Side:** A line parallel to a side lot line touching that part of a structure closest to a side lot line.

**Camp:** A building used as a temporary group living quarters for recreational purposes.

**Campground:** Any lot on which are located two or more cabins, recreational camping vehicles, tents, shelters, or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes which is operated for commercial purposes.

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

**Commercial Use:** Any use involving the sale, rental, or distribution of goods and/or services, either retail or wholesale.

**Core Forest:** An area, within the Fish Creek and Salmon River watersheds, in which uses require a minimum of 40 acres of land with a lot width to lot depth ratio of at least 1:3. This area may include 1) government owned lands, 2) commercial forest lands, 3) lands subject to conservation easements, and 4) privately owned lands which have been voluntarily included.

**Corner Lot:** A lot abutting upon two or more roads at their intersection or upon two parts of the same road forming an interior angle of less than 135 degrees.

**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:

- a. The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
- b. No other occupancy types are permitted in the building.
- c. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
- d. Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following: (1) The area do not occupy more than ten percent of the building area of the story in which they are located; (2) A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to travers through areas containing battery energy storage systems or other energy system equipment.

**Directional Sign:** See *Sign, Directional*.

**Dwelling:** A building designed for human habitation, including a manufactured home.

**Dwelling, Multi-Family:** See *Multi-Family Dwelling*.

**Dwelling, Single Family:** See *Single Family Dwelling*.

**Dwelling, Two Family:** See *Two Family Dwelling*.

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

**Education Facility:** Any public or private school.

**Enforcement Officer:** An individual designated by the town board to represent them in matters pertaining to this law.

**Excavation:** The extraction of more than 1,000 tons within a calendar year of stone, sand, gravel, or topsoil for sale, as an industrial or commercial operation, not including the process of grading a lot preparatory to the construction of a building or structure which has an approved permit.

**Family:** A family is one or more persons limited to the spouse, parents, grandparents, grandchildren, sons, daughters, brothers, sisters, nieces, nephews, cousins, foster children or legal wards of the owner, or the tenant of the owners of tenant's spouse, living together as a single housekeeping unit with kitchen facilities. In addition, a family may include up to three other persons not related by blood or marriage.

**Forestry:** The harvesting/management of timber tracts, tree farms, forest nurseries, or performing forest services.

**Front Building Line:** See *Building Line, Front*.

**Front Setback:** See *Setback, Front*.

**Front Lot Line:** See *Lot Line, Front*.

**Frontage, Lot:** See *Lot Frontage*.

**Group Home:** Four or more nonfamily members living together as a single housekeeping unit sharing kitchen facilities.

**Halfway Home:** Four or more nonfamily members living together in a state regulated home or facility for persons in need of supervision, or for persons recovering from drug or alcohol addiction, which provides rehabilitative and/or support services for the residents.

**Home-based Business:** A nonresidential activity conducted for financial gain that is clearly incidental and secondary to a residential use; and meets one or more of the following criteria:

- a. one or more nonresidents are employed;
- b. total floor area devoted to retail sales exceeds 500 square feet;
- c. two or more customer, client or delivery vehicles are present on the site at one time.

Home-based business activities below the thresholds established above are exempt from the provisions of this law. Home based business activities not meeting the requirements of Section 12.10 of this law may be classified as a commercial use.

**Hunting Camp:** See *Recreational Use*.

**Industrial Use:** Any use involving the act of storing, preparing for treatment, manufacturing or assembling any article, substance or commodity.

**Land Use Law:** Law that regulates land use in the Town.

**Land Use Permit:** Written authorization issued by the enforcement officer for the establishment of any land use or structure.

**Lot:** A parcel of land that consists of one or more contiguous lots of record. If a public or private road right-of-way or a municipal boundary divides a parcel of land otherwise characterized as a lot by this definition, then the land on either side of this division shall constitute a separate lot.

**Lot Area:** The total horizontal area included within the lot lines of a lot.

**Lot Depth:** The average distance measured from the front lot line to the rear lot line.

**Lot Frontage:** The length of the front lot line measured at the road right-of-way line or shoreline.

**Lot Line, Front:** A right-of-way line of a public road or a shoreline as dedicated by a deed or record. Where a right of-way is not established or is irregularly shaped, the front lot line shall be considered to be a line parallel to and 25 feet from the centerline of the road pavement of county and town roads or 35 feet from the centerline of the road pavement of state roads.

**Lot Line, Rear:** The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

**Lot Line, Side:** Any lot line other than a front or rear lot line.

**Lot, Corner:** See *Corner Lot*.

**Lot, Through:** See *Through Lot*.

**Lot of Record:** A lot which is a parcel of land or which is part of a subdivision approved and recorded in the office of the county clerk.

**Mature Forest:** Any unimproved land over one acre with trees that are predominantly six inches in diameter or greater.

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

**Manufactured Home:** A structure, transportable in one or more sections, which is at least 8 feet in width and 32 feet in length, which is built on a permanent chassis and designed to be used as a dwelling unit, 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 term shall not 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.

**Multi-Family Dwelling:** A building containing three or more dwelling units and occupied by three or more families.

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

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

**One Hundred Year Storm:** A storm having a one percent chance of being equaled or exceeded in any given year, as determined by the National Weather Service, Albany.

**Overlay District:** A district that encompasses one or more underlying districts and that imposes additional requirements above that required by the underlying district.

**Permanent Road:** *See Road, Permanent.*

**Permit, Land Use:** *See Land Use Permit.*

**Person:** Any individual, corporation, partnership, association, trustee, or other legal non-government entity.

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

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

**Public Facility:** Any one or more of the following uses, including grounds and accessory buildings necessary for their use: religious institutions; public parks, playgrounds and recreational areas; schools; public libraries; fire, ambulance and public safety buildings; and public meeting halls and community centers.

**Public Utility:** A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare.

**Rear Building Line:** *See Building Line, Rear.*

**Rear Setback:** *See Setback, Rear.*

**Rear Lot Line:** *See Lot Line, Rear.*

**Recreational Camping Vehicle:** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel or recreational uses.

**Recreational Use:** Any use involving the conduct of sports and leisure time activities.

**Religious Facility:** A building or buildings used as a church, synagogue or temple and accessory uses, but not including parish houses.

**Residential Structure:** A structure containing a dwelling unit.

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

**Road Line:** A right-of-way line of a public road as dedicated by a deed or record. Where a right-of-way is not established or is irregularly shaped, the road line shall be considered to be a line parallel to and 25 feet from the centerline of the road pavement of county and town roads or 35 feet from the centerline of the road pavement of state roads.

**Road, Permanent:** Any public road that is maintained for 12 months of the year by the Town of Lewis, the County of Lewis, or New York State as of January 1, 1999.

**Rural Residential:** Areas adjacent to existing permanent roads as indicated on the current zoning map in which uses require a minimum of three acres of land with a minimum road frontage of 200 feet and a minimum lot depth of 400 feet.

**Setback, Front:** The distance between a front building line and a front lot line *or* the distance between a front building line and the center line of the road pavement.

**Setback, Rear:** The distance between a rear building line and a rear lot line.

**Setback, Side:** The distance between a side building line and a side lot line.

**Shoreline:** The mean high water line of a body of water.

**Side Building Line:** See *Building Line, Side*.

**Side Setback:** See *Setback, Side*.

**Side Lot Line:** See *Lot Line, Side*.

**Sign:** Any device, structure, or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others, but not including any flag, badge, or insignia of any public, quasi-public, civic, charitable, or religious groups.

**Sign, Advertising:** A sign which is designated solely for advertising a service or product.

**Sign, Directional:** Off-site signs for the sole purpose of indicating directions to businesses and other establishments within the town.

**Sign, Temporary:** Any sign which is placed for two weeks or less which advertises an event of three days or less.

**Single Family Dwelling:** A building containing only one dwelling unit, and occupied by only one family.

**Social Institution:** Any building used by an organization for meetings and/or gatherings.

**Solar Collector:** A solar photovoltaic cell, panel, or array or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

**Solar Energy Equipment:** Solar collectors, controls, energy storage devices, heat pumps, heat exchangers/inverters, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic, and passive solar.

**Solar Energy System:** An electrical generating system composed of a combination of both solar panels and solar energy equipment.

