

Land Use Law and Regulations for The Town and Village Of Hammond, NY

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Article I. Title

This law shall be known and may be cited as "LAND USE LAW AND REGULATIONS FOR THE TOWN AND VILLAGE OF HAMMOND."

This law is adopted pursuant to NYS Town Law, Section 261 and NYS Municipal Home Rule Law, Article 2.

Article II. General Provisions

Section 2.01 Purpose

The purposes of this Local Law are to:

1. Promote the health, safety and general welfare of the Town and Village through implementation and application of a site plan review and approval process, special permit(s), and subdivision regulations.
2. Foster the rational division of land and promote planned growth and development of residential, commercial, recreational, institutional and industrial uses in the Hammond.

Section 2.02 Relationship of this Law to Other Laws and Regulations

1. **Conflict with other laws.** Whenever the requirements of this Local Law are at variance with the requirement of any lawfully adopted rules, regulations or ordinances, such as the New York State Uniform Fire Prevention and Building Code, the most restrictive of those imposing the highest standards shall govern.
2. **Referral to County Planning Board.** The Planning Board, Board of Appeals, and Hammond Municipal Boards shall refer matters to the St. Lawrence County Planning Board when required pursuant to the provision of Section 239(m and n) of the New York General Municipal Law.

Proposed actions subject to referral

- a. Adoption or amendment of a comprehensive plan;
- b. Adoption or amendment of a zoning ordinance or local law;
- c. Issuance of special permits;
- d. Approval of site plans;
- e. Granting of use or area variances;
- f. Other authorizations which a referring body may issue under the provisions of any zoning ordinance or local law

The proposed actions set forth above shall be subject to referral to the County Planning Board if they apply to real property within five hundred (500) feet of the following:

- a. The boundary of any city, village or town; or

- b. The boundary of any existing or proposed county or state park or any other recreation area; or
 - c. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
 - d. The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
 - e. The existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or
 - f. The boundary of any farm operation located in an agricultural district, as defined by Article Twenty-Five-AA of the Agriculture and Markets Law, except this subparagraph shall not apply to the granting of area variances.
- 2.1. The County Planning Board shall have thirty (30) days after receipt of a complete application, or longer period as mutually agreed upon by the County Planning Board and the Planning Board, Board of Appeals, and Hammond Municipal Boards, to report its decision, accompanied by a statement of the reasons for its decision.
- 2.2. If the County Planning Board fails to report within such period, the Planning Board, Board of Appeals, and Hammond Municipal Boards may take final action on the proposed action without such report. However, a decision received from the County Planning Board thirty (30) days or longer as mutually agreed upon, but two or more days before final action, the referring body's decision shall not be contrary to the County Planning Board's decision except by extraordinary vote (a majority plus one of the full board).
3. **Environmental Review.** The Planning Board, Board of Appeals, and Hammond Municipal Boards shall comply with the provisions of the New York State Environmental Quality Review Act (NYSEQRA) and the regulations promulgated thereunder prior to taking final action on any matter before it.

Section 2.03 Separability

Should any section(s) or provisions of this Local Law be determined to be unconstitutional or invalid by a court of competent jurisdiction, such a determination shall not affect the validity of the Local Law as a whole or any part thereof other than the part decided to be unconstitutional or invalid.

Section 2.04 Fees

Permit fees shall be paid according to the fee schedule which may, from time to time, be established by resolution of the Town Board and/or Village Board without the necessity of advertisement or a public hearing.

Section 2.05 Violation and Enforcement

1. It shall be unlawful to erect, construct, alter, improve or use any building or structure or portion thereof or otherwise commence a use defined in this Local Law as requiring site plan approval without having first applied for and obtained a permit.
2. Any person, firm, corporation or other legal entity that violates, disobeys, neglects, or refuses to comply with any provision of this law shall be guilty of an offense, and upon conviction thereof, be subject to a civil penalty of not less than \$50.00 and not more than \$250.00.
3. The Town or Village of Hammond may obtain an action to restrain by injunction any violation of this law or any failure to comply with any of its provisions. If an action is required to enforce this law before the Supreme Court of the State of New York, said Supreme Court Judge is fully authorized to impose a civil penalty of up to \$250.00 per week. Said civil penalty is payable to the Village or Town in all instances.
4. Upon determination by the Code Enforcement Officer that a violation of this Local Law exists, written order to remedy shall be sent to the owner of the property by registered mail. The notice may be delivered by other means and shall be attached to the premises of the owner. A copy of the notice shall be sent to the Town Board.

Section 2.06 Nonconforming Uses

Any use commenced after the effective date of this Local Law shall comply with its provisions. Any legal use commenced prior to the effective date of this Local Law shall be permitted, however, expansion of such use shall be subject to this Local Law. Lots of record which are smaller in area than the minimum required size as of the date of this Local Law shall be deemed to be in conformance with the minimum lot sizes specified herein, however they are required to meet setback standards. A non-conforming use discontinued for a period of more than one (1) year shall not thereafter be permitted without compliance with the provisions of this Law.

A nonconforming building or use which has been damaged by fire or other natural causes may be restored, reconstructed or used as before, provided that the bulk, height and area requirements shall not exceed that which existed before said damage. Said restoration must be completed within one year, unless an extension is granted by the Planning Board for due cause. In kind replacement of existing elements shall be permitted in nonconforming uses.

Section 2.07 Removals

The Town Board may, by order, halt and/or seek an injunctive relief to remove such new buildings, structures, or uses that do not conform to the provisions of this Local Law. The cost of such removal shall be at the owner's expense. Such cost of removal, if paid by the Town, may be added to the real property taxes attributable to said property if not repaid within 60 days.

Article III. Permits and Procedures

Section 3.01 Classes of Permits

The following classes of permits may be issued:

1. **Standard Building Permit.** The Code Enforcement Officer may issue a building permit only after his or her determination that the provisions of this Local Law have been met.
2. **Site Plan Permit.** A site plan approval permit may be issued by the Code Enforcement Officer after review and approval by the Planning Board. Such approval is subject to the review and approval provisions set forth in Articles VI and VII of this Local Law. The Planning Board shall comply with the same.
3. **Special Permit.** A special permit is used to control the impact of certain uses upon areas where they could be incompatible unless conditioned in a manner suitable to a particular location. It brings needed flexibility and individuality to the otherwise rigid controls of Land Use Law and Regulations. Such approval is subject to the review and approval provisions set forth in Article V.
4. **Approval of Subdivision Plats.** Subdivision plats, both preliminary and final shall be subject to the review and approval provisions set forth in Articles VIII and IX of this Local Law. The Planning Board shall comply with the same.

Section 3.02 Procedures for Permit Applicants

1. **Required Documents.** Every application for activities described in Section 3.01 of this Article shall be made using forms approved and supplied by the Town and/or Village Board and available at the Offices of the Town and Village Clerks.
2. **Amendments.** Any amendments to the application or the plans and specifications accompanying the same shall be filed with the Code Enforcement Officer prior to the commencement of such change of work. In the case of a use that is the subject of site plan approval or subdivision review, any such amendments shall be filed prior to final action on the site plan or subdivision by the Planning Board.
3. **Display.** The building permit shall be prominently displayed on the property or premises to which it pertains.

Section 3.03 Revocation of Permits

Any permit or approval granted under this Local Law that is based upon or granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by, or on behalf of, an applicant, shall be void. The Planning Board may revoke a permit or approval that was based upon a material representation or omission upon written notice to the applicant and following a public hearing held not less than five days' notice published in the official newspaper of the town and/or village. Notice of the public hearing shall be served on the applicant either in person or by certified mail, return receipt requested, not less than five days prior to the date of the hearing.

Article IV. Establishment of District

Section 4.01 Designation of District

For the purpose of this Local Law, the Town of Hammond is divided into the following districts:

1. **R-A** Residential-Agricultural District
2. **S** Shoreline District

Section 4.02 District Map

The location and boundaries of said districts are hereby established in the District Map of Hammond. Said map, with all notations, references and designations shown thereon, is hereby made a part of these regulations. See map in the Appendix, 4.

Section 4.03 Interpretation of District Boundaries

The district boundary lines are intended generally to follow the centerline of streets and highways; the centerline of railroad right-of-way; existing lot lines; the centerline of rivers, streams, and other waterways; and Town boundary lines. Where a district boundary line does not follow such a line, its position shall be shown in the District Map by a dimension expressing its distance in feet from a street line or other boundary line as indicated; or by use of the scale appearing on the District Map. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundary. Where district boundaries are so indicated that they are approximately parallel to the centerline of streets or highways, such district boundaries shall be construed to be parallel thereto and at such distance therefrom as indicated on the District Map. In case of uncertainty as to the true location of a district boundary line in a particular instance, the Board of Appeals shall render a determination with respect thereto.

Section 4.04 District and Its Permitted Uses

1. **R-A** Residential-Agricultural District

Lands in the R-A district comprise of those areas outside of the Shoreline District which is South of the State Highway 12 centerline.

1.1. Purpose. The purpose of the R-A District is to delineate areas suitable for agriculture, rural and open land uses, to include acceptable, compatible residential and commercial uses and growth, yet maintain a rural character.

1.1.1. Uses Requiring Site Plan Review:

- 1.1.1.1. an expansion of an existing principal or accessory use of property; or
- 1.1.1.2. the addition of a new accessory use of property; or
- 1.1.1.3. a change in the principal use of property to another principal use; or
- 1.1.1.4. the construction or location of any structure within 75' of the centerline of any public road or highway; or
- 1.1.1.5. all other uses that are not exempt.

1.1.2. Uses Exempt from Site Plan Review:

- 1.1.2.1. the construction of any new one- or two-family dwelling, or any

addition thereto, so long as the combined dwelling and addition will continue to be used as single- or two-family dwelling;

1.1.2.2. the siting of singlewide or doublewide manufactured homes on an individual lot;

1.1.2.3. agricultural operations including seasonal roadside sales of home-grown produce, or construction of a structure or improvement used, maintained or operated in connection with an agricultural use, but specifically excluding permanent farm stand sales operations;

1.1.2.4. forestry uses;

1.1.2.5. accessory structures under 600 square feet in size; and

1.1.2.6. any temporary use that occurs less than twelve (12) days per calendar year and does not involve the construction of a permanent structure, facility or improvement.

1.1.3. Uses Requiring Special Permit (See Article V)

1.1.3.1. Battery Energy Storage Systems

1.1.3.2. Campgrounds

1.1.3.3. Industrial Use

1.1.3.4. Manufactured Home Parks

1.1.3.5. Solar Energy Facilities

1.1.3.6. Telecommunications Facilities

1.1.3.7. Wind Energy Facilities

1.1.4. Specifications

1.1.4.1. Setbacks:

1.1.4.1.1. Front: Seventy-five (75) feet; within the Village boundary: twenty-five (25) feet.

1.1.4.1.2. Side: Fifteen (15) feet - total thirty (30) feet.

1.1.4.1.3. Rear: Thirty (30) feet.

1.1.4.2. Frontage: Seventy-five (75) feet.

1.1.4.3. Height: Thirty-five (35) feet.

1.1.4.4. Minimum lot size: One (1) acre; within the Village boundary: one-quarter (.25) acre.

2. S Shoreline District

St. Lawrence River: Consists of all those lands west/northwest of NY State Highway 12 centerline.

Along Black Lake: The district extends one thousand (1000) feet inland from high water mark.

2.1. Purpose. The purpose of this district is to delineate areas where residences are mixed with water-related businesses along a shoreline, yet protect the water quality and other environmental issues and maintain the scenic appeal of the shoreline.

2.1.1. Prohibited Uses:

2.1.1.1. Industrial, large scale solar, large scale wind, chemical manufacturing, kennels and animal hospitals.

2.1.2. Uses Requiring Site Plan Review:

- 2.1.2.1. an expansion of an existing principal or accessory use of property; or
- 2.1.2.2. the addition of a new accessory use of property; or
- 2.1.2.3. a change in the principal use of property to another principal use; or
- 2.1.2.4. the construction or location of any structure within 75' of the centerline of any public road or highway; or
- 2.1.2.5. all other uses that are not exempt.