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

the roof. Some examples of BIPV systems include glass and other façade material, semitransparent skylight systems, roofing materials, and shading over windows.

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

**Solar Energy System, Ground-Mounted (Free Standing):** A solar energy system that is affixed to the ground either directly or by support structures or other mounting devices and that is not attached or affixed to an existing structure. Each contiguous structure is considered an accessory structure within this law. Pole-mounted solar energy systems shall be considered ground-mounted solar energy systems.

**Solar Energy System, Large:** Any solar energy system that cumulatively on a lot meets one of the following provisions:

- a. Is intended to supply electricity principally into a utility grid for the purpose of off-site sale or consumption, or
- b. Has a total ground surface area of greater than 4,000 square feet.

**Solar Energy System, Small:** Any roof mounted, building integrated, or ground mounted solar energy system that has an accessory use and cumulatively on a lot meets all of the following provisions:

- a. Is an accessory use or structure designed and intended to generate energy primarily for a principal agricultural, commercial, or residential use located on site.
- b. Has a total ground surface area no greater than 4,000 square feet.

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

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

**Temporary Sign:** See *Sign, Temporary*.

**Through Lot:** A lot having frontage on two parallel or converging public roads or shorelines other than a corner lot.

**Tourist Home/Bed and Breakfast:** A dwelling in which overnight accommodations are provided or offered for transient guests for compensation, but such use is secondary to the occupancy of the dwelling by a family.

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

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

**Utility Service Structure:** Telephone dial equipment centers; electrical or gas substations; water treatment, storage and transmission facilities; pumping stations; and similar facilities.

**Voluntary Collective Residence:** Four or more nonfamily members living together with an individual head of household or family for the purpose of providing a supportive living environment to persons recovering from drug or alcohol addiction.

**Waterborne:** Supported or carried by water.

**Wind Power Generating Facilities:** Wind generating facilities which generate original power on site to be transferred to a transmission system for distribution to customers. The definition of wind power generating facilities shall not include individual wind power generating facilities erected and used primarily for private use.

**Wind Power Overlay:** An area approved by the town board and designated on the land use map where wind power generating facilities are permitted.

## **ARTICLE 4 -- ADMINISTRATION AND ENFORCEMENT**

### **4.1 Applications for Land Use Permits**

1. Applications for land use permits shall be submitted to the Enforcement Officer or Town Clerk and shall include a layout or plot plan showing the actual dimensions of the lot to be used; the size and location on the lot of existing and proposed structures and accessory structures; the distance from the building line to all lot lines, road lines, waterfront property lines, streams, and any other features of the lot; and such other information as may be necessary to determine and provide for the enforcement of this law. This information, and other relevant application data, shall be provided on forms issued by the Town Clerk. The applicant(s) shall be all owners of the lot to be developed and shall provide a notarized statement of such.
2. Within ten days of the receipt of a completed application by the Town Clerk or Enforcement Officer and the payment of all required fees, the enforcement officer shall take action to approve or disapprove the application.

### **4.2 Certification of Land Use Permit**

No development shall take place within the town unless the Enforcement Officer has certified in writing that such development complies with the provisions of this law. The form of the certification shall read as follows: *The undersigned has reviewed the plans for development of the subject property and states that such plans are in compliance with the Town of Lewis Land Use Law and of the terms and conditions of any special authorization issued pursuant to such law.*

### **4.3 Expiration of Land Use Permit**

A land use permit issued under this law shall expire one year from the date of issue if construction is not substantially started.

### **4.4 Authority of Town Officials and Boards**

The general administration of this law shall be divided among the Enforcement Officer, Planning Board, Board of Appeals, and Town Board as set forth in this article. Such parties may adopt regulations designed to govern the procedures to be followed for the submission of all applications within their respective authority, including the development of administrative forms, submission documents, and filing fees.

#### **4.4 A Planning Board**

A Planning Board is hereby created pursuant to Town Law Section 271. The Board shall prescribe rules for the conduct of its affairs. The Board shall have the power to approve site plans. All applications for approval shall be made and reviewed in compliance with the administrative regulations established by the Planning Board pursuant to Town Law Sections 274-a, 274-b, and 265. All applications made shall be made in writing on forms prescribed by the Town. Every decision of the Planning Board shall be made by resolution which shall contain a full record of findings in the case.

#### **4.4 B Board of Appeals**

A Board of Appeals is hereby created pursuant to Town Law Section 267. The Board shall prescribe rules for the conduct of its affairs. The Board shall have the power to interpret appealed orders, requirements, decisions or determinations made by the Enforcement Officer; and grant use and area variances. All applications for appeals shall be made and reviewed in compliance with the administrative regulations established by the Board of Appeals pursuant to Town Law Section 267. All applications made shall be made in writing on forms prescribed by the Town. Every decision of the Board of Appeals shall be made by resolution which shall contain a full record of findings in the case.

#### **4.5 Enforcement Officer**

The Enforcement Officer shall be responsible for the issuance of certifications that any development complies with the provisions of this law, including the terms and conditions of any special authorization. Where there is a disagreement with any determination made by the Enforcement Officer as hereinabove referred to, an application may be filed by either the Enforcement Officer or other interested party with the Board of Appeals requesting a review of the Enforcement Officer's determination. The Enforcement Officer shall make such inspections as necessary to assure compliance with this law. It shall be the responsibility of the permit applicant to arrange inspections prior to permit issuance. The Town Board shall appoint an Enforcement Officer who shall have the authority to issue permits only in strict compliance with this law, and shall have no authority to vary the requirements except under appeal procedures prescribed by the Board of Appeals.

#### **4.6 Violations**

Any person may file a signed complaint when a violation of this law is suspected. All complaints must be in writing and shall be filed with the Town Clerk who shall immediately notify the Enforcement Officer. If a violation is found to exist, the Enforcement Officer shall order the violation to cease. Where uncertainty exists, an interpretation from the Board of Appeals shall determine if a violation exists. The cost of the hearing shall be paid by the Town. Upon the failure of a violation to be remedied, the Enforcement Officer shall file a complaint with the Town Justice, who shall issue a summons and institute proceedings according to the Criminal Procedure Law.

#### **4.7 Penalties**

A violation of this law shall be an offense, punishable by a fine not exceeding \$250 or imprisonment for a period not to exceed six months, or both, in accordance with the provisions of Section 268 of Article 16 of the Town Law, and amendments thereto, and any other statute relating thereto. Each week's continued violation shall constitute a separate additional violation. Compliance with this law may also be compelled and violations restrained by order of injunction of a court of competent jurisdiction.

### **ARTICLE 5 -- PERMITTED USES**

#### **5.1 General**

None of the following activities shall be carried out until a land use permit has been issued:

1. The erection, re-erection, or movement of a building or structure.
2. The enlargement or reduction of the ground coverage and/or exterior structural dimensions of a building or structure.
3. The institution, expansion or enlargement of a use or service.
4. The placement of a sign (as regulated in Article 9).
5. The installation of utility service structures.

6. Demolition of building or structure.

## **5.2 Land Use Permits**

Land use permits for the following uses shall be issued by the Enforcement Officer when the applicant has satisfactorily met all the application requirements of this law:

1. single-family and two-family dwellings, manufactured homes, and camps
2. agricultural structures and uses
3. home-based businesses
4. accessory structures for above uses
5. installation or replacement of sewage and wastewater disposal treatment

## **5.3 Exempt Uses and Structures**

A land use permit shall not be required for:

1. Any nonstructural agricultural or forestry use.
2. Accessory structures with less than 150 square feet of ground coverage (see Article 12.11).
3. Exempt signs listed in Article 9.4 of this law.
4. Fences, walls, or hedges (see Article 10.5).
5. Interior structural alterations. Likewise, no land use permit is needed for routine exterior maintenance and improvement.
6. Minor accessory structures such as posts, sidewalks and steps, driveways, mailboxes, clothes poles, footbridges, antennas under 50 feet in height, flagpoles, playground equipment, handicapped ramps, etc.
7. Any excavation of less than 1,000 tons of material within a calendar year.
8. Lawful nonresidential activities which are not defined as home-based businesses.
9. Seasonal residential yard sales.

## **5.4 Temporary Land Use Permits**

1. Temporary land use permits may be issued by the Enforcement Officer for a period of six months. Such permits are conditioned upon agreement by the owner or operator to remove any nonconforming structure or equipment upon expiration of the temporary land use permit. Such permit may be renewed one time for a period of six months.
2. Temporary land use permits may be issued in the following circumstances:
  - a. for one interim dwelling on an individual lot during the construction of a single-family dwelling on such lot;
  - b. for one emergency dwelling on an individual lot, when the need for such dwelling resulted from the loss by flood, fire, or other disaster of an existing dwelling within the town.
3. All interim or emergency dwellings shall meet appropriate health standards.

## **5.5 Hamlet District Regulations**

1. Notwithstanding the provisions of Section 5.2 and Section 6.3 of this law, uses allowed in the Hamlet district shall be limited to, and be subject to the provisions of this section.
2. The following allowed uses shall require a land use permit:
  - a. single and two-family dwellings

- b. home based businesses

3. The following allowed uses shall require a land use permit and a site plan approval:

- a. commercial uses
- b. multifamily dwellings
- c. public and semi-public facilities including:
  - i. educational facilities
  - ii. religious facilities
  - iii. recreational facilities

4. Single-section (single-wide) manufactured homes are prohibited.

## **ARTICLE 5A -- USES NOT ALLOWED IN ANY LAND USE DISTRICT**

The following uses are not allowed in any land use district: landfills, incinerators, nuclear waste processing or storage facilities, solid waste transfer station sites (with the exception of the Town of Lewis transfer site), medical waste treatment facilities, construction and demolition debris processing or landfilling of materials other than topsoil, earth, sand, gravel or rock.

## **ARTICLE 6 -- SITE PLAN REVIEW**

### **6.1 Authority**

Pursuant to authority delegated in accordance with Section 274-a of the Town Law of the State of New York, the Town Board hereby authorizes the Town Planning Board to review and approve site plans.

### **6.2 Applicability**

Before starting development of structures or uses included in the following list at any location within the town, the developer shall submit a site plan together with any supporting data for review and approval in accordance with the standards and procedures set forth in this local law and applicable administrative regulations. No permit shall be issued by the Enforcement Officer, except upon authorization by and in conformity with an approved site plan after review and approval by the Town Planning Board.

### **6.3 Activities Requiring Site Plan Approval**

All land use activities on the following list shall require site plan approval by the Planning Board:

1. any use involving the alteration of three or more acres of land excluding customary agricultural uses such as pasturing and crop raising,
2. travel trailer parks and campgrounds,
3. manufactured home parks,
4. all non-residential uses,
5. multi-family dwellings,
6. uses located within a designated flood plain or wetland,
7. group homes,
8. rooming houses,
9. tourist homes,
10. voluntary collective residences,

11. halfway homes,
12. airstrips,
13. mines,
14. telecommunication towers

#### **6.4 Findings**

Where applicable and appropriate, the Planning Board shall address the following findings in the approval of site plans:

1. Applicable regulations and other general and special controls contained in this local law are complied with.
2. There will be no adverse impact upon the character or integrity of any land use within the immediate vicinity having unique cultural, historical, architectural, or similar significance.
3. The development will be in harmony with the natural environment.
4. Adequate acreage and adequately designed open space, drainage facilities, landscaping, and other features considered appropriate to the function of the development shall be provided.
5. Traffic controls for vehicular and pedestrian movement are designed to protect the safety of the general public and the occupants, employees, attendants, and other persons for whose benefit the use is intended. In making this determination, the Planning Board shall review, but need not be limited to the following considerations:
  - a. Location and adequacy of parking and loading facilities;
  - b. Pedestrian right-of-way;
  - c. Traffic regulatory devices;
  - d. Location, number, and design of points of ingress and egress;
  - e. Accessibility to emergency vehicles with particular emphasis on proximity to structures, no parking or no loading zones or areas, and provision for turning and free movement;
  - f. Storage facilities for snow;
  - g. Age and mobility of persons for whose benefit the use is intended;
  - h. Speed limits upon and general character of public highways in close proximity.
6. The proposed use will have adequate supporting facilities such as fire and police protection, public and private utilities, and all other supporting governmental services necessary and appropriate to the proposed use.

#### **6.5 Criteria**

In making a determination as to the compliance with any one or more of the findings and conditions specified in this article, consideration shall be given but need not be limited to the following elements:

1. Geometric characteristics of all structures and related improvements;
2. Design characteristics;
3. Physical attributes of the site, including size, shape, elevation, topography, and natural vegetation.

The Planning Board may approve any application subject to conditions they feel are necessary and reasonable.

## **ARTICLE 7 – PLANNING BOARD REVIEW AND APPROVAL**

### **7.1 Application**

The Enforcement Officer shall refer any application for a land use permit which requires a site plan review to the Planning Board. An application for a site plan review shall be filed with the Planning Board at least ten days before a regularly scheduled Planning Board meeting, and the appropriate fee as determined by the fee schedule adopted by Town Board resolution shall be paid to the Town Clerk. Six copies of the application and site plans shall be

provided which may include some of the following requirements which will be determined by the Enforcement Officer:

1. Name and address of applicant and owner, if different, and of the person responsible for preparation of drawings;
2. Date, north arrow, written and graphic scale;
3. Boundaries of the site plotted to scale, including distances, bearings, and areas;
4. Locator map showing the site in relationship to the town;
5. Location and ownership of all adjacent lands as shown on the latest tax records;
6. Location of all land use district boundaries;
7. Location, name, jurisdiction and width of adjacent roads;
8. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use or adjoining the property;
9. Complete outline of existing or proposed deed restrictions or covenants applying to the property;
10. Existing hydrologic features together with a grading and drainage plan showing existing and proposed contours at a maximum of five foot intervals;
11. Location, proposed use, and height and dimensions of all buildings including the number and distribution by type of all proposed dwelling units, and the designation of the amount of gross floor area and gross leasable area proposed for retail sales and services, office and other commercial or industrial activities;
12. Location and design of all parking and loading areas, access and egress drives, fire lanes and emergency access areas;
13. Provision for pedestrian access, including public and private sidewalks;
14. Location of outdoor storage;
15. Location and design of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences;
16. Description of the method of securing water supply and disposing of sewage, and the location and design of such facilities;
17. Location and design of all energy distribution facilities, including electrical, gas, and solar energy;
18. Location, size and design of all proposed signs;
19. Location and design of outdoor lighting facilities;
20. General landscaping plan and planting schedule, including the location and proposed development of all buffer areas;
21. Erosion and sediment control plan conforming to the standards and practices contained in the USDA Soil Conservation Service Engineering Field Manual (EFM) and New York Guidelines for Urban Erosion and Sediment Control, or other erosion and sediment control manual recognized by the planning board;
22. An agricultural data statement pursuant to Town Law Section 283-a, when applicable;
23. A statement of the nature and extent of the interest of any state employee, or officer or employee of the town in the applicant pursuant to General Municipal Law Section 809, when applicable;
24. An environmental assessment form (EAF) and, when applicable, a draft environmental impact statement (EIS) pursuant to 6 NYCRR Part 617;
25. Other elements integral to the proposed development as considered necessary by the Planning Board.

## **7.2 Waiver of Submission Requirements**

The Planning Board may waive any of the submission requirements listed in Article 7.1 above where it deems that the information is either not applicable or is unnecessary to a particular site plan review.

### **7.3 Environmental Impact Review**

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

### **7.4 Variance**

During the course of the review, should the Planning Board determine that a site plan approval may not be feasible without the granting of a variance as defined by Town Law Section 267-a, the Planning Board shall refer the application and site plans to the Board of Appeals for the consideration of such variance.