2.1.3. Uses Exempt from Site Plan Review:

- 2.1.3.1. the construction of any new single- or two-family dwelling, or any addition thereto, so long as the combined dwelling and addition will continue to be used as single- or two-family dwelling;
- 2.1.3.2. the siting of singlewide or doublewide manufactured homes on an individual lot;
- 2.1.3.3. agricultural operations including seasonal roadside sales of home-grown produce, or construction of a structure or improvement used, maintained or operated in connection with an agricultural use, but specifically excluding permanent farm stand sales operations;
- 2.1.3.4. forestry uses;
- 2.1.3.5. accessory structures under 600 square feet in size; and
- 2.1.3.6. any temporary use that occurs less than twelve (12) days per calendar year and does not involve the construction of a permanent structure, facility or improvement.

2.1.4. Uses Requiring Special Permit (See Article V)

- 2.1.4.1. Bed and Breakfast
- 2.1.4.2. Business or Professional Office, or Home Occupation
- 2.1.4.3. Community residence
- 2.1.4.4. Convenience store and gas station
- 2.1.4.5. Marina
- 2.1.4.6. Motels, restaurants and bars
- 2.1.4.7. Multiple family dwellings
- 2.1.4.8. Retail stores, business offices and services of any type
- 2.1.4.9. Tourist cottages

2.1.5. Specifications

2.1.5.1. Setbacks

- 2.1.5.1.1. Front: Fifty (50) feet.
- 2.1.5.1.2. Side: Ten (10) feet.
- 2.1.5.1.3. Rear: Thirty (30) feet measured from three (3) feet above the high water mark.
- 2.1.5.2. Frontage: Seventy-five (75) feet.
- 2.1.5.3. Height: Thirty-five (35) feet.
- 2.1.5.4. Minimum lot size: Three-quarters (.75) acre.

Section 4.05 Temporary Uses

The following temporary uses are allowed without a building permit, provided that they meet the requirements established for each of the following:

1. Garage Sales. Sales of tangible personal property shall be held on the premises of an owner of goods for sale or on the property of a charitable organization. Such retail sales shall be conducted for no more than fourteen (14) days in any calendar year.
2. Town-sponsored or approved uses. Temporary uses or events sponsored, supported or approved by the Town Board shall be permitted for no more than fourteen (14) days in any calendar year.

Article V. Special Permits

Section 5.01 Purpose

It is the intent of this local law to use special permits to control the impact of certain uses upon areas where they could be incompatible unless conditioned in a manner suitable to a particular location. Special permits bring needed flexibility and individuality to the otherwise rigid controls of Land Use Law and Regulations.

Section 5.02 Administration

The authority to review and grant special permit requests shall rest with the Planning Board.

Section 5.03 Procedure

1. Each application for a special permit shall be on forms approved by the Town Planning Board and shall meet all requirements and condition set forth in Articles V, VI, and VII.
2. The Code Enforcement Officer shall refer the submitted special permit application to the Town Planning Board within ten (10) days after receiving the complete application.
3. At its next regular or special meeting, the Town Planning Board shall designate a public hearing date, not to exceed sixty two (62) days from the date application was received by the Planning Board. The applicant or agent for the applicant should attend the Planning Board meeting to answer questions concerning the application.
4. The Town Planning Board shall send a notice of the public hearing to the applicant and publish a hearing notice in the official newspaper. The applicant is required to notify any agricultural operator within an Agricultural District and within five-hundred (500) feet of a proposed project. In instances where a proposed project is within five-hundred (500) feet of an adjacent township, the applicant shall also provide written notice to said township. Public hearing and notification must be in accordance with Article X, Section 10.06.

5. The notice of the public hearing shall be published at least five (5) calendar days prior to the date of the public hearing and shall contain sufficient information so as to identify the property involved and the nature of the proposed action.
6. The Town Planning Board shall make a factual record of all its proceedings involving the granting of a special permit. The record of the Planning Board shall contain the reasons for its decision.
7. The Town Planning Board shall render its decision, either approving, approving with conditions or denying within sixty-two (62) days after the hearing, unless an extension is mutually agreed upon. Any conditions included with a Special Permit may be subject to annual inspection by the Code Enforcement Officer. All special permit decisions shall be filed with the Town Clerk no later than five (5) business days from the date of decision and a copy of the decision shall be mailed to the applicant.

Section 5.04 Findings

1. The Planning Board shall make written findings for each special permit decision. Findings shall state the decision, the basis for the decision and the evidence relied upon to reach the decision. Compliance with the requirements of Articles V, VI, and VII shall be substantiated.
2. All decisions shall be made by at least a majority of the full membership of the Town Planning Board. In those cases of a referral disapproved or approved with conditions by the County Planning Board, a majority plus one shall be required to override the County Planning Board decision. A simple majority may always disapprove a County Planning Board recommendation, made under the Town-County Memorandum of Understanding.

Section 5.05 Battery Energy Storage Systems

1. Purpose. This Battery Energy Storage Systems section is intended to advance and protect the public health, safety, welfare, and quality of life in Hammond by creating regulations for the installation and use of battery energy storage systems, with the following objectives:
 - 1.1. To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems;
 - 1.2. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;
 - 1.3. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; and
 - 1.4. To create synergy between battery energy storage system development and the comprehensive plan.
2. Applicability
 - 2.1. The requirements of this Local Law shall apply to all battery energy storage systems permitted, installed, or modified in Hammond after the effective date of this Local Law, excluding general maintenance and repair.

- 2.2. Battery energy storage systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
 - 2.3. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Local Law.
3. General Requirements
 - 3.1. A building permit shall be required for installation of all battery energy storage systems.
 - 3.2. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].
 - 3.3. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Hammond Code.
4. Permitting Requirements for Tier 1 and Tier 2 Battery Energy Storage Systems
 - 4.1. Tier 1 Battery Energy Storage Systems shall be permitted as an accessory use in all districts when they are enclosed in a building and are used to store energy for a principal use on the property. These systems shall be subject to the Uniform Code and are exempt from Planning Board review. Examples include: A battery bank installed in a residential garage to store energy collected from a dwelling's solar panels; and a battery bank installed in the basement of an institutional, government or office building (e.g. university library, hospital, government offices).
 - 4.2. Tier 2 Battery Energy Storage Systems shall be permitted in the R-A district, subject to the Uniform Code and special permit application requirements set forth in this Section.
5. Application Procedures

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

 - 5.1. Reviewed by the Code Enforcement Officer for completeness then submitted to the Planning Board for a final determination of completeness. An application shall be complete when it addresses all matters listed in this Local Law including, but not necessarily limited to, (i) compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code and (ii) matters relating to the proposed battery energy storage system and Floodplain, Utility Lines and Electrical Circuitry, Signage, Lighting, Vegetation and Tree-cutting, Noise, Decommissioning, Site Plan and Development, Special Use and Development, Ownership Changes, Safety, and Permit Time Frame and Abandonment.
6. Site Plan Application

For a Tier 2 Battery Energy Storage System, site plan approval shall be required. Any site plan application shall include the following information:

 - 6.1. Property lines and physical features, including roads, for the project site.

- 6.2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
- 6.3. A three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- 6.4. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- 6.5. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- 6.6. Name, address, phone number, and signature of the project Applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.
- 6.7. District designation for the parcel(s) of land comprising the project site.
- 6.8. Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, Battery energy storage system commissioning shall be conducted by a New York State (NYS) Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Code Enforcement Officer or Reviewing Board prior to final inspection and approval and maintained at an approved on-site location.
- 6.9. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.
- 6.10. Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code.
- 6.11. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- 6.12. Prior to the issuance of the building permit or final approval by the [Reviewing Board], but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer.
- 6.13. Emergency Operations Plan. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. A permanent copy shall also be placed in an approved location near the entrance of the facility to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:
 - 6.13.1. 24-hour contact information of facility personnel and system owners.

- 6.13.2. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
 - 6.13.3. Procedures for inspection and testing of associated alarms, interlocks, and controls.
 - 6.13.4. Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
 - 6.13.5. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
 - 6.13.6. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
 - 6.13.7. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
 - 6.13.8. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders, including but not limited to periodic inspections by the Code Enforcement Officer.
 - 6.13.9. Procedures and schedules to conduct drills and training for local first responders on the contents of the plan and appropriate response procedures.
7. Special Permit Standards
- 7.1. Downwind from Residential Areas. Tier 1 and 2 Battery Energy Storage Systems in a Dedicated Use Building shall be downwind from adjacent residential areas according to prevailing wind patterns to minimize the risk of exposure to toxic chemicals that may be released in the event of system failure.
 - 7.2. Height. Tier 2 Battery Energy Storage Systems in a Dedicated Use Building shall comply with the building height limitations for principal structures of the underlying district.
 - 7.3. Setbacks. Tier 2 Battery Energy Storage Systems in a Dedicated Use Building shall comply with the setback requirements of the underlying district for principal structures.
 - 7.4. Noise. The 1-hour average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of 60 dB as measured at the outside wall and/or the property line of any non-participating residence or occupied community building. Applicants may submit equipment and component manufacturer's noise ratings to demonstrate compliance. The applicant may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.

- 7.5. Fencing Requirements. Tier 2 Battery Energy Storage Systems in a Dedicated Use Building, including all mechanical equipment, shall be enclosed by a 6-foot-high solid fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
- 7.6. Screening and Visibility. Tier 2 Battery Energy Storage Systems in a Dedicated Use Building shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports.
- 7.7. Vegetation and tree-cutting. Areas within 10 feet on each side of Tier 2 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.
- 7.8. Hazardous Waste Containment. All Tier 2 Electro-chemical Battery Energy Storage Systems in a Dedicated Use Building shall include an impermeable foundation and containment perimeter to prevent hazardous waste from contaminating surrounding land and water resources.
- 7.9. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
- 7.10. Signage.
- 7.10.1. A sign with 24-hour contact information of facility personnel and system owners shall also be posted near the front entrance of the facility. The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.
- 7.10.2. As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- 7.11. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way. Any utility lines installed above ground on agricultural land in a State-certified Agricultural District shall provide a minimum clearance of 18' as measured between the lowest point of the utility line and finished grade so as to minimize interference with agricultural equipment that may be used in the surrounding area. The installation of guy wires should be avoided as they interfere with the operation of agricultural equipment.
- 7.12. The Applicant for either state or local siting approval shall deliver to the Town Board, along with its application if local approval is sought, and concurrent with the filing of an application with any state authority, if applicable, an amount equal to one

percent (1%) of the estimated cost of the project (the "Initial Deposit"), to a maximum Initial Deposit of Thirty Thousand Dollars (\$30,000.00). This sum shall be held by the Town in a non-interest-bearing account, and these funds shall be available to the Town to pay consultants and attorneys engaged the Town to assist in application review if a local permit is sought, and to pay consultants and attorneys engaged by the Town to assist in review. Following the grant or denial of the state or local application, the Town shall return to the Applicant any excess remaining in escrow. If the escrow account has been depleted prior to grant or denial of the application, the Applicant shall deposit such funds necessary for the Town to pay any outstanding fees to said consultants.

8. Safety

- 8.1. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) with subcomponents meeting each of the following standards as applicable:
 - 8.1.1. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power, and Light Electric Rail Applications),
 - 8.1.2. UL 1642 (Standard for Lithium Batteries),
 - 8.1.3. UL 1741 or UL 62109 (Inverters and Power Converters),
 - 8.1.4. Certified under the applicable electrical, building, and fire prevention codes as required.
 - 8.1.5. Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 and applicable codes, regulations and safety standards may be used to meet system certification requirements.
- 8.2. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.
- 8.3. Site Access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 1 or 2 Battery Energy Storage System is located in an ambulance district, the local ambulance corps.
- 8.4. Emergency Response Training. Upon project completion and annually for the life of the project, the applicant shall schedule and coordinate emergency response training with facility personnel, fire code officials, emergency responders and the St. Lawrence County Emergency Management Office to tour the battery energy storage system and review implementation of the procedures outlined in the facility's emergency response plan.
- 8.5. Emergency Response Equipment. In the event it is not available, the applicant shall be responsible for purchasing equipment and materials needed for emergency responders to implement procedures outlined in the facility's emergency response plan. Items may include, but are not limited to: air monitors, ventilators and fans, and fire suppression.