### **7.5 Public Hearing**

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

### **7.6 Referral to County Planning Board**

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

### **7.7 Final Action**

1. Within 62 days of the public hearing the Planning Board shall act on the site plans. The time within which the Planning Board must render its decision may be extended upon mutual consent of the applicant and the Planning Board. The action of the Planning Board shall be in the form of a written statement to the applicant stating whether or not the site plans are approved, approved with modifications, or disapproved. In its approval, the Planning Board shall have the ability to impose such reasonable conditions and restrictions on the issuance of a land use permit for the application as are directly related to and incidental to a proposed site plan. The decision of the Planning Board shall be filed in the office of the Town Clerk and a copy mailed to the applicant within five business days.
2. If the site plans are approved, and upon payment by the applicant of all fees and reimbursable costs due the town, the Planning Board shall endorse its approval on a copy of the application and site plans.
3. If the site plans are approved with modifications, the Planning Board shall specify in the statement all modifications to be made. Upon payment by the applicant of all fees and reimbursable costs due the Town, and upon approval of the modified application and site plans, the Planning Board shall endorse its approval on a copy of the application and site plans.

4. If the site plans are disapproved, the statement shall contain the reasons for such findings. In such case, the Planning Board may recommend further study of the application and resubmission after it has been revised or redesigned.

#### **7.8 Report to County Planning Board**

Within 30 days of final action on any matter referred to the County Planning Board pursuant to Section 7.7, the Planning Board shall file a report of the final action it has taken with the County Planning Board.

### **ARTICLE 9 -- SIGNS**

#### **9.1 On-Premises Advertising Signs and Identification**

1. Commercial and Industrial Signs -- One two-dimensional sign identifying the commercial and industrial use at their sites, not exceeding 32 square feet on a side and limited in wording and graphics to the name of the establishment and its principal service or purpose will be permitted.
2. Home-Based Business Signs -- One two-dimensional sign identifying the home based business at its site not exceeding six square feet on a surface and limited in wording and graphics to the establishment name, its principal purpose or service will be permitted.
3. No sign will project into the public right-of-way.
4. No sign will have flashing lights, moving parts, or projections beyond its surface area.

#### **9.2 Off-Premises Advertising Signs**

No off-premise advertising signs will be permitted.

#### **9.3 Directional Signs**

1. No sign shall project into the public right-of-way.
2. No signs shall have flashing lights, moving parts, projections beyond its surface area.
3. One two-dimensional sign limited in wording and graphics to the name of the establishment and directions to its location, not exceeding 32 square feet on a side, shall be permitted.

#### **9.4 Exempt Signs**

The following signs shall be exempt from the regulations of this section:

1. temporary signs;
2. any sign affixed to and flush with the wall or side of a building and not extending in any plane beyond the surface of such wall or side.

**ARTICLE 10 – GEOMETRIC CONTROLS**

**10.1 Structures and Lots.** All lots and structures shall be developed in accordance with the standards set forth herein. Unless specifically authorized by the Planning Board under the provisions of this local law pertaining to site plan approval, no individual lot will be improved with more than one principal structure together with such accessory and secondary structures as are necessary and incidental to the use and enjoyment of such property.

**10.2 Dimensional Standards**

District	Minimum Lot Size	Minimum Frontage (or width at front lot line)	Minimum Setbacks		
			Front	Rear	Side
Hamlet	1.25 acres	100 feet	50 feet from center of road pavement*	50 feet	15 feet
Rural Residential	3 acres	200 feet	50 feet from center of road pavement*	50 feet	15 feet
Agricultural/Forest	5 acres	200 feet	50 feet from center of road pavement*	50 feet	15 feet
Core Forest	40 acres	1/3 of lot depth	50 feet from center of road pavement*	50 feet	15 feet

\*For lots fronting on Osceola Road, the minimum front setback shall be 50 feet from center of road pavement or 15 feet from road right-of-way line, whichever is greater. **The road right-of-way line shall be determined by the zoning enforcement officer on a lot by lot basis due to its varying nature.**

**10.3 Distance Between Structures**

No point on any structure be less than 15 feet from any point on any other structure.

**10.4 Stream Setback**

All structures shall be set back 100 feet from the bank of any creek or stream designated by the New York State Department of Environmental Conservation as being better than 'D' quality.

**10.5 Line of Sight for Traffic Safety**

No accessory structure, sign, fence, wall, or vegetation shall be erected or planted in such a manner as to confuse or obstruct the views of any traffic sign, signal, or device, or obstruct the visibility for vehicles entering or exiting highways.

**10.6 Corner Lots**

Corner lots shall be required to have two front setbacks, one side setback and one rear setback. Both lot frontages shall meet the minimum requirements of the corresponding land use district.

**10.7 Divided Lots**

Where a district boundary divides a lot at the time such boundary is adopted, the requirements of the least restrictive portion of such lot shall extend 40 feet into the more restrictive portion of the lot, provided the lot has frontage in the less restricted district.

areas with a high water table (permanent, fluctuating, or seasonal), areas with ledge rock, or areas which are subject to flooding, or accumulation or flow of surface water will not be permitted.

Consideration shall be given to the size and shape of the lot, slope of natural and finished grade, depth and fluctuation of ground water, proximity of existing and future water supply, on-site structures and possible extension of the system.

The use of non-waterborne or recirculating waste disposal systems restricted to handle only toilet wastes may be permitted. Such installations when permitted shall meet all the requirements of the New York State Department of Health.

Any system intended to receive domestic waste exceeding 1,000 gallons per day shall comply with the requirements of the New York State Department of Environmental Conservation for institutional, industrial, commercial, and municipal systems. Any person proposing to construct or extend such a large flow system shall present a copy of the DEC permit together with the application required herein.

### **12.5 Storm Water Drainage**

A storm water drainage plan shall be prepared by the applicant, where required, meeting the following criteria and standards. A natural or surface channel system shall be designed to convey through the project the peak storm water runoff from all tributary upstream areas of a 100 year storm. Controlled release and storage of excess storm water runoff shall be required in combination for all commercial, industrial and municipal projects and for residential projects larger than three acres whenever the capacity of the natural downstream outlet channel is inadequate. No habitable structures shall be constructed within this floodway, but streets, parking, and playground areas and utility easements may be considered. Outlet control structures shall be of simple design requiring little or no alteration for proper operation. Each storm water storage area shall be provided with an emergency overflow facility designed for a storm of 100 year intensity. An adequate easement over the land within the project shall be dedicated for the purpose of improving and maintaining any drainageways and facilities.

### **12.6 Road Standards**

Before any road can be accepted by the Town of Lewis, it must meet the town design and construction standards and be approved by the Town Highway Superintendent.

### **12.7 Mining**

Mining operations shall conform to the standards prescribed by the Department of Environmental Conservation, as required by 6 NYCRR Parts 420-426.

### **12.8 Storage and Handling of Hazard Materials**

No use for any period of time shall discharge across the boundaries of the lot wherein it is located, toxic or noxious matters in such concentration as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property of others. No person shall engage in storage, transportation, treatment, or disposal, including storage at the site of generation, of hazardous wastes without obtaining a permit from the Department of Environmental Conservation and complying with the requirements of Article 27, Title 9 of the Environmental Conservation Law.

## **ARTICLE 11 – OFF-STREET PARKING AND LOADING**

- 11.1** Parking spaces for existing land use activities shall not be reduced below the minimum requirements of section 11.2 below.
- 11.2** Uses established after the effective date of this law shall provide off-street parking spaces in accordance with the following standards:
1. one parking space for every dwelling unit;
  2. one parking space for every three seats of a social institution;
  3. one parking space for every employee of a commercial use;
  4. one parking space per 250 square feet of floor space of a commercial use;
- 11.3** No parking space shall be located within five feet of the front lot line or any side or rear lot line, except in driveways.
- 11.4** Off-road loading berths shall be at least 10 feet by 50 feet in size and have a minimum clear height providing access to the road of 14 feet. Off-road loading facilities shall otherwise be subject to the provisions applicable to parking spaces.

## **ARTICLE 12 -- SUPPLEMENTARY REGULATIONS OF OTHER GOVERNMENTAL AGENCIES**

### **12.1 Flood Hazard Areas**

These areas are shown on the Flood Hazard Boundary Map or Flood Insurance Rate Map for the Town of Lewis, published by the Federal Emergency Management Agency. All activity in such areas shall conform to regulations of the National Flood Insurance Program published in Part 60 of Chapter I of Title 44 of the Code of Federal Regulations, which is adopted herein by reference.

### **12.2 Wetland Areas**

The areas shown on the Department of Environmental Conservation's Freshwater Wetlands Map for the Town of Lewis. All activity in such areas shall conform to the state freshwater wetlands regulations.

### **12.3 State Environmental Quality Review (SEQR)**

All activities occurring within the town shall conform to the requirements and guidelines of Article 8 of the Environmental Conservation Law, "State Environmental Quality Review Act (SEQR)," as amended.

### **12.4 Sewage Disposal**

The applicant shall be responsible for furnishing plans, engineering and surveying services and all other information required to determine compliance with the provisions of this law and the requirements of the New York State Department of Health. All percolation tests shall be performed by the Enforcement Officer.

Domestic waste shall be discharged to a public or community disposal system whenever feasible. When neither is available or feasible, individual disposal systems shall be required. Location and installation of an individual system shall be such that, with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance, health hazard, or endanger the safety of any water supply. Installation of waterborne systems in low, swampy areas,

### **12.9 Anchoring and Skirting**

In order to provide safety from fire and wind hazard, all dwelling units not on a permanent, closed foundation, set below frost line, shall be anchored and skirted. Anchors shall be of such design as to withstand 120 mile per hour winds. Skirting shall enclose the bottom portion of the structure.

### **12.10 Home-based Business**

Home-based business activities below the thresholds established by the definition of this law are exempt from the provisions of this law. Home based business activities not meeting the following requirements may be classified as a commercial use. Home-based businesses, as defined by this law, shall be subject to the following standards:

1. The exterior of buildings containing a home-based business shall not be altered to accommodate the business.
2. Excessive noise, glare, odors and/or vibrations shall not be produced.

### **12.11 Accessory Structures**

Accessory structures shall comply with all requirements for principal structures as set forth in Article 10 of this law, regardless of whether or not they require a permit pursuant to this law.

### **12.13 Dwellings Per Lot**

There shall be no more than one dwelling on a single lot except for the placement of a temporary residence complying with the provisions of Section 5.4 of this law, or upon site plan approval by the Planning Board. Such site plan approval may be granted where it can be demonstrated that any future subdivision of the lot which would result in the dwellings being located on separate lots, can be accomplished in such a way that the resulting dwellings will have setbacks in accordance with this law, the resulting lots will have areas and dimensions in accordance with this law, and all sewage disposal and wastewater systems will be in accordance with the NYS Sanitary Code.

### **12.14 Campgrounds**

1. No person shall operate a campground unless a license to operate has first been issued pursuant to this law. Such license shall be applied for coincident with an application for a site plan approval, and shall be granted coincident to the final approval of a site plan. Any existing campground within the town on August 1, 1999 shall be required to comply with the provisions of this section, although an initial site plan approval shall not be required. Site plan approval shall be required for all campgrounds which expand in area or add additional structures.
2. All licenses shall be issued for a period of one year, after which time renewal shall be required. All licenses shall expire on July 31, annually. The license shall be displayed conspicuously at all times at the site of the campground.
3. Prior to license renewal, the campground shall be inspected by the Enforcement Officer. Such license shall not be renewed until certified by the Enforcement Officer as operating in compliance with 1) all New York State laws, rules, and regulations governing campgrounds, and 2) all site plans, conditions and approvals granted by the Town. The license holder shall provide acceptable evidence to the Enforcement Officer that the campground is being operated in compliance with New York State law, rules and regulations.
4. The Enforcement Officer shall not enter the premises of any private property without the consent of the license holder. It shall be the responsibility of the applicant to arrange for all required inspections of the premises prior to license issuance or renewal. Refusal to allow the Enforcement Officer to enter the

premises for the purpose of inspection shall be cause for the denial of an unapproved license, or the revocation of an approved license by the Town Board.

5. The Town Board may revoke such license upon reasonable cause should the applicant fail to comply with any provision of this law. Before the license may be revoked, a hearing shall be held by the Town Board. Notice of the hearing shall be made in a newspaper in general circulation in the town at least five days prior to the date thereof. The license holder shall be notified of the hearing by certified mail at least five days prior to the hearing. At the hearing the town board shall hear the license holder and all other persons wishing to be heard on the revocation of the license. Should the Town Board decide to revoke a license, the reasons for such revocation shall be stated in the Town Board minutes. The license holder shall be immediately notified of the revocation by certified mail.
6. Should any campground license be revoked or fail to be renewed, the license holder shall cease and desist from operating a campground and shall remove all manufactured homes, recreational camping vehicles, tents, etc., and appurtenant structures from the premises within one year.

## **ARTICLE 13 -- TELECOMMUNICATION TOWERS**

### **13.1 Temporary Special Permit Required**

Telecommunications towers shall be sited only upon approval of a temporary special use permit issued for a maximum period of five years. Such permit may be issued or extended upon proof by the owner or operator that 1) the facility is in use as a transmission facility, and 2) that there is a necessity for the tower at the particular location for which application is made. Where such temporary special permit is not renewed, the tower shall be removed from the premises within 60 days.

### **13.2 Shared Use**

Shared use of existing towers shall be preferred to the construction of new towers. Where such shared use is unavailable, location of antennae on pre-existing structures shall be sought. An applicant shall be required to present an adequate report inventorying existing towers within a reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to new construction. An applicant proposing to share use of an existing tower shall be required to document intent from an existing tower owner to share use. 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 and to secure location of antennae on pre-existing structures, as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.

### **13.3 Setbacks**

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

### **13.4 Aesthetics and Design Standards**

1. **General Aesthetics:** All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. Accessory structures shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

2. **Lighting:** Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green or black below the surrounding tree line unless other standards are required by the FAA. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.
3. **Tower Design:** Whenever feasible, tower construction shall be of a "monopole" design. Guyed towers shall be preferable to free-standing structures. All towers shall be fitted with anti-climb devices. Towers shall be designed to provide colocation by at least three providers, or designed so that they can be retrofitted to accommodate at least three providers unless such colocation is not feasible as demonstrated by competent engineering or technical proof.
4. **Signs:** Signs shall not be permitted on towers except for signs displaying owner contact information and safety instructions. Such signs shall not exceed five square feet in surface area.
5. **Vegetation:** Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place. Clearcutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.
6. **Screening:** Deciduous or evergreen tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including roads, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten feet in height within two years of planting shall be provided to effectively screen the tower base and accessory structures. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.
7. **Fencing:** The base of any tower and anchors on guyed towers shall be surrounded by an opaque security fence eight feet in height. Such fence shall enclose the base of the tower as well as any and all accessory equipment and structures.

### **13.5 Access and Parking**

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

### **13.6 Operations**

1. Towers shall be inspected annually on behalf of the tower owner/operator by a New York State 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 enforcement officer no later than December 31 of each calendar year.
2. The owner/operator shall submit certification on an annual basis, 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 emission standards. Such annual certification shall be delivered to the

Enforcement Officer during the month of December of each calendar year. This requirement shall be considered an implied condition to any site plan, special use permit and/or use variance granted for the facility.

3. All facilities shall be maintained in good order and repair. Routine maintenance and repair shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, except for emergency repairs which may be undertaken at any time with prior notice to the Enforcement Officer.

## **ARTICLE 14 – MANUFACTURED HOME PARKS**

All manufactured home parks shall comply with the provisions of Section 12.13 of this law.

## **ARTICLE 15 – WIND POWER GENERATING FACILITIES**

### **15.1 Wind Power Overlay Procedure**

1. A Wind Power Overlay may be applied upon application to the town board. Wind power overlays shall only be located in the A/F and RR land use districts.
2. Any application for a Wind Power Overlay to the Town Board must be in writing and must be duly signed by the applicant and contain:
  - a. The identity of the parcels to be affected, including tax map numbers and acreage;
  - b. The consent of all property owners within the overlay;
  - c. Sufficient acreage to comply with setbacks and other requirements set forth in Section 15.2 of this law;
  - d. The identity of the applicant; and
  - e. An Environmental Assessment Form.
3. The Town Board shall hold a public hearing on any such application prior to permitting or denying such application. The notice shall be published in the official newspaper of the town at least ten days prior to the hearing. In addition, written notices shall be sent to:
  - a. all adjoining property owners;
  - b. all other municipal entities within 500 feet of the project site; and
  - c. the Lewis County Planning Board.