9. Ownership Changes

If the owner of a Tier 2 battery energy storage system changes or the owner of the property changes, the special permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special permit, site plan approval, and decommissioning plan. A new owner or operator of the Tier 2 battery energy storage system shall notify the Code Enforcement Officer of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification to the Code Enforcement Officer in writing. The special permit and all other local approvals for the battery energy storage system would be void if a new owner or operator fails to provide written notification to the Code Enforcement Officer in the required timeframe. Reinstatement of a void special permit will be subject to the same review and approval processes for new applications under this Local Law.

10. Permit Time Frame and Abandonment

- 10.1. The Special Permit and site plan approval for a battery energy storage system shall be valid for a period of 24 months, provided that a building permit is issued for construction [and/or] construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the [Planning Board], within 24 months after approval, the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 36 months, the approvals shall expire.
- 10.2. The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than one year. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, enter the property and utilize the available bond and/or security for the removal of a Tier 2 Battery Energy Storage System and restoration of the site in accordance with the decommissioning plan.

Section 5.06 Bed and Breakfast

1. There shall be no more than three employees other than residents of the premises where the bed-and-breakfast is proposed to be located.
2. The bed-and-breakfast shall not change the exterior appearance of the residence, other than the addition of one sign as permitted in Article IX.
3. The bed-and-breakfast shall produce no noise, vibrations, glare, objectionable fumes or electrical interference detectable to normal sensory perception on adjacent lots.
4. Exterior storage of supplies, items or equipment associated with the bed-and-breakfast shall be prohibited.
5. The Planning Board may attach conditions to its approval as it sees fit to ensure compatibility with adjacent land uses.

Section 5.07 Business or Professional Office, or Home Occupation

1. There shall be no change in the exterior appearance of the building or premises other than a permitted sign in accordance with Article IX of these regulations.
2. Not more than two employees other than the inhabitants of the dwelling unit shall be engaged in such profession.

3. There shall be no sales of products conducted from the dwelling unit, except goods produced on the premises or products incidental to the service provided.
4. The profession shall not cause a significant increase in traffic in the vicinity. The Planning Board may require the applicant to provide traffic count information prior to special permit approval.
5. No offensive noise, vibration, glare, dust, fumes, odors or electrical interference shall be produced.

Section 5.08 Campgrounds

1. Campgrounds shall be occupied only by travel trailers, pickup camper, motor homes, camping trailers, recreational vehicles and tents suitable for temporary habitation and used for travel, vacation and recreational purposes. The removal of wheels or placement of a unit on a foundation in a camping ground within a designated flood plain is prohibited
2. Minimum gross site area: one (1) acre.
3. Not more than eight (8) travel trailers, campers, tents, recreational vehicles or motor homes shall be permitted per acre of gross site area.
4. No designated camp site shall be within fifty (50) feet of a property line.
5. Potable water and sewage disposal: If potable water and sewage disposal are provided, they must meet Department of Health standards.

Section 5.09 Convenience Store and Gas Station

1. Lot requirements: same as requirements for district in which located.
2. Entrance and exit driveways shall have an unrestricted width of not less than twenty (20) feet and shall be located not nearer than twenty (20) feet from any property line and shall be designed to avoid the necessity of any vehicle backing out into any public right-of-way.
3. All buildings and above ground storage tanks shall be set back from the major or secondary road line a distance of not less than seventy-five (75) feet.
4. Fuel pumps shall be located not less than forty (40) feet from the road centerline and not less than thirty (30) feet from all other property lines.
5. No such establishment shall be located within a distance of two hundred (200) feet of a school, church, hospital, nursing home, senior citizen housing or other place of public assembly designated for occupancy of more than fifty (50) persons or within five hundred (500) feet of another gasoline station or repair garage on the same side of the street. Said distance shall be measured in a straight line between the nearest points of another gasoline station or repair garage on the same side of the street. Said distance shall be measured in a straight line between the nearest points of each lot.
6. The entire area of the site traveled by motor vehicle shall be hard-surfaced or graveled.

Section 5.10 Industrial Use

1. Purpose. This section is intended to provide for areas in the Town which industrial, manufacturing or other materials handling, processing and/or storage activities may take place with maximum economic and environmental feasibility and with minimum negative impact on residential, agricultural and commercial development
2. Permitted Uses:
 - 2.1. No industrial uses are permitted by right.

- 2.2. Junkyards and salvage yards.
 - 2.3. Landfills
 - 2.4. Manufacturing, assembling, converting, altering, finishing, cleaning, recycling or any other processing and incidental storage of products and materials.
 - 2.5. Research laboratories.
 - 2.6. Truck and rail terminals and port facilities, including docking, fueling, loading and unloading.
 - 2.7. Waste storage and/or treatment facilities.
 - 2.8. Wholesaling, storage and warehousing.
3. Minimum Lot Area and Dimensions
The minimum lot area and dimensions shall be as follows:
 - 3.1. Area: Two (2) acres.
 - 3.2. Width: 200 feet.
 - 3.3. Depth: 200 feet.
 - 3.4. Yards (distance from any lot line to any building):
 - 3.4.1. Front: 100 feet from lot line.
 - 3.4.2. Side: 75 feet. An additional 75 feet must be added to this requirement if the property is abutting a residential parcel.
 - 3.4.3. Rear: 75 feet. An additional 75 feet must be added to this requirement if the property is abutting a residential parcel.
 - 3.5. Lot coverage: 35% of the total lot area may be covered by buildings.
4. Building Limitations
 - 4.1. The building limitation shall be as follows: maximum height: 40 feet.
5. Manufacturing, assembling, converting, altering, finishing, cleaning, recycling or any other processing and incidental storage of products and materials, research laboratories, or truck and rail terminals and port facilities, including docking, fueling, loading and unloading.
 - 5.1. Minimum lot size shall be two acres. The Planning Board may require a larger minimum lot area if necessary to safely accommodate the nature and scale of the proposed use.
 - 5.2. All structures shall be located at least 150 feet from any adjacent residential use. The Planning Board may require screening from adjacent properties as needed.
 - 5.3. All activities shall be conducted within an enclosed area.
6. Wholesaling, storage and warehousing.
 - 6.1. Minimum lot size shall be two acres. The Planning Board may require a larger minimum lot area if necessary to safely accommodate the nature and scale of the proposed use.
7. Junkyards and salvage yards
Junkyards and salvage yards shall meet the following additional requirements:
 - 7.1. No Operation Unless in Compliance with all Laws. No junkyard or salvage yard shall operate, or continue in operation, in any area of the Town and Village unless the

operation is in full compliance at all times with all applicable Federal, State, County, Town and Village of Hammond laws.

- 7.2. Fencing and Screening Required. Any junkyard or salvage yard shall be completely surrounded with a solid fence that substantially screens the area. All materials stored or deposited at the site shall be kept within the enclosure of the fence and below the top of the fence.
- 7.3. Where the topography, land forms, natural growth of trees or other considerations accomplish effective screening, the fencing requirements may be varied by the Planning Board.
- 7.4. Restrictions on Location. No junkyard or salvage yard shall be located within 500 feet of any existing dwelling other than a principal residence on the same parcel or within 50 feet of a public highway, measured from the fence.
- 7.5. Effect of this Law on Existing Junkyards. All operating junkyards and salvage yards that are legally permitted and in compliance with all applicable laws on the effective date of this Law shall be allowed to continue in operation, but shall be limited to the size, area, manner and scale of the present operation unless a site plan for any proposed expansion or improvements is approved in accordance with this Law, in which event the entire area of the junkyard or salvage yard shall be subject to compliance with all provisions of this Law.

8. Landfills

Landfills shall meet the following additional requirements:

- 8.1. Buffer Area Required. Any landfill, to include any structures, facilities or improvements associated with the operation of the landfill other than:
 - 8.1.1. structures, facilities or improvements that are entirely used for administrative purposes, such as a business office or employee parking lot; and
 - 8.1.2. structures, facilities or improvements constructed to provide vehicle or rail access to the landfill, to include roadways and rail spurs and appurtenant bridges, culverts and drainage improvements, shall be completely surrounded by a designated buffer area under the same ownership as the landfill that is:
 - 8.1.2.1. at least five hundred feet in width; or
 - 8.1.2.2. of the width specified a permit issued pursuant to 6 NYCRR, Part 360, whichever is greater. Any unloading, staging or storage area, to include any rail spur where rail cars are held awaiting unloading or pickup, shall be inside of the buffer area. All vehicular, rail switching and maintenance operations shall be conducted inside of the buffer area. All administrative parking lots shall be outside of the buffer area. The buffer area shall incorporate the use of berms and heavy vegetative screening to prevent visibility into the landfill from neighboring properties and public roads.
- 8.2. Security. The entire perimeter of the inside of the buffer required under this section shall be fenced by:
 - 8.2.1. a chain link security fence of at least seven (7) feet in height; or
 - 8.2.2. any security fence required under County, State or Federal law or regulation, whichever affords greater protection to the general public. Two (2) gated vehicular access points shall be created through the fence. Both access points shall be of

sufficient width to permit the passage of emergency vehicles and equipment. A single gate shall be used during the hours of operation, with the other gate to remain locked. One or more employees of the landfill operator shall be present at the vehicle gate used during the hours of operation for the purpose of providing physical security of the facility and to inspect and monitor vehicles and materials entering the landfill. Notwithstanding any provision in this subsection to the contrary:

8.2.2.1. One or more gated pedestrian access points with access security features and controls sufficient to prevent unauthorized access to the facility may be created through the fence; and

8.2.2.2. One gated rail access point with access security features and controls sufficient to prevent unauthorized access to the facility may be created through the fence.

8.2.3. Keys or equivalent means of entry to all gates shall be supplied, as appropriate, to the Town or Village Clerk and Volunteer Fire Department.

8.3. Internal Road System. Roads constructed on landfills, to include any surrounding buffer area, shall comply with the following standards:

8.3.1. All roads shall provide year-round accessibility for emergency vehicles.

8.3.2. All roads shall be a minimum of eighteen (18) feet wide with shoulders as necessary to accommodate two vehicles side by side.

8.3.3. All road surfaces shall be paved unless a particular aspect of the nature of the use of the road requires otherwise. In such event the road surface shall be constructed and maintained with gravel or crushed stone.

8.3.4. Road system design shall provide two separate access points to the adjacent public road network.

8.4. Restrictions on Location. No landfill, to include any surrounding buffer area provided for in this Law, shall be located within 1,500 feet of any:

8.4.1. existing dwelling; or

8.4.2. commercial or industrial building where one (1) or more persons is employed on a regular basis; or

8.4.3. any public building or land as measured from the closest point of the security fence required under this law unless:

8.4.3.1. the permission of the owner of such dwelling or building, or of the local government, is obtained in writing and is furnished to the Planning Board; or the dwelling or building is under the same ownership as the landfill, and a notarized statement attesting to such ownership is furnished to the Planning Board.

9. Waste storage and/or treatment facilities

Waste storage and/or treatment facilities shall meet the following additional requirements:

9.1. Storage and/or treatment of nuclear waste is prohibited

9.2. All applicable federal and state permits for any applicable type of waste must be obtained prior to the start of construction.

9.3. Minimum lot size shall be 10 acres. The Planning Board may require a larger minimum lot area if necessary to safely accommodate the nature and scale of the proposed use.

- 9.4. All structures shall be located at least 1,000 feet from any adjacent residential use or property which would permit a residential use. The Planning Board may require screening from adjacent properties, as needed.
- 9.5. All treatment activities shall be conducted within an enclosed building, and there shall be no exterior storage of materials.
- 9.6. There shall be no on-premises disposal of wastes.