*The hearing shall be held within 62 days of receiving a complete application.*

4. The Town Board shall make its determination within 62 days of when the public hearing is closed.

### **15.2 Wind Power Development Permit and Standards**

1. **Permit Required:** Wind power generating facilities are only permitted in the Wind Power Overlay Districts and require special use permits.
2. **Lot Size and Lot Frontage:** Minimum lot size and lot frontage shall be the same as required by the underlying district.

3. Setbacks: Minimum setbacks shall be as follows:
  - 300 feet from centerline of any road
  - 300 feet from side and rear lot lines
  - 1,000 feet from any existing occupied residential structure

Side and rear lot line setbacks can be waived by the Planning Board as part of its special use permit review process if neighboring parcels are also participating in the wind project, or in the case of a non-participating neighbor, the applicant has secured a development easement from said neighbor. Such waivers shall be thoroughly documented.

4. Landscaping and Screening: Appropriate landscaping is required to keep the site in a neat and orderly fashion. Appropriate screening is required to screen accessory structures from adjacent residences. The landscaped screening shall be comprised of evergreen trees, at least six feet high at time of planting, plus supplemental shrubs at the reasonable discretion of the Planning Board.
5. Decommissioning Plan: To ensure the proper removal of a wind power generating facility, a decommissioning plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of special use permit approval under this Article. The decommissioning plan must specify that after the wind power generation facility can no longer be used, it shall be removed and disposed of by the applicant or any subsequent owner in a lawful and environmentally proper manner within 12 months. To prove operation has not been discontinued, the applicant shall make available (subject to nondisclosure agreement) to the Town Board all reports to and from the purchaser of energy, which reports may be redacted as necessary to protect proprietary information to prove functionality every month. The plan shall demonstrate how the removal of all infrastructure, access roads, fencing, and signage and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a professional engineer or contractor. Removal of wind power generating facilities must be completed in accordance with the decommissioning plan.
6. Sureties/Bond: The applicant shall provide financial sureties, as set forth, for the removal of a wind power generating facility. Pursuant to the execution of the decommissioning plan, the applicant shall provide the town with a bond in an amount determined by the Town Board to cover the expense of removal of the facility and remediation of the landscape in the event the town must remove the facility. The amount of the bond or security shall be 115 % of the cost of removal of the wind power generating facility and restoration of the property. The amount of the bond or security shall be updated by a qualified independent engineer licensed to practice in the State of New York to reflect inflation and any other changes after one year of project operation, and every fifth year thereafter. Updated amount figures will be filed with the Town Board. The bond or security shall be in a form acceptable to the Town Attorney, which includes, but is not limited to, an escrow account, a letter of credit, perpetual bond, or any combination thereof.
7. Abandonment and Removal: Wind power generation facilities are considered abandoned when the Enforcement Officer determines the site and system has not been maintained, is a safety risk, or after one year without electrical energy generation and must be removed from the property. Should the wind power generation facility cease to perform its originally intended function for more than 12 consecutive months, the property owner and/or operator shall remove the system and associated equipment and facilities by no later than 90 days after the end of the 12 month period. Failure to comply with this section will result in enforcement action detailed in Article 4 of this law. If the wind energy generation facility is not decommissioned after being considered abandoned, the Town may remove the system, restore the parcel to its original state, and impose a lien on the property to recover costs to the municipality to the extent not covered by any surety/bond required under Section 15.2.6. of this law.

## **ARTICLE 16 – SOLAR ENERGY SYSTEMS**

### **16.1 Solar Energy Systems**

1. The Town of Lewis recognizes that solar energy is a clean, readily available and renewable energy source. It further recognizes that energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.
2. The Town of Lewis has determined that comprehensive regulation regarding the development of solar energy systems is necessary to protect the interests of the town, its residents and its businesses. This article aims to accommodate solar energy systems while balancing the potential impact on neighbors and preserving the rights of property owners to install solar energy systems.
3. This article is intended to promote the effective and efficient use of solar energy resources, set provisions for the placement, design, construction and operation of such systems to be consistent with the town comprehensive plan, to uphold the public health, safety and welfare, and to ensure that such systems will not have a significant adverse impact on the ecological, environmental, agricultural, economic, or aesthetic qualities and character of the town.

### **16.2 Applicability**

1. A land use permit shall be required for installation of all solar energy systems, with the exception of:
  - a. Photovoltaic systems that are integrated directly into building materials, such as roof shingles, and that are a permanent and integral part of, and not mounted on the building or structure;
  - b. Small solar panels of less than one square yard used individually for charging of batteries and powering small equipment or devices (such as lighting); or
  - c. Photovoltaic systems that meet the requirements of the New York State Unified Solar Permit (systems with a rated DC capacity of 25 kW or less that meet other requirements).
2. All large scale solar energy systems shall obtain special use permit approval from the Planning Board prior to the issuance of a land use permit. Large scale solar energy systems are permitted only within the Large Scale Solar Overlay.

### **16.3 Solar Design Standards**

1. All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”), and Executive Law Section 94-C, where applicable.
2. All on-site electrical wires associated with solar energy systems shall be installed underground, except for “tie-ins” to a public utility company and public utility company utility poles, towers and lines. This standard may be modified by the Planning Board if the project terrain is determined to be unsuitable due to documented reasons of excessive grading, biological impacts, or similar factors.
3. All solar energy systems shall be operated such that no damage is caused by stray voltage. If it has been demonstrated that a system is causing stray voltage, the system operator shall promptly mitigate the damage or cease operation of the system.
4. All solar panels shall have anti-reflective coatings.

5. All solar collectors and related equipment shall be surfaced, designed and sited to minimize glare on adjacent properties and roadways.
6. All solar collectors and their associated support elements shall, at the time of installation, be designed according to generally accepted engineering practice to withstand wind pressures applied to exposed areas by wind from any direction, to minimize the migration of light or sound from the installation and to minimize the development of sight obstructions for adjacent structures or land parcels.
7. All solar energy systems shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.
8. Solar energy systems and equipment shall be permitted only if they are determined by the Town of Lewis not to present safety risks, including, but not limited to, weight load on structures, ingress or egress to property in the event of an emergency, traffic site lines, and wildlife habitat.

#### **16.4 Small Scale Solar Energy Systems**

1. Building-mounted solar energy systems shall incorporate the following design requirements, in addition to those listed in Section 16.3 of this law:
  - a. Solar panels on pitched roofs shall be mounted with a maximum distance of eight inches between the roof surface and the highest edge of the system.
  - b. Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
  - c. Solar panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
  - d. Solar panels shall not restrict chimney function in any way.
  - e. Solar panels shall not create unsafe structural loads on roofs or walls.
  - f. Solar panels shall not be located near any flammable materials.
  - g. Signage displaying disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface.
2. Ground-mounted solar collectors for a small scale solar energy system are subject to the following conditions:
  - a. Ground-mounted solar energy systems shall not exceed a maximum height of 20 feet and shall adhere to the setback requirements of the underlying district.
  - b. Small scale ground mounted solar energy systems shall not be located between the front lot line and the principal structure.

#### **16.5 Large-Scale Solar Energy Systems**

1. Large-Scale Solar Energy Systems shall be subject to the following review requirements.
  - a. The Planning Board may request a financial deposit from the applicant to reimburse reasonable and necessary costs incurred by project review.

- b. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted in the application.
- c. Plans showing the layout of the solar energy system shall be signed by a professional engineer registered in New York State.
- d. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
- e. The application shall include a property operation and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming, fence maintenance, signage, and lighting.
- f. The application shall include a tree survey for the site prepared by a qualified professional. If the proposed layout of the project does not impact trees or mature forest, the Planning Board may waive this requirement.
- g. The site plan shall identify wildlife species that may use the parcel, including potential wildlife travel corridors, migration paths, or critical habitats.
- h. The Planning Board may require that photo simulations included showing the proposed large scale solar energy system in relation to the site along with elevation views and dimensions, and manufacturer's specifications and photos of the proposed large scale solar energy system, solar collectors, and all other components. The Planning Board may require photo simulations to be provide from specific roads or other public areas that may be impacted.
- i. Large scale solar energy systems will be required to provide annual power generation reports to The Town Board or Planning Board by January 15 for the prior calendar year. Proprietary information may be redacted as needed. Should reports not be received, the Town may initiate the decommissioning plan if they so choose 90 days after written notification of noncompliance.
- j. To ensure the proper removal of a large scale solar energy system as required under Section 16.6 of this law, a decommissioning plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of special use permit approval under this Section. The decommissioning plan must specify that after the large scale solar energy system can no longer be used, it shall be removed and disposed of by the applicant or any subsequent owner in a lawful and environmentally proper manner. The plan shall demonstrate how the removal of all infrastructure, including, but not limited to panels, foundations, above and below ground wiring, access roads, fencing, and signage and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a professional engineer licensed in New York State. Removal of large scale solar energy systems must be completed in accordance with the decommissioning plan.
- k. The applicant shall provide financial sureties, as set forth, for the removal of a large-scale solar energy system. Pursuant to the execution of the decommissioning plan, the applicant shall provide the Town with a bond in an amount determined by the Town Board to cover the expense of removal of the system and remediation of the landscape in the event the Town must remove the facility. The amount of the bond or security shall be 115% of the cost of removal of the large-scale solar energy system and restoration of the property. The amount of the bond or security shall be updated by a qualified independent engineer licensed to practice in the State of New York to reflect inflation and any other changes after one year of project operation, and every third year thereafter. Updated amount figures will be filed with the Town Board. The bond shall apply to the company in operation of the facility at the time of decommissioning.

The bond or security shall be in a form acceptable to the Town Attorney, which includes, but is not limited to, an escrow account, a letter of credit, perpetual bond, or any combination thereof.

1. 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 Lewis, 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.
2. All large scale solar energy systems shall incorporate the following design requirements, in addition to those listed in Section 16.3 of this law:
  - a. **Lot Size.** Large scale solar energy systems shall be located on lots with a minimum size of ten acres. If portions of large scale solar energy systems extend onto adjacent lots, those lots need not have a minimum size of ten acres.
  - b. **Setbacks.** Large scale solar energy systems shall comply with the following setback requirements:
    - Front: 100 feet from the centerline of the road.
    - Side/Rear: 100 feet from the lot line
    - Neighboring occupied residence: 500 feet from the residence.
  - c. **Fencing and Screening.** All large scale solar energy systems shall be enclosed by seven feet tall fencing with a self-locking gate to prevent unauthorized access. The fencing shall not be used to display any advertising. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. All large scale solar energy systems (including inverters, batteries, equipment shelters, storage facilities, and transformers) shall be adequately screened from all roads and adjacent residences with a combination of vegetated buffers, earth berms, or landscaping. Vegetation shall be comprised of evergreen trees, at least six feet high at time of planting, plus supplemental shrubs at the reasonable discretion of the Planning Board. The Planning Board may waive screening requirements if sufficient justification is provided by the applicant demonstrating the site has existing screening.
  - d. **Signage.** Signage shall include and be limited to:
    - i. the manufacturer's name, equipment specific information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than eight square feet.
    - ii. 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.
  - e. **Lighting.** Lighting shall be limited to that minimally required for safety and operational purposes and shall be reasonable shielded and downcast from abutting properties.
  - f. **Access.** Construction of on-site access roadways shall be minimized. Roadways shall be unpaved and constructed with a pervious surface.
  - h. **Conversion of Forest Land.** To protect and maintain local forest resources, no large-scale solar energy system shall be permitted on a site that:
    - i. Contains more than one acre of mature forest at the time the application was filed, or

- ii. Previously was a mature forest within five-years prior to the submission of an application.
  
- g. Tree-Cutting. Removal of existing trees larger than six inches in diameter should be minimized to the extent possible.
  
- h. Vegetation. Vegetation shall be maintained below solar panels. The ground within the fenced perimeter shall not be tamped, compressed, or otherwise conditioned with herbicides or similar other treatment to inhibit the growth of natural vegetation. The Planning Board may allow for or require 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 solar facilities. Final approval from the Planning Board is required.
  
- i. Prime Soils. To the maximum extent practicable, Large scale solar energy systems shall not be located on mineral soils groups 1-4. Mineral soils groups 1-4 are classified as highly productive soils by the New York State Department of Agriculture and Markets. Large scale solar energy system components, equipment, and associated impervious surfaces shall occupy no more than 50% of the area of MSG 1-4 within the facility area. If such location is unavoidable, systems shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets. The Planning Board may, at its discretion, relax this standard if the applicant can demonstrate that meeting this standard would result in adverse impacts to an ongoing agricultural operation.
  
- j. Fire Department Coordination. The owner and/or operator shall provide a copy of the project site plans and electrical schematic to the responsible local fire chief. Upon request, the owner and/or operator shall cooperate with local emergency services in developing an emergency response plan. This plan shall include shutdown protocol and identify the party responsible for initiating shutdown. The owner and/or operator shall offer on-site safety training to all local fire departments before the solar energy system goes into service, and a reoccurring refresher training annually to all local fire departments. The owner and/or operator shall specify a responsible person with an access phone number for public inquiries throughout the life of the installation. Emergency contact numbers shall be displayed on the entrance to the facilities. These requirements shall be met by any and all successive facility owners and operators.
  
- k. Notification of Change in Ownership/Operator. If the owner of operator of the solar energy 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, insurance, sureties/bond, and decommissioning plan. A new owner or operator of the solar energy system shall notify the town of such change in ownership or operator 30 days prior to any ownership change.
  
- l. Insurance. The operator of the solar energy system shall obtain and maintain insurance, issued by an insurer authorized to do business in New York State, to the specifications and in an amount appropriate to the project. Such insurance shall name the Town of Lewis as an additional insured party. The certificate of insurance shall contain a provision that coverage afforded under the applicable policy shall not be cancelled or terminated until at least 30 days prior notice has been provided to the Town. In the event of a termination, cancellation, or lapse of the required insurance coverage, the special use permit to operate the energy system shall be immediately suspended and operation of the system shall cease. Upon restoration of the required insurance coverage, to the satisfaction of the Town, permission to operate may be restored.

- m. **Indemnification.** The applicant, owner and operator of the solar energy system shall release and hold harmless the Town of Lewis and all of its officers, officials, employees, appointees, agents, and servants from and against any and all liability and responsibility for any and all accidents, injuries, and/or damages of any kind to persons (including death) or property arising out of the installation, construction, operation, maintenance, repair, or removal of such system. The applicant, owner, and operator shall indemnify and hold harmless the Town of Lewis, and all of its officers, officials, employees, agents, and servants, from any and all claims, suits, actions, damages, awards, judgements, and costs of every nature, including, reasonable attorneys' fees, arising out of the installation, construction, operation, maintenance, repair, or removal of such system.

## **16.6 Abandonment and Removal**

Solar energy systems are considered abandoned when the Code Enforcement Officer determines the site and system has not been maintained, is a safety risk, or after one year without electrical energy generation and must be removed from the property. If the solar energy system ceases to perform its originally intended function for more than 12 consecutive months, the property owner and/or operator shall remove the system, mount and associated equipment and facilities by no later than 90 days after the end of the 12 month period. Failure to comply with this section will result in enforcement action detailed in Article 4 of this law. If the large scale solar energy system is not decommissioned after being considered abandoned, the Town may remove the system, restore the parcel to its original state and impose a lien on the property to cover costs to the municipality to the extent not covered by any surety/bond required under Section 16.5.1.k. of this law.

## **ARTICLE 17. BATTERY ENERGY STORAGE SYSTEMS**

### **Section 17.1 Small Battery Energy Storage Systems**

A land use permit issued by the Enforcement Officer shall be required for the installation of all small battery energy storage systems. Small battery energy storage systems shall maintain a 100-foot minimum setback distance from any existing residential structure.

### **Section 17.2 Large Battery Energy Storage Systems**

1. Permitting requirements for large battery energy storage systems. A special use permit issued by the Planning Board shall be required for the installation of all large battery energy storage systems. Applications shall be reviewed by the Planning Board, who may approve, approve with modifications, or disapprove. Large battery energy storage systems are subject to the following requirements:
  - a. **Permit Requirements.** Any large battery energy storage system permit 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, existing and proposed structures, exterior lighting, and screening and vegetation.
    - iii. A preliminary specification sheet that documents all proposed storage equipment to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a permit.
    - iv. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system.
    - v. Name, address, phone number, and signature of the project applicant, as well as all property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted in the application.