Section 5.11 Marina

1. Joint Army Corps/NYSDEC permit is required for any dock.
2. No repair or servicing building shall be located closer than fifty (50) feet to any side or rear property lines.
3. Sanitary pump-out tanks or facilities shall meet NYSDEC/NYS Dept. of Health regulations.
4. All servicing materials, waste materials and used or discarded parts shall be stored within a structure or enclosed within fencing so as not to be visible from off the property.
5. All fuel tanks shall be installed and maintained in conformity with the standards of the Fire Prevention Code of the National Board of Fire Underwriters and shall conform to all state and federal requirements of the NYSDEC, the Environmental Protection Agency and other appropriate agencies, and all relevant provisions of this article. All such fuel tanks shall be so maintained and operated that no fuel spillage is allowed to enter the water.

Section 5.12 Manufactured Home Parks

The following requirements shall apply to three (3) or more manufactured homes on a single property:

1. Only manufactured homes manufactured after June 1976 and bearing the HUD Seal shall hereafter be placed in Hammond.
2. Installation standards. Installation of manufactured homes shall be in accordance with standards set out in the New York State Uniform Fire Prevention and Building Code.
3. Water Supply and Wastewater Facilities. All water supply and wastewater discharge facilities for manufactured homes shall conform to Department of Health standards applicable to manufactured home parks.
4. No Operation Unless in Compliance with all Laws. No manufactured home park shall operate, or continue in operation, in any area of the Town and Village unless the operation is in full compliance at all times with all applicable Federal, State, County, Town and Village laws.
5. Automotive parking. At least one (2) off-street parking spaces for each manufactured home shall be provided for each individual manufactured home site. Each parking space shall have convenient and ready access to the internal road network and shall not directly access a public road.
6. Internal Road System. The internal road system for manufactured home parks shall comply with the following standards:
 - 6.1. All roads shall provide year-round accessibility to every lot in the manufactured home park for emergency and service vehicles.
 - 6.2. All roads shall be a minimum of eighteen (18) feet wide and shall be constructed to accommodate two lanes of traffic.

- 6.3. All road surfaces shall be paved or, at the discretion of the Planning Board, constructed with gravel or crushed stone.
- 6.4. Any dead-end roads shall be no longer than 500 feet and terminate in a turn-around with a sufficient diameter to accommodate fire trucks and snow plows.
7. Recreation Area. A minimum area shall be set aside exclusively for recreational use by the residents, equal to a minimum of five percent (5%) of the total property area.
8. Screening and Landscaping. Undisturbed natural vegetation, fencing or a landscaped area along exterior lot lines shall provide visual screening of the manufactured home park from adjacent residential properties.
9. Separation Distances. No manufactured home shall be located closer than forty (40) feet from any other manufactured home.
10. Utilities. Utilities shall be placed underground wherever possible, and shall be screened where above-ground placement is necessary. All lighting shall be designed (Dark Sky compliant) and arranged so as to minimize glare and reflection on adjacent properties. Emergency access to above-ground utility structures shall be provided at all times.

Section 5.13 Motels, Restaurants, and Bars

1. Minimum lot size shall be one acre. The Planning Board may require a larger minimum lot area if necessary to accommodate the nature and scale of the proposed use.
2. Such use shall not be closer than 100 feet to any existing residential use or district.
3. Such use shall be adequately fenced or screened from any adjacent residential property, and lighting shall be directed away from adjacent uses.
4. Ingress and egress shall be designed to minimize traffic congestion, and adequate off-street parking shall be provided in accordance with Article IX of these regulations.

Section 5.14 Multiple Family Dwellings, Community Residence

1. The maximum gross density shall not exceed eight (8) units per acre providing all health and State Building Code requirements are met.
2. The building lot coverage of multiple-family dwelling developments shall not exceed thirty percent (30%) of the total lot area.
3. Setback requirements:
 - 3.1. Front setbacks shall meet the zone requirements in Article IV.
 - 3.2. The side and rear setbacks shall be fifty (50) feet from all other lot lines.
 - 3.3. Minimum distance between buildings in a multiple-family dwelling development shall be eighty (80) feet.
4. Off-street parking shall be provided in the amount of two (2) spaces for each unit. Additional visitor parking of 0.25 parking spaces per dwelling unit shall be required. [One (1) additional parking space for each four (4) units.]
5. Plans submitted for site plan approval shall include: sewage disposal, water supply, storm drainage, recreation area, landscaping, lighting and any other requirements of site plan review.

Section 5.15 Retail stores, Business Offices and Services of Any Type

1. Such use shall be no larger than ten thousand (10,000) square feet of retail sales area and two thousand (2,000) square feet of customer service area, for a combined total of twelve thousand (12,000) square feet.

Section 5.16 Solar Energy Facilities

1. **Purpose.** This section aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefore, and to balance the potential impact on neighbors when solar collectors may be installed near their property while preserving the rights of property owners to install solar energy systems without excess regulation. In particular, this legislation is intended to apply to free standing; ground or pole mounted and roof mounted solar energy system installations based upon certain placement. This legislation is not intended to override agricultural exemptions that are currently in place.
2. **Applicability**
 - 2.1. The requirements of this section shall apply to all solar energy systems installed or modified after the effective date of this ordinance, excluding general maintenance and repair.
 - 2.2. Solar energy system installations for which a valid building permit has been issued or, if no building permit is presently required, for which installation has commenced before the effective date of this local law shall not be required to meet the requirements herein.
 - 2.3. All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code Act and the Town Code.
 - 2.4. Nothing contained in this provision shall be construed to prohibit "Collective Solar" installations or the sale of excess power through a "net billing" or "net metering" arrangement in accordance with New York State Public Service Law §66-j or similar New York State or federal law or regulation.
 - 2.5. All solar energy systems shall be designed, erected, and installed in a manner so as to prevent undue glare from failing on adjoining properties or creating traffic safety issues.
 - 2.6. All solar collection systems shall require a building permit.
3. **Solar Collectors and Installations for Minor Systems**
 - 3.1. Roof-mounted systems are permitted subject to the following requirements:
 - 3.1.1. The distance between the roof and highest edge or point of the system shall be in accordance with the New York State Uniform Fire Prevention and Building Code.
 - 3.1.2. Rooftop and building-mounted solar collectors shall not obstruct solar access to adjacent properties.
 - 3.2. Ground-mounted and freestanding solar collectors are permitted subject to the following requirements:
 - 3.2.1. The location of the solar collectors meets all applicable setback requirements of the district in which they are located.
 - 3.2.2. The height of the solar collectors and any mounts shall not exceed the height restrictions of the district when oriented at maximum tilt.
 - 3.2.3. The solar collectors may not be located closer to a front lot line than the principal building on a property. If the side or rear yard is visible from adjacent properties and roads, a solid fence that conforms to local requirements may be installed along shared lot lines to minimize visual impact to neighboring properties.

- 3.2.4. Ground-mounted and freestanding solar collectors shall not obstruct solar access to adjacent properties.
 - 3.3. All solar collector installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards. Prior to operation the electrical connections must be inspected by the Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.
 - 3.4. Decommissioning. Minor or Accessory Solar Collection System. Decommissioning Requirements for the Minor or Accessory Solar Collection System Designed for Subdivision Use Using Free-Standing or Ground Mounted Solar Collectors. If a Free-Standing or Ground Mounted solar collector(s) ceases to perform its originally intended function for more than twelve (12) consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than ninety (90) days after the end of the twelve-month period. In the event that the property owner fails to remove the aforesaid non-functioning system within the time prescribed herein, the Town may enter upon the land where such system has been installed and remove same. All expenses incurred by the Town in connection with the removal of the non-functioning system shall be assessed against the land on which such free-standing or Ground Mounted solar collector(s) is located and shall be levied and collected in the same manner as provided in Article 15 of the N.Y. Town Law for the levy and collection of a special ad valorem levy.
4. Major Solar Systems
 - 4.1. Major Solar Systems are permitted through the issuance of a special permit and site plan review. In addition, Major Solar Systems must meet the criteria set forth below.
 - 4.2. A Major Solar System may be permitted when authorized by site plan review and special permit from the Planning Board subject to the following terms and conditions.
 - 4.2.1. Height and setback restrictions:
 - 4.2.1.1. The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed twenty (20) feet in height above the ground.
 - 4.2.1.2. The minimum setback from property lines shall be twenty-five (25) feet, unless adjacent to residential neighbor. The setback when adjacent to residential neighbors shall be 100 feet.
 - 4.2.1.3. Fencing shall be provided around all equipment and solar collectors to provide screening from adjacent residential properties and roads. Fencing shall not be topped with barbed wire. When fencing will enclose the perimeter of the site or facility, wildlife friendly fencing that allows the passage of small mammals and reptiles and is designed to minimize wildlife injury and death due to entanglement or strangulation shall be used on sites having a solar facility footprint greater than 5 acres. Exceptions can be made by the Planning Board for sites that have limited surrounding wildlife habitat and/or are designed to accommodate small livestock grazing.
 - 4.2.2. Design standards:

- 4.2.2.1. Removal of trees and other existing vegetation should be minimized or offset with planting elsewhere on the property to achieve no net loss.
- 4.2.2.2. Removal of any prime agricultural soil from the subject parcel is prohibited.
- 4.2.2.3. Proposed major solar collection systems shall minimize the displacement of prime soils that are in active agricultural production. The site plan shall depict the location and extent of prime soils, prime soils if drained, soils of statewide importance, and indicate whether the parcel(s) is/are receiving an agricultural valuation. The site plan shall also depict the location and extent of current agricultural uses on the land (e.g., rotational crops, hay land, un/improved pasture, support lands, and fallow lands) the location of diversions and ditches, and areas where tile drainage has been installed. Prime soils, prime if drained, and soils of statewide importance that are in agricultural production are a valuable and finite resource. The site plan should include a cross section of any subsurface foundations that will be used for the solar array. In the event the array utilizes at-grade ballast footers, the underlayment should include a bed of crushed stone atop monofilament woven geotextile fabric so that the stone can be readily removed from the site when the facility is decommissioned. A plan for clearing and/or grading the site and Stormwater Pollution Prevention Plan (SWPPP) for the site must be included. The lease area shall be designed to be compatible with agricultural operations i.e., small livestock grazing, apiary, etc.
- 4.2.2.4. Roadways within the site shall be built along field edges and along elevation contours where practical, constructed at grade and have a maximum width of 16 feet. Roadways shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction.
- 4.2.2.5. All on-site utility and transmission lines shall, to the extent feasible, be placed underground. Any above ground transmission lines that are used to accommodate the facility shall require utility poles that are tall enough and installed at widths able to accommodate farm machinery and equipment. The installation of guy wires to utility poles is discouraged.
- 4.2.2.6. Solar collectors and other facilities shall be designed and located in order to minimize reflective glare and/or glint toward any inhabited buildings on adjacent properties and roads.
- 4.2.2.7. All mechanical equipment, including any structure for batteries or storage cells, shall be enclosed by a minimum six-foot-high fence with a self-locking gate.
- 4.2.2.8. Major systems or solar farms shall be constructed in a fashion so as to not obstruct solar access to adjacent properties.
- 4.2.2.9. Any exterior lighting installed within the facility shall be downcast and dark sky compliant with recessed bulbs and full cut off shields.
- 4.2.2.10. For adjoining solar arrays, the number of features installed for the facility should be consolidated and kept to a minimum, such as the use of shared access roads, fencing and appropriate screening.

- 4.2.3. Signs:
 - 4.2.3.1. A sign not to exceed twelve (12) square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number.
 - 4.2.3.2. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations not to exceed four (4) square feet.
- 4.2.4. Safety:
 - 4.2.4.1. The owner/operator shall provide evidence that a copy of the site plan application has been submitted to the Fire Chief of the Hammond Fire Department. All means of shutting down the photovoltaic solar energy system shall be clearly marked on the site plan and building permit applications.
- 4.3. If a piece of equipment meets the definition of oil-filled operational equipment at 40 CFR part 112.2 (e.g. transformers, capacitors and electrical switches), it shall comply with the secondary containment procedures of that regulation.
- 4.4. Decommissioning. Prior to removal of a Major Solar Collection System, a demolition permit for removal activities shall be obtained from the Town of Hammond.
 - 4.4.1. Decommissioning Bond:
 - 4.4.1.1. Prior to issuance of a building permit for a Major Solar Collection System, the owner or operator of the Solar Energy System shall post a surety in an amount and form acceptable to the Town for the purposes of removal in the event the Major Solar Collection System is abandoned. The amount of the surety required under this section shall be 125% of the projected cost (not including salvage value) of removal of the Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System. Acceptable forms shall include, in order of preference: cash; irrevocable letter of credit; or a bond that cannot expire; or a combination thereof. Such surety will be used to guarantee removal of the Major Solar Collection System should the system be abandoned. In such case, the Town Building Inspector/Code Enforcement Officer shall then provide written notice to the owner or operator to remove the Major Solar Collection System, and the owner or operator shall have one (1) year from written notice to remove the Solar Energy System including any associated accessory structures and/or equipment, and restore the site to a condition approved by the Planning Board. If the owner, operator applicant or lessee fails to remove any associated structures or restore the site to the condition approved by the Board, all costs of the Town incurred to enforce or comply with this condition shall be paid using the surety provided by the applicant.
 - 4.4.2. Decommissioning Plan. An application for a Major Solar Collection System shall include a Decommissioning Plan. Removal of a Major Solar Collection System must be completed in accordance with the Decommissioning Plan. The Decommissioning Plan shall:
 - 4.4.2.1. Specify that after the Major Solar Collection System will no longer be used, it shall be removed by the owner and/or operator or any subsequent owner/operator and shall include a signed statement from the applicant

acknowledging such responsibility. The application shall disclose the lease start date, length of the original lease, and number of options and time frames if the lease is renewed.

- 4.4.2.2. Within thirty days of changing ownership, notice shall be provided to the Town of Hammond with the name and contact information of the new owner.
 - 4.4.2.3. Demonstrate how the removal of all infrastructures (including but not limited to aboveground and below ground equipment, structures and foundations) and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. In areas where agricultural production will resume, re-vegetation shall include native plants and seed mixes and exclude any invasive species. The reclamation of land when the Major Solar Collection System is decommissioned shall include the removal of rock, construction materials and debris to a depth of four (4) feet, the decompaction of soils to a depth of 18 to 24 inches, regrading and reseeding the site to its original condition prior to the project construction.
 - 4.4.2.4. Include photographs or archival color images of the property for the proposed Major Solar Collection System. Such information must, in aggregate, adequately portray the entire property for the purpose of future reference when soil and vegetation remediation of the property occurs.
 - 4.4.2.5. State that disposal of all solid and hazardous waste shall be in accordance with local, state and federal waste disposal regulations.
 - 4.4.2.6. Provide an expected timeline for decommissioning within the 365 period set forth below.
 - 4.4.2.7. Provide a cost estimate detailing the projected cost to execute the Decommissioning Plan, subject to 3rd party verification at the developer's expense.
- 4.5. Abandonment and Removal:
- 4.5.1. A Major Solar Collection System shall be deemed to be abandoned after it has ceased operating for a continuous one (1) year period.
 - 4.5.2. Upon cessation of operations of a Major Solar Collection System for a period of one (1) year, the Town may notify the owner and/or operator of the facility to implement the Decommissioning Plan. Within 180 days of notice being served, the owner and/or operator can either restore operation equal to 80% of approved capacity or implement the Decommissioning Plan.
 - 4.5.3. In the event that construction of the Major Solar Collection System has been started but is not completed and functioning within eighteen (18) months of the issuance of the final Site Plan, the Town may notify the operator and/or the owner to complete construction and installation of the facility within 365 days. If the owner and/or operator fail to perform, the Town may require the owner and/or operator to implement the Decommissioning Plan. The decommissioning plan must be completed within 180 days of notification by the Town to implement the Decommissioning Plan.
 - 4.5.4. Applications for extensions of the time periods set forth in this subsection of no greater than 180 days shall be reviewed by the Town Board.
 - 4.5.5. Upon recommendation of the Building Inspector/Code Enforcement Officer, the Town Board may waive or defer the requirement that a Major Solar Collection

System be removed if it determines that retention of such facility is in the best interest of the Town.

- 4.5.6. If the owner and/or operator fails to fully implement the Decommissioning Plan within the prescribed time period and restore the site as required, the Town may use the financial surety posted by the owner and/or operator to decommission the site, or it may proceed with decommissioning at its own expense and recover all expenses incurred for such activities from the defaulted owner and/or operator. Any costs incurred by the Town shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes.

5. Requirements

5.1. The following shall be provided to the Town:

- 5.1.1. Verification of utility notification. Any foreseeable infrastructure upgrades shall be documented and submitted. Off-grid systems are exempt from this requirement.
- 5.1.2. Name, address, and contact information of the applicant, property owner(s), and agent submitting the project. In the event ownership of the facility changes hands, or if the lease is terminated, notification shall be sent to the Town within thirty days of the transfer or termination date. The notice shall include the name and contact information of the new owner(s). The new owner shall then be bound by the terms of the original agreement.
- 5.2. 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.
- 5.3. Site Plan: Site plan approval is required.
- 5.4. Blueprints signed by a Professional Engineer or Registered Architect of the solar installation showing the layout of the system.
- 5.5. Property Operation and Maintenance Plan: A property operation and maintenance plan is required, describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, etc. Any such plan shall propose that the property maintain a neat and orderly appearance consistent with surrounding properties. The property shall always be maintained in a manner consistent with all properties within the Town of Hammond.
- 5.6. If the array will be sited on farmland located in an Agricultural District, an Agricultural Data Statement shall be completed.
- 5.7. Cybersecurity. To minimize cybersecurity threats to the electrical grid, the applicant shall submit evidence that malware prevention, detection and mitigation software or programming has been installed where electronic information exchanges take place between the solar array and the utility's distribution control system.

6. Fees

- 6.1. The fees for a Special Permit and Site Plan Review for a Solar Energy System shall be set from time to time by Town Board resolution.
- 6.2. The Applicant for either state or local siting approval shall deliver to the Town Board, along with its application if local approval is sought, and concurrent with the filing of an

Article 10 or 94c Application, if applicable, an amount equal to one percent (1%) of the estimated cost of the project (the “Initial Deposit”). This sum shall be held by the Town in a non-interest-bearing account, and these funds shall be available to the Town to pay consultants and attorneys engaged the Town to assist in application review if a local permit is sought, and to pay consultants and attorneys engaged by the Town to assist in review of an Article 10 Application should awarded intervenor funds be insufficient to fully participate in the Article 10 Process or should intervenor funds be otherwise exhausted. Following the grant or denial of the state or local application, the Town shall return to the Applicant any excess remaining in escrow. If the escrow account has been depleted prior to grant or denial of the application, the Applicant shall deposit such funds necessary for the Town to pay any outstanding fees to said consultants.

7. PILOT Program

- 7.1. If the applicant seeks an exemption for the project from taxation under Real Property Tax Law §487, the Town will require a PILOT Agreement pursuant to §487(9)(a) and (b), unless negotiated by the St. Lawrence County IDA on behalf of the Town or Village. Said PILOT Agreement will be for fifteen (15) years.
- 7.2. The Town will notify the developer within sixty (60) days of developer’s application for a building permit of the Town’s requirement of a PILOT Agreement.
- 7.3. No building permit shall be issued without the Town notification of this PILOT requirement.

Section 5.17 Telecommunications Facilities

1. Purpose & Application

- 1.1. The purpose of this section is to allow for Telecommunications Tower installations or Alterations or Modifications to existing Telecommunications Towers while providing for the health, safety, public welfare, character, environment and aesthetic character of the Town consistent with applicable Federal, State and County law, in accordance with the Town's comprehensive plan, Article II of this local Law and with particular regard to scenic vista protection. The Town also recognizes that facilitating the development of wireless service technology can be an economic development asset of significant benefit to the Town and its residents. This section is intended to comply with the Federal Telecommunications Act of 1996. The provision of this section apply to those areas of the Town located outside of the jurisdiction limits of the Village.

2. Required Approval of Alterations or Modifications to Existing Telecommunication Tower

2.1. Alterations or Modifications to Existing Telecommunication Towers Applicability

- 2.1.1. Any Telecommunication Tower being altered or modified must have an existing SP and in full compliance with all provisions of the SP as established by this local Law and any other applicable Federal, State, County or local laws, licenses or permit.
- 2.1.2. Any alteration or modification to an existing Telecommunication Tower must maintain all SP provisions of the Telecommunication Tower as established by the

local Law and any other applicable Federal, State, County or local laws, licenses or permits.

2.2. Alterations or Modifications to Existing Telecommunication Towers Standards

2.2.1. Any alteration or modification to an existing Telecommunication Tower must meet all appropriate standards in this local Law as stipulated in Articles VI and VII and 4. of this section.

2.2.2. The applicant should communicate with the Planning Board prior to preparing the Site Plan Review application to determine appropriate standards to be addressed as permitted in Articles VI and VII of this local Law.

2.3. Alterations or Modifications to Existing Telecommunication Towers Review

Application and review for alteration or modification to an existing Telecommunication Tower should comply with Article VI of this local Law.

2.4. Retention of Expert Assistance and Reimbursement by Applicant

2.4.1. At the recommendation of the Planning Board, the Town may retain any consultants and/or experts necessary to assist the Planning Board in reviewing and evaluating the application for alteration or modification to an existing Telecommunication Tower.

2.4.2. The applicant shall deposit funds with the Town sufficient to reimburse the Town for all reasonable costs of consultants and expert evaluation in connection with the review of any alteration or modification application as determined by the Planning Board. The initial deposit shall be prior to determination of acceptance of a complete application and maintained in a separate escrow account. The Town's consultants/experts shall invoice the Town for their services. If at any time the escrow account balance is less than 10% of the required initial deposit, the applicant shall immediately, upon notification from the Town, replenish the escrow account to maintain a balance of 30% of the required initial deposit prior to any additional action or review is taken on the application. Any unused balance of the escrow account will be refunded to the applicant upon completion of the project. The amount of the escrow may be adjusted by the Planning Board relative to the complexity of the application.

3. Required Approval of Telecommunications Towers

3.1. Telecommunication Towers Approval Applicability

3.1.1. This local Law does not apply to any preexisting Telecommunication Towers and/or any accessory facility or structure that is lawfully in existence as of the effective date of this local Law so long there is no change, alteration, modification, expansion or addition to the use of the tower facility.

3.1.2. No Telecommunications Tower shall hereafter be used, erected, moved, reconstructed, changed or altered except after the granting of a SP by the Planning Board and in conformity with the provisions of this Local Law.

- 3.1.3. No existing structure shall be modified to serve as a Telecommunications Tower unless in conformity with this local Law.
- 3.2. Exceptions for Requirement of a Telecommunications Tower Special Permit
 - 3.2.1. Any repair or maintenance of a legally approved Telecommunications Tower.
 - 3.2.2. The Town's fire, highway or other public service facility owned and operated by the Town government.
 - 3.2.3. Any facilities expressly exempt from the Town's siting, building and permitting authority.
 - 3.2.4. Over-the-Air reception devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.
 - 3.2.5. Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial Telecommunications.
 - 3.2.6. Facilities exclusively for providing unlicensed spread spectrum technologies [such as IEEE 802.11 a, b, g (Wi-Fi) and Bluetooth)] where the facility does not require a new tower.
- 4. Telecommunication Tower General Standards
 - 4.1. Co-location Preference to New Tower Construction
 - 4.1.1. At all times, shared use of existing towers shall be preferred to the construction of new towers. An applicant shall be required to present a report that inventories existing towers within usable range, regardless of location, to be served by the proposed tower facilities and outline opportunities for shared use of existing tower facilities. This report should document good faith efforts to secure shared-use from existing towers and document all physical and/or financial reasons why shared-use is not practical.
 - 4.1.2. The applicant and all owners of Town permitted Telecommunication Towers are encouraged to provide their towers for use by other carriers at a reasonable fair market value. When co-location is unavailable, location of antenna on preexisting structures should be considered by the applicant.
 - 4.2. Design of Tower
 - 4.2.1. Monopoles or Guyed towers shall be preferred to freestanding communication towers.