- b. **Signage.** Signage shall be in compliance with American National Standards Institute Z535 and shall include the type of technology associated with the battery energy storage system, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, 24-hour emergency contact information, and any information required by the National Electric Code. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- c. **Vegetation and tree cutting.** Areas within ten feet on each side of large battery energy storage systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover shall be permitted if they cannot readily transmit fire. Removal of trees should be minimized to the extent possible outside the ten-foot radius of the large battery energy storage system.
- d. **Fencing and screening.** Large battery energy storage systems, including all mechanical equipment, shall be enclosed by fencing at least seven feet high with a self-locking gate to prevent unauthorized access (unless housed in a dedicated-use building) and not interfering with ventilation or exhaust ports. Large battery energy storage systems shall be screened to minimize adverse visual impacts by preserving natural vegetation and providing earth berms and landscaped screening to abutting residential properties, public roads, public sites, and known areas of important views or vistas. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. Any unhealthy vegetation shall be removed and replaced immediately. The Planning Board has the right to waive the landscaping requirements for large battery energy storage systems where an applicant can demonstrate no impact on adjacent parcels.
- e. **Setbacks.** Minimum setback from road right-of-way lines is 100 feet. Minimum setback from side lot lines is 300 feet. Minimum setback from rear lot lines is 200 feet. Minimum setback from any existing residential structures is 400 feet. The side and rear lot line setbacks for contiguous parcels that include facility components within one proposed project may be waived. Fencing, access roads and landscaping may occur within the setbacks.
- f. **Fire Suppression.** Applicant/operator shall supply and install a dry water pipe that permits direct connection by fire department apparatus for fire suppression purposes in the area of the battery energy storage system. The pipe shall run from a point along the road frontage to the battery energy storage system itself.

2. **Safety.**

- a. Prior to the issuance of a special use permit from the Planning Board, the applicant must submit copies of all safety certifications to the Town Board and Enforcement Officer.
- b. Site access shall be maintained, including snow removal, to the battery storage units at a level acceptable to the local fire department and first responders in the area.
- c. Large battery energy storage systems, components, and associated ancillary equipment shall have enclosures marked with the environmental rating suitable for the type of exposure in compliance with the most recent National Electric Code.
- d. The applicant must ensure that appropriate and acceptable training for first responders is available prior to commencing operations.
- e. The applicant/operator shall be responsible for coordinating and conducting annual training sessions and facility walkthroughs with the local fire departments to ensure familiarity with the layout, technology, and emergency response protocols specific to the battery energy storage system.

- f. Keys or lock combinations to all gates shall be provided to the Town and local emergency service providers.
  - g. The applicant/operator shall provide, at their expense, one or more oscillating deck guns or articulating master stream devices compatible with the fire department's existing apparatus for all locations with battery energy storage systems.
3. Decommissioning Plan and Fund for Large Battery Energy Storage Systems. The applicant shall submit a decommissioning plan to be implemented upon abandonment and in conjunction with removal of the facility. The applicant may be required to provide financial sureties, as set forth, for the removal of a battery energy storage system. Pursuant to the execution of the decommissioning plan, the applicant shall provide the town with a bond in an amount determined by the town board to cover the expense of removal of the system and remediation of the landscape in the event the town must remove the facility. The amount of the bond or security shall be 115% of the cost of removal of the large battery energy storage system and restoration of the property. The amount of the bond or security shall be updated by a qualified independent engineer licensed to practice in the State of New York to reflect inflation and any other changes after one year of project operation, and every fifth year thereafter. The engineer's service fees shall be paid by the owner/operator. Updated amount figures will be filed with the Town Board. The bond or security shall be in a form acceptable to the Town Attorney, which includes, but is not limited to, an escrow account, a letter of credit, perpetual bond, or any combination thereof.
  4. Abandonment and Removal of Large Battery Energy Storage Systems. Large battery energy storage systems shall be considered abandoned when they cease to operate consistently for more than 12 consecutive months. If the owner and operator fails to comply with decommissioning upon any abandonment, the Town may enter the property and utilize the available bond or security for the removal of a large battery energy storage system and the restoration of the site in accordance with the decommissioning plan. Failure to comply with this section will result in enforcement action detailed in Article 4. Nothing in this agreement or any relevant decommissioning plans shall be read to limit the authority and decommissioning, including recovery of all costs and outside fees (such as attorney fees) associated therewith.

### **Section 17.3 Inspections and Enforcement**

1. In order to verify that the battery energy storage system's owner or operator and any and all lessees and renters place, construct, modify, and maintain the battery energy storage system in accordance with all applicable technical, safety, fire, building, and local codes, laws, ordinances, regulations, and other applicable requirements, the Town may inspect all facets of placement, construction, modification, and maintenance.
2. Any inspections required by the Town that are beyond the town's technical expertise or ability shall be conducted by third parties at the expense of the applicant.
3. Any complaints or violations of this law will result in enforcement action and/or penalties as detailed in Article 4.

## **ARTICLE 18 – NONCONFORMITIES**

### **18.1 Intent**

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

## **18.2 Nonconforming Lots**

Any lot held under separate ownership prior to the enactment or amendment of this law, and having frontage, depth or area less than the minimum requirements set forth in this law, shall be developed only upon the approval of an area variance by the Board of Appeals.

## **18.3 Nonconforming Structures**

No structure which by the enactment or amendment of this law is made nonconforming or placed in a nonconforming situation with regard to setbacks, height or any requirement of this law, other than the use to which it is put, shall be changed so as to increase its nonconformity. If a structure is nonconforming as to use, see Article 18.4 below. Any such nonconforming structure may be used for any compatible use listed for the land use district in which it is located.

## **18.4 Nonconforming Uses of Land or Structures**

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

1. no nonconforming use shall be increased in size so as to occupy a greater area of land or floor area than was committed to the nonconforming use at the time of such enactment or amendment;
2. no nonconforming use which has for any reason been discontinued for a period of four years or more shall be re-established; and
3. a site plan review shall be required for any alteration or reconstruction which is on the premises of a nonconforming multi-family residential or nonresidential use, with the exception of agricultural uses and recreational uses.

## **18.5 Nonconforming Structures Damaged or Destroyed**

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

## **ARTICLE 19 -- AMENDMENTS**

The Town Board may from time to time amend, supplement, or repeal the regulations and provisions of this law after public notice and public hearing. All proposed changes shall be referred to the Lewis County Planning Board for their recommendation and for a report thereon prior to final action. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as follows:

1. By publishing a notice at least ten days prior to the time of such hearing in the Town's official newspaper.
2. By referring the proposed amendments to the Clerk of the County Legislature and the clerks of neighboring towns and villages, and to any housing authority or state park commission whose property might be affected, at least ten days prior to the public hearing.

In case of a protest against such change, as is provided for in New York State Town Law Section 265, which is signed by (a) the owners of 20% or more of the area of land included in such proposed change; or (b) the owners of 20% or more of the area of land immediately adjacent to that land included in such proposed change, extending 100 feet therefrom; or (c) the owners of 20% or more of the area of land directly opposite thereto, extending 100 feet

from the street frontage of such opposite land, such amendment shall require the approval of at least  $\frac{3}{4}$  of the members of the Town Board.

## **ARTICLE 20 -- INTERPRETATION**

**20.1** A conflict between the requirements of this law and those of any other law, ordinance, rule, regulation, statute, or other provision of law shall be resolved by giving effect to the provision imposing the more restrictive requirement or higher standard.

**20.2** The provisions of this law are severable and the invalidity of a particular provision shall not invalidate any other provisions.

## **ARTICLE 21 -- CONFLICTING PROVISIONS REPEALED**

All ordinances or parts of ordinances in conflict with the provisions of this law are repealed, rescinded, and annulled. The ordinance entitled "Zoning Ordinance of the Town of Lewis," adopted on September 5, 1975, together with all changes and amendments thereto, is hereby repealed and declared to be of no effect. Local Law #1 of 1981 entitled "Town of Lewis Zoning Law," adopted July 9, 1981 and filed August 3, 1981, is hereby repealed and declared to be of no effect.

## **ARTICLE 22 -- EFFECTIVE DATE**

This law shall be effective upon filing with the Secretary of State.