4.2.2. When a new tower is being proposed, the applicant must examine the feasibility of designing a proposed Telecommunications Tower to accommodate future demand for additional facilities (co-location) by all potential users.

4.2.3. The tower and antennas shall be designed to withstand the effects of the wind according to the standards of the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association.

4.3. Lighting

4.3.1. Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). When required, FAA approved motion-activated lighting should be utilized.

4.4. Signage

4.4.1. No telecommunications tower, antennas or accessory facility shall contain any signs or advertising devices.

4.5. Aesthetics

4.5.1. Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green or black below the surrounding tree lines, 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.

4.5.2. Existing on-site vegetation shall be preserved to the maximum extent possible. Clear-cutting of all trees in a single contiguous area shall be minimized to the maximum extent possible.

4.5.3. Deciduous or evergreen tree planting may be required to screen portions of the tower and accessory facilities from nearby residential property or from public sites. Where the site abuts residential or public property, including streets, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least 10 feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil Berm to assure plant survival, with the plant height to include the height of the Berm.

4.5.4. A completed visual environmental assessment form (visual EAF), pursuant to 6 NYCRR Part 617, including a simulated photographic visualization of the site, with particular attention to visibility from key viewpoints identified on the visual EAF is to be completed and presented by the applicant. The Planning Board may require submittal of a more detailed visual analysis based on the results of the visual EAF.

4.6. Siting

4.6.1. The siting of any new Telecommunications Tower shall be in the most inconspicuous location within the Town, as determined by the Planning Board that

will meet the technical requirements of the facility while minimizing its impact on the Town's viewscape.

4.6.2. Accessory facilities shall maximize use of location, building materials, colors and textures designed to blend with the natural surroundings.

4.7. Height

4.7.1. The maximum height of a telecommunications tower shall be no higher than the minimum required to accomplish the telecommunication objective of the applicant after complying with 4.2 of this section.

4.7.2. The maximum height for Telecommunications Towers permitted under this section, including any antennas, extensions or other devices extending above the tower, measured from the ground surface immediately surrounding the site, shall be 325 feet.

4.8. Setbacks

4.8.1. All new towers, whether owned or leased, shall be located on a single parcel and set back from abutting residential parcels, public property or street or road right-of-way lines a distance sufficient to substantially contain on-site ice fall or debris from tower failure and preserve the privacy of abutting residential properties.

4.8.1.1. Towers shall conform to the following minimum lot size and setback values:

4.8.1.1.1. All tower bases shall be set back a minimum distance of one-and-one-half (1.5) times the height of the tower.

4.8.1.1.2. Lot size shall be determined by the amount of land required to meet the setback requirements.

4.8.2. Additional setbacks may be required by the Planning Board to address safety concerns. Setbacks shall apply to all tower parts including guy-wire anchors, and to any accessory facilities.

4.9. Access

4.9.1. Access is required to assure adequate emergency and service ability. Maximum use of existing roads, public or private, shall be made. Road construction shall be sufficient to accommodate the intended use. Construction of pervious roadways (crushed stone, gravel, etc.) is preferred. At all times road construction shall minimize ground disturbance and vegetation-cutting to within the bottom of fill, the top of cut or no more than 10 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 subsection.

4.10. Security

- 4.10.1. All Telecommunications Towers and accessory facilities and guy anchors, if applicable, shall be enclosed by a fence not less than eight feet in height or otherwise sufficiently protected from trespassing and vandalism.
- 4.11. Radio Frequency Effects
 - 4.11.1. It is recognized that the Telecommunications Act of 1996, Public Law 104-104, Section 704, prohibits the regulation of cellular and personal communications towers based on the environmental effects of radio frequency emissions where those emissions comply with the FCC standards for those emissions. The Planning Board may, however, impose a condition on the applicant that the communications antennas be operated only at FCC-designated frequencies and power levels.
- 4.12. Other
 - 4.12.1. Applicable General Standards cited in Articles VII of this local Law will apply to any Telecommunications Tower request.
 - 4.12.2. The Planning Board may require reasonable conditions and restrictions directly related to the proposed Telecommunications Tower special permit.
- 5. Telecommunications Tower Application
 - 5.1. Required Process
 - 5.1.1. Application for a Telecommunications Tower approval should follow the process established for Site Plan Review in Articles VI and VII of this Local Law.
 - 5.2. Additional Information
 - 5.2.1. Any additional documentation or explanation required to address 4. General Standards of this section.
 - 5.3. Build-Out Plan
 - 5.3.1. The applicant shall submit a build-out plan setting forth the applicant's current facilities within the Town, together with the applicant's intentions for additional facilities within the Town for the ensuing, 24 months, and shall also certify whether any and all existing facilities of the applicant are in active use and are necessary for its telecommunications operations. The build-out plan shall include a statement as to how the proposed facility will supplement, detract from or coordinate with existing telecommunications towers in the Town and contiguous jurisdictions, any changes proposed within the following twenty-four-month period, including a build-out plan for new locations and the discontinuance or relocation of existing facilities.

Section 5.18 Tourist Cottages

- 1. Colonies of two or more cottages or one cottage and one single family residence on a plot of land under single ownership are subject to review, especially regarding adequate emergency and service access.
- 2. The review shall cover the issues involved in Site Plan Review.

3. The Planning Board may attach conditions to its approval as it sees fit to ensure compatibility with adjacent land uses.

Section 5.19 Wind Energy Facilities

1. Purpose

- 1.1. The purpose of this section is to promote the effective and efficient use of the Town's wind energy resource through Wind Energy Conversion Systems (WECS), and to regulate the placement of such systems so that the public health, safety, and welfare will not be jeopardized.

2. Findings and Determinations

The Town Board of the Town of Hammond makes the following findings and determinations:

- 2.1. Wind energy is a renewable and nonpolluting energy resource of the Town.
- 2.2. Wind turbines are designed to generate electricity and designs vary widely from large industrial units to medium and small residential units.
- 2.3. Regulation of the siting and installation of wind turbines is necessary for protecting the health, safety, and welfare of neighboring property owners and the public.
- 2.4. Wind Energy Facilities represent significant potential aesthetic impacts because of their large size, lighting, and shadow flicker affects.
- 2.5. If not properly regulated, installation of Wind Energy Facilities can create drainage problems through erosion and lack of sediment control for facility and access road sites, and harm farmlands through improper construction methods.
- 2.6. Wind Energy Facilities present a risk to birds, bats and other creatures. The Town of Hammond is uniquely situated between two important bodies of water, the St. Lawrence River in the Thousand Islands Region and Black Lake that contain critical migratory flyways.
- 2.7. If not properly sited, Wind Energy Facilities may adversely affect the property values of property owners.
- 2.8. Wind Energy Facilities may be significant sources of noise, including infrasound that, if unregulated, can negatively affect the quiet enjoyment of properties in the vicinity and the human health of residents.
- 2.9. Construction of Wind Energy Facilities can create traffic problems and damage local roads.
- 2.10. Wind Energy Facilities can cause electromagnetic interference issues with various types of communications.
- 2.11. The installation of Wind Energy Facilities may affect ground water supplies.
- 2.12. Distance of setbacks should take into consideration the potential hazards of ice throws, blade breakage, and tower fall downs.
- 2.13. Wind Energy Facilities may have an effect on future sub-divisions.
- 2.14. Considering all of the above factors, the geographic characteristics of the Town of Hammond and the density of certain residential areas within the Town, the Town Board has determined that there may be limited areas within the Town where Wind Energy Conversion systems can be safely constructed and operated and will be compatible with

other nearby land uses. These areas shall be designated by the Town Board through enactment of this Local Law as the Town of Hammond Wind Overlay District, the boundaries of which shall be as defined in Article XI, Section 11.04 of this Local Law.

- 2.15. The Town hereby reserves the right to opt out of the Tax Exemption provisions of Real Property Tax Law 487, pursuant to the authority granted by subsection 8 of that law, or by any other provision of law.

3. Permits Required

- 3.1. No Wind Energy Facility shall be constructed, reconstructed, modified, or operated in the Town of Hammond, except in compliance with this Local Law.
- 3.2. No Wind Energy Conversion System ("WECS") shall be constructed, reconstructed, modified, or operated in the Town of Hammond, except in the Wind Overlay District, pursuant to a Special Permit approved pursuant to this Local Law.
- 3.3. No Special Permit shall be issued for constructed, reconstructed, modification or operation of a WECS in the Town of Hammond, until all other permits as may be required (e.g., FAA, DEC, etc.) have been issued and evidence of same provided to the Town of Hammond.
- 3.4. No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated in the Town of Hammond, except pursuant to a Special Permit issued pursuant to this Local Law.
- 3.5. No Small Wind Energy Conversion System shall be constructed, reconstructed, modified, or operated in the Town of Hammond, except pursuant to a Special Permit issued pursuant to this Local Law.
- 3.6. Exemptions. No permit or other approval shall be required under this Local Law for mechanical, non-electrical WECS utilized solely for on-site agricultural operations.
- 3.7. Transfer. No transfer of any Wind Energy Facility or Special Permit, nor sale of the entity owning such facility including the sale of more than 30% of the stock of such entity (not counting sales of shares on a public exchange), will occur without prior approval of the Town, which approval shall be granted upon written acceptance by the transferee of the obligations of the transferor under this Local Law. No transfer shall eliminate the liability of an applicant or of any other party under this Local Law.

4. Applicability

- 4.1. The requirements of this section shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed within the Town of Hammond after the effective date of this Local Law.
- 4.2. Any Wind Measurement Tower existing on the effective date of this Local Law shall be removed no later than twenty-six (26) months after said effective date, unless a Special Permit for said Wind Measurement Tower is obtained pursuant to the provision of this Local Law.
- 4.3. Wind Energy Facilities may be either principal or accessory uses. Alternatively, an existing structure on the same Site shall not preclude the installation of a Wind Energy Facility or a part of such facility on such Site. Wind Energy Facilities constructed and installed in accordance with this Local Law shall not be deemed expansions of a nonconforming use or structure.

5. Wind Energy Conversion Systems

5.1. Wind Energy Conversion Systems Permitted.

Wind Energy Conversion Systems shall only be permitted within the boundaries of the Wind Overlay District and only after receipt of a Special Permit issued by the Town Planning Board pursuant to the provisions of this section.

5.2. Applications for Wind Energy Conversions Systems

An application for Special Permit for a Wind Energy Facility or a single WECS shall include the following:

- 5.2.1. Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
- 5.2.2. Name and address of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
- 5.2.3. Address, or other property identification, of each proposed WECS location, including Tax Map section, block and lot number, latitude and longitude coordinates.
- 5.2.4. A description of the project, including the number and maximum rated power output capacity of each WECS.
- 5.2.5. For each WECS proposed, a plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:
 - 5.2.5.1. Property lines and physical dimensions of the Site;
 - 5.2.5.2. Location, approximate dimensions and types of existing structures and uses on Site, public roads, and adjoining properties within a three thousand foot radius of the proposed WECS.
 - 5.2.5.3. Location and ground elevation of each proposed WECS.
 - 5.2.5.4. Location of all above and below ground utility lines on the Site, and all related transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.
 - 5.2.5.5. Location and size of structures above 35 feet within a three thousand foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are considered structures.
 - 5.2.5.6. Boundaries of the Wind Overlay District to demonstrate that each proposed WECS is located within said overlay district.
 - 5.2.5.7. To demonstrate compliance with the setback requirements of this section circles drawn around each proposed tower site having a radius equal to:
 - a. Five times the total height of the proposed WECS;
 - b. Three thousand feet;
 - c. One mile;
 - d. Two times the total height of the proposed WECS;
 - e. Five thousand feet; and

- f. One and one-half times the total height of the proposed WECS.
- 5.2.5.8. Location of the nearest residential structure on Site and off Site, and the distance of each from the proposed WECS.
- 5.2.5.9. All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.
- 5.2.5.10. The names and addresses of all property owners within a three thousand foot radius of each WECS, together with evidence of the current use of all such property.
- 5.2.6. Elevation drawing of the WECS showing Total Height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each WECS of the same type and Total Height.
- 5.2.7. Landscaping Plan: depicting vegetation and forest cover describing the area to be cleared of vegetation and forest cover and areas where vegetation and forest cover shall be added, identified by species and size of specimens at installation, and their locations. Guideline included in Appendix, 1. of this law shall also adhere for this work.
- 5.2.8. Lighting Plan: showing any FAA-required lighting and other proposed lighting. The application should include a copy of the determination by the Federal Aviation Administration to establish required markings and/or lights for the structure, but if such determination is not available at the time of the application, no building permit for any lighted facility may be issued until such determination is submitted.
- 5.2.9. Decommissioning Plan: A decommissioning plan as specified in 5.10 of this section.
- 5.2.10. Complaint Resolution Plan: A Complaint Resolution Plan to address complaints within 24 hours of receipt of notice thereof and to resolve any complaint in a diligent and timely manner under the circumstances. The Plan should at a minimum comply with the process described in Article X, Section 10.03.
- 5.2.11. Information relating to the construction/installation of the Wind Energy Facility as follows:
 - 5.2.11.1. A construction schedule describing commencement and completion dates of the project and beginning and ending hours of daily construction
 - 5.2.11.2. A description of the routes to be used by construction and delivery vehicles, the gross weights, and heights of those loaded vehicles.
- 5.2.12. Completed Part I of the Full EAF.
- 5.2.13. Applications for Wind Energy Permits for Wind Measurement Towers subject to this Local Law may be jointly submitted with the application for a Wind Energy Facility.
- 5.2.14. For each proposed WECS, include make, model, picture, and manufacturer's specifications, including noise decibels data. Include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.

- 5.2.15. If a positive declaration of environmental significance is determined by the SEQRA lead agency, the following information shall be included in the Draft Environmental Impact Statement (DEIS) prepared for a Wind Energy Facility. If the lead agency issues a Negative Declaration of environmental significance following its review of the EAF, an amended application shall be submitted which shall include, at a minimum, the following information:
- 5.2.15.1. Shadow Flicker: The applicant shall conduct a study on potential shadow flicker. The study shall identify locations where shadow flicker may be caused by the WECSs and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences or highways and detail measures that will be taken to mitigate or eliminate such interference.
 - 5.2.15.2. Visual Impact: Applications shall include a visual impact study of the proposed WECS as installed, which shall include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed Site from at least two locations accurately depicting the existing conditions shall be included. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.
 - 5.2.15.3. Fire Protection/Emergency Response Plan: A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed Wind Energy Facility to address coordination with local emergency/fire protection providers during any construction or operation phase emergency, hazard or other event.
 - 5.2.15.4. Noise Analysis: A noise analysis by a competent acoustical consultant documenting the noise levels associated with each proposed WECS. The study shall document noise levels at property lines and at the nearest residence not on the Site (if access to the nearest residence is not available, the BOA may modify this requirement). The noise analysis shall be performed according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11), or other procedure accepted by the Town Planning Board, and shall include both a dBA analysis and dBC analysis.
 - 5.2.15.5. Property Value Analysis: Property value analysis prepared by a New York State licensed appraiser experienced in appraising rural properties of the type and nature typically found in the Town of Hammond and approved by the Board of Appeals in accordance with industry standards, regarding the potential impact of the project on values of properties in the Town of Hammond.
 - 5.2.15.6. Electromagnetic Interference: An assessment of potential electromagnetic interference with microwave, radio, television, satellite systems, personal communication systems and other wireless communication, weather and other radar shall be prepared.

- 5.2.15.7. Transportation Impacts: An analysis of impacts on local transportation shall be prepared, regarding impacts anticipated during construction, reconstruction, modification, or operation of each WECS. Transportation impacts to be considered shall include, at a minimum, potential damage to local road surfaces, road beds and associated structures; potential traffic tie-ups by haulers of WECS' materials; impacts on school bus routes; impacts of visitors to the WECS' facilities. Local roads shall include all state highways, county highways, town highways, and village streets and highways, which will be or may be used by the applicant.
- 5.2.15.8. Transportation Plan: A transportation plan describing routes to be used in delivery of project components, equipment and building materials, and those to be used to provide access to the Site during and after construction. Such plan shall also describe any anticipated improvements to existing roads, bridges or other infrastructure, and measures to restore damaged/disturbed access routes following construction. Roads shall include all state highways, county highways, town highways, and village streets and highways, which will be or may be used by the applicant.
- 5.2.15.9. Ground Water Impacts: An analysis of impacts on local ground water resources shall be prepared, regarding impacts anticipated during construction, reconstruction, modification or operation of each WECS. An assessment of potential immediate and long-term impacts to local flora and fauna, micro and macro habitats, and ground and surface water related, but not limited to, excavation, blasting, clear-cutting and grading during the Site preparation phase. A geotechnical report shall include: soils engineering and engineering geologic characteristics of the Site based on Site sampling and testing, a bedrock profile within one (1) mile of the Site, information on depth of well, average flow rate, and with permission by owner, test of water equality for all wells within two (2) miles of the Site, grading criteria for ground preparation, cuts and fills, soil compaction, and a slope stability analysis.
- 5.2.15.10. Cultural, Historical and Archeological Resources Plan: An analysis of impacts on cultural, historical and archeological resources shall be prepared, regarding impacts anticipated during construction, reconstruction, modification or operation of each WECS. This assessment shall be conducted in accordance with the New York State Office of Parks, recreation and Historic Preservation.
- 5.2.15.11. Wildlife Impacts: An analysis of impacts on local wildlife shall be prepared, regarding impacts anticipated during construction, reconstruction, modification, or operation of each WECS. Wildlife impacts to be considered shall include, at a minimum, anticipated impacts on flying creatures (birds, bats, insects), as well as wild creatures existing at ground level. An assessment of the impact of the proposed development on the local flora and fauna will include migratory and resident avian species, bat species. The scope of such assessment shall be developed in consultation with the New York State Department of Environmental Conservation and the United States Fish and Wildlife

- Service and must at a minimum consist of pre-construction data of three years, and literature survey for threatened and endangered species that provide relevant information on critical flyways, and shall describe the potential impacts of any proposed facilities on bird and bat species, and an avoidance or mitigation plan to address any impacts, as well as plans for three-year post-installation studies.
- 5.2.15.12. Operation and Maintenance Plan:
An operation and maintenance plan providing for regular periodic Wind Energy Facility schedules, any special maintenance requirements and procedures and notification requirements for restarts during icing events.
 - 5.2.15.13. Blade Throw Report:
A report from an independent New York State professional engineer that calculates the maximum distance that ice from the turbine blades and pieces of turbine blade may be thrown. (The basis of the calculation and all assumptions must be disclosed.) The incidence of reported ice and blade throws and the conditions at the time of the ice and blade throw must be included.
 - 5.2.15.14. Stray Voltage Report:
An assessment, pre- and post-installation, of possible stray voltage problems on the Site and neighboring properties within one (1) mile of the project boundary to show what properties need upgraded wiring and grounding.
- 5.2.16. The applicant shall, prior to the receipt of a Special Permit, provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and the applicable Transmission Owner. Applicant shall also provide proof of complying with Public Service Commission power purchase requirements.
 - 5.2.17. A statement, signed under penalties of perjury that the information contained in the application is true and accurate.
 - 5.2.18. Proof of continuous liability insurance in the amount of \$5,000,000 per occurrence with a total policy minimum of \$20,000,000 per year. This shall be submitted to the Town of Hammond indicating coverage for potential damages or injury to landowners.
 - 5.2.19. Disclosure of Financial Interests. For any financial interest held by a Municipal Officer or his or her relative in any wind development company or its assets within ten years prior to the date of an application for a permit under this local law, the Wind Company shall disclose in a separate section of the application the Municipal Officer or his or her relative, the addresses of all persons included in the disclosure, and the nature and scope of the financial interest of each person. The disclosure shall include all such instances of financial interest of which the Wind Company has knowledge, or through the exercise of reasonable diligence should be able to have knowledge, and the format of the submission shall be subject to the approval of the Town Board.
 - 5.2.20. An accurate one-year survey of wind speed data obtained from an independently installed wind measurement tower and certified by NYSERDA to determine if it

meets the minimum wind speed criteria in NYS for efficient wind power production.

5.2.21. The Town shall require the applicant to fund an escrow agreement pursuant in this section of this local law to cover the amount by which the Town's cost to review the applicant's applications exceed the application fees paid by the applicant.

5.2.22. Copies of all applications and proposed plans should be made available to the public within seven days of receipt by the Town Planning Board and placed in the Town Library and Town Clerk's office as well as on the Town of Hammond website.

5.3. Application Review Process

5.3.1. Applicants may request a pre-application meeting with the Town Planning Board, and/or with any consultants retained by the Planning Board for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.

5.3.2. Twelve (12) photocopies of the application and a complete digital version shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.

5.3.3. If the application is deemed incomplete, the Planning Board shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of WECS proposed is increased.

5.3.4. Upon submission of a complete application, including the grant of any application waiver by the Planning Board, the Town Clerk shall transmit the application to the Planning Board.

5.3.5. In addition to the public hearing requirement, the Planning Board may require the Applicant to conduct work session/information sessions for the public benefit. The number of such sessions shall be at the discretion of the Planning Board and notice shall be given by first class mail to all property owners in the Town of Hammond and published in the Town's official newspaper. During these sessions, the public will be afforded the opportunity to question the Applicant regarding the Project.

5.3.6. The Planning Board shall hold at least one formal public hearing on the application. Notice shall be given by first class mail to all property owners in the Town of Hammond and published in the Town's official newspaper, no less than ten nor more than twenty days before the hearing. In the event any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses. In the event a waiver is requested by the applicant pursuant to the procedure contained at, 5.2 of this section, the notice shall specify the variance requested and that the Planning Board will consider the variance pursuant as part of its review of the application.

- 5.3.7. At the discretion of the Planning Board, the public hearing may be combined with public hearings on any Environmental Impact Statement. Notice for SEQR public hearings must meet the specification set out in 6 N.Y.C.R.R. §617.12 (c).
- 5.3.8. Notice of the project shall also be given, when applicable, to (1) the St. Lawrence County Planning Board, if required by General Municipal Law §239-1 and 239-m, and (2) to adjoining Towns where the project site is located within three thousand feet of the adjoining Town boundary.
- 5.3.9. SEQRA review. Applications for WECS are deemed Type I projects under SEQRA. The Planning Board may conduct its SEQRA review in conjunction with other agencies or communities, in which case the records of review by said agencies or communities shall be part of the record of the Planning Board's proceedings. The applicant shall be responsible for the Town's legal and engineer's fees in connection with the SEQRA and other reviews under this Local Law. The Planning Board shall require an escrow agreement with the applicant to cover the engineering and legal review of the applications and any environmental impact statements before commencing its review. The escrow agreement shall provide a minimum balance that the applicant must maintain in escrow with the Town from which the Town may pay its professionals' fees for review.
- 5.3.10. After a thorough and detailed evaluation of the application in which the Planning Board completes the required "hard look" of all materials and public input and upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the applications, in accordance with what is in the best interest of all of the residents of Hammond and the standards in this Article.
- 5.3.11. Issuance of Special Permits. Upon completion of the review process, the Town Planning Board shall, upon consideration of the standards in this Local Law and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated.
- 5.3.12. If approved, the Town Planning Board will issue, to the applicant only, a Special Permit for each WECS for the purpose of construction and continued operation based on satisfaction of all conditions for said Permit. This authorizes the Code Enforcement Officer/Building Inspector to issue a building permit for each WECS, upon compliance with the Uniform Fire Prevention and Building Code and the other conditions of this Local Law.
- 5.3.13. The decision of the Town Planning Board shall be filed within five business days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.
- 5.3.14. If any approved WECS is not substantially commenced within one year of issuance of the permit, the special permit shall expire.

5.4. Waiver of Criteria

Pursuant to §274-b (5) of the New York Town Law, the Planning Board shall have the authority to waive the strict application of any of the above criteria when specifically requested by the applicant and will apply to the application process only. The Planning Board may grant such request if it determines that such request is reasonable under the

circumstances and that strict application is not required under the circumstances in order to protect the public health, safety and general welfare. The Planning Board shall keep with the spirit and intent of this local law in their determinations and shall specify, in its findings, the reasoning behind such determinations. Any waiver of the standards for WECS requires a variance request to the Board of Appeals pursuant to the criteria set forth in Article X, Section 10.03 for the granting of a variance.

5.5. Standards for WECS

The following standards shall apply to all large WECS.

- 5.5.1. All power transmission lines from the tower to any building or other structure shall be located underground unless a variance is granted by the Board of Appeals.
- 5.5.2. No television, radio or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the Town Site Plan Review and Subdivision Law. Applications may be jointly submitted for WECS under this Law and telecommunications facilities under the Site Plan and Subdivision Law.
- 5.5.3. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.
- 5.5.4. Lighting of tower. No tower shall be lit except to comply with FAA requirements. Motion-sensitive on-demand lighting is required. Minimum-security lighting for ground level facilities shall be allowed as approved on the Site plan.
- 5.5.5. All applicants shall use measures to reduce the visual impact of WECS to the extent possible. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Individual WECS shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the Wind Overlay District, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
- 5.5.6. The use of guy wires is permitted in connection with small WECS and wind measurement towers only.
- 5.5.7. No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems will produce electromagnetic interference with signal transmission or reception. No WECS shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy electromagnetic interference is grounds for revocation of the Special Permit for the specific WECS causing the interference.
- 5.5.8. All solid waste and hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all appropriate rules and regulations.

- 5.5.9. WECSs shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided. The use of previously developed areas will be given priority wherever possible. All top soil disturbed during construction, reconstruction or modification of each WECS will be stockpiled and returned to the site upon completion of the activity, which disturbed the soil. Compliance with the New York State Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Wind Power Projects is required. The guidelines in effect as adoption of this Local Law are in Appendix, 1.
- 5.5.10. WECSs shall be located in a manner that minimizes significant negative impacts on animal species in the vicinity, particularly bird and bat species, including those that may be listed by the U.S. Fish & Wildlife Service as threatened or endangered.
- 5.5.11. WECSs shall be located in a manner consistent with all applicable state and Federal wetlands laws and regulations.
- 5.5.12. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable state and Federal laws and regulations. Compliance with the New York State Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Wind Power Projects is required.
- 5.5.13. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects in effect as of the date of the application shall be adhered to, both inside and outside of agricultural districts. These guidelines in effect as of the effective date of this local law are reproduced at Appendix A for reference.
- 5.5.14. The maximum Total Height of any WECS shall be 500 feet.
- 5.5.15. Construction of the WECS shall be limited to the hours of 7 AM to 7 PM Monday through Friday, unless varied by the Board of Appeals, and determination thereof is filed with the Town.
- 5.5.16. If it is determined that a WECS is causing stray voltage issues, the operator shall take the necessary corrective action to eliminate these problems including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy stray voltage issues is grounds for revocation of the Special Permit for the specific WECS causing the problems.
- 5.5.17. WECSs shall be located in a manner that minimizes significant negative impacts on the historical and cultural aspects of the community (i.e. high concentration of historic stone houses and buildings). This shall be done in coordination with the New York State Office of Parks, Recreation and Historic Preservation. In addition, the review of NY's Department of State guidelines for Scenic Areas of Statewide Significance should be respected.
- 5.5.18. Health and Safety Setbacks: Where an individual or group of individuals own or control adjacent properties, those properties may be combined for the purposes of this Law through an Easement Agreement to be recorded in the Real Property records in the St. Lawrence County Clerk's Office. Where multiple lots are in single ownership or are combined through an Easement Agreement, the combined lots shall be considered as one for the purposes of the setback requirements imposed by this Law and/or the sound level measurements at the property lines. However, in

no instance shall the Easement provide for a setback between a WECS and a residence that is less than five times the total height of the WECS. (see definition of "Site") Each WECS shall be setback measured from the center of the WECS a minimum of:

- 5.5.18.1. Five times the total height of the proposed WECS from the nearest site boundary property line.
- 5.5.18.2. Five times the total height of the proposed WECS from the nearest public road.
- 5.5.18.3. Three thousand feet from the Village of Hammond boundaries.
- 5.5.18.4. One mile from Route 12.
- 5.5.18.5. Five times the total height of the proposed WECS from any non-WECS structure or any aboveground utilities.
- 5.5.18.6. Two times the total height of the proposed WECS from state and federal wetlands.
- 5.5.18.7. Five thousand feet from the property lines of a school.
- 5.5.18.8. One and one-half times the total height of the proposed WECS from the Overlay District Boundary where a greater setback as provided in this Section from such boundary is not applicable.

5.6. Required Safety Measures

- 5.6.1. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
- 5.6.2. If the property owner submits a written request that fencing be required, a six-foot-high fence with a locking portal shall be required to enclose each tower or group of towers. The color and type of fencing for each WECS installation shall be determined based on individual applications as safety needs dictate.
- 5.6.3. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each tower or group of towers and any building (or on the tower or building if there is no fence), containing emergency contact information, including a local telephone number with 24 hour, 7-day week coverage. The Town Planning Board may require additional signs based on safety needs.
- 5.6.4. No climbing pegs or tower ladders shall be located closer than twelve (12) feet to the ground level at the base of the structure for freestanding single pole or guyed towers.
- 5.6.5. The minimum distance between the ground and any part of the rotor or blade system shall be thirty-five (35) feet.
- 5.6.6. WECSs shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked.
- 5.6.7. The owner and/or operator of a WECS that has received approval under this Law and for which a permit has been issued shall file with the Board of Appeals on an annual basis an Operation and Maintenance Compliance report detailing the operation and maintenance activities over the previous year and certifying full

compliance with the Operation and Maintenance Plan. The annual report shall include a noise analysis by an independent acoustical consultant performed according to the International Standard For Acoustic Noise Measurement Techniques For Wind Generators (IEC 61400-11) or such other procedure as accepted by the Board of Appeals during the permit review process which certifies to the Town that the noise level of the WECS is in full compliance with the provisions of this law and the permit as issued, and shall otherwise comply with the provision of 5.9 of this Section.

5.7. Traffic Routes

5.7.1. Construction of WECSs poses potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECSs and/or associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include (1) minimizing traffic impacts from construction and delivery vehicles; (2) minimizing WECS-related traffic during times of school bus activity; (3) minimizing wear and tear on local roads; and (4) minimizing impacts on local business operations. Permit conditions may limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public. This shall be done in coordination with the Town Highway Superintendent, and Transportation Supervisor for the Hammond Central School District, and in compliance with the provisions of 5.9 of this Section.

5.7.2. The applicant is responsible for remediation of damaged roads upon completion of the installation and/or maintenance of a WECS. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by the Town Board, sufficient to compensate the Town for any damage to local roads. This shall be done in coordination with the state, county and town highway departments.

5.7.3. If the applicant uses any seasonal use highway in the off-season, it shall be solely responsible for the maintenance of said highway including but not limited to snow plowing. No act of maintenance on a seasonal use highway by an applicant shall be considered as Town maintenance of that highway for purposes of determining the seasonal use status of the highway.

5.7.4. Prior to placing the Wind Energy Facility in operation, and for the life of the project, the applicant shall repair or reconstruct all state highways, county highways, town highways and village streets and highways damaged by the applicant to the standards set forth by the St. Lawrence County Highway Department regardless of the condition of such highways, roads and streets prior to the commencement of construction by the applicant.

5.8. Noise Standards for Wind Energy Conversion Systems

5.8.1. The equivalent level (LEQ) generated by a Wind Energy Conversion System (WECS) shall not exceed the limits listed in Table 1 when measured at the nearest

off-site dwelling existing at the time of application, or for which a building permit has been issued. If the A-weighted background sound pressure level, without the WECS, is within 5 dB of some or all of the limits in Table 1 or exceeds some or all of the limits in Table 1, then the A-weighted criterion to be applied to the WECS application for those affected limits shall be the A-weighted background level +5 dB.

Note: For example, during daytime, if the background is less than or equal to 40 dB, then the limit is 45 dB. However, if the background is greater than 40 dB, say 44 dB, then the applicable WECS limit is the background level plus 5 dB which calculates to 49 dB for this example.

- 5.8.2. In all cases, the corresponding C-weighted limit shall be the operable A-weighted limit (from Table I or based on the A-weighted background, as appropriate) plus 18 dB. The application shall include certification by an independent acoustical engineer as to the predicted A- and C-weighted WECS sound levels at potentially impacted residential sites. The firm with which the engineer is associated shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the independent acoustical engineer shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA. The background shall be measured and predicted in accordance with 5.8.3 of this Section.

Table 1. WECS noise limits at residential receivers

	Daytime 7 AM to 8 PM	Nighttime 8 PM to 7 AM
A-weighted level (dB)	45	35
C-weighted level (dB)	63	53

- 5.8.3. A-weighted background community noise levels shall be based on measured hourly L90 levels gathered continuously for at least 2 weeks. The day shall be divided into two time periods: (1) daytime, the hours from 7 AM to 8 PM, and (2) nighttime, the hours from 8 PM to 7 AM. If insect noise possibly can dominate some of the hourly L90 measurements, then Ai weighting (see Schomer et al., 2010) shall be used in lieu of the Standard A-weighting, or measurements shall not be made when insect noise possibly can dominate some of the hourly L90 measurements. The background shall be reported by time period, and computed as follows. The minimum hourly L90 shall be tabulated by time period and by day, and the arithmetic average by time period over all the days of measurement shall be computed. These three averages of daily minima shall be reported as that site's daytime, evening, and nighttime A-weighted background, respectively.

5.8.3.1. Parcels 3 acres or smaller

The A- weighted background measurements shall be made along the line from the nearest proposed WECS to the dwelling in question. If the

parcel of land has no dwelling, then the line shall terminate within 25 feet of the center of the parcel. The actual position of the microphone shall be within the property in question and should be within 25 feet to either side of the line, no closer than 50 feet from the property boundary, and no closer than 25 feet from the house or any other structures. If positioning within this "measurement box" is not possible because of unique site conditions such as the position being underwater or the property being too small, then the unique conditions shall be fully documented and an alternate position selected and justified.

5.8.3.2. Parcels larger than 3 acres

The A- weighted background measurements shall be made along the line from the nearest proposed WECS to the dwelling in question. If the parcel of land has no dwelling then the line shall terminate within 50 ft of the center of the parcel. The actual position of the microphone shall be within the property in question, shall be within 50 to 500 feet of the dwelling or within 0 to 500 feet of the parcel center, as applicable, should be within 50 feet to either side of the line, shall be no closer than 50 ft from the house or any other structure, and shall be no closer than 50 feet from the property boundary. If positioning within this "measurement box" is not possible because of unique site conditions such as the position being underwater or the property being too small, then the unique conditions shall be fully documented and an alternate position selected and justified. The microphone shall be no closer than 50 ft from the house or any other structures.

5.8.3.3. Measurement requirements

The microphone shall be situated between 4 and 4.5 ft above the ground. Measurements shall be conducted within the general provisions of ANSI SI. 13-2005, and using a meter that meets at least the Type 2 requirements of ANSI SI.4 and S1.4A-1985 (R2006). The meter noise floor shall be 20 (dBA) or lower. The report shall include each hourly measured A-weighted L90 level, the tabulated daily minima by time period, and the three time period averages. The report also shall include a sketch of the site showing distances to the structure(s), to the property line, etc., and several photographs showing the structure(s), the property, and the acoustical instrumentation. All instrumentation shall be listed by manufacturer, model, and serial number. This instrumentation listing also shall include the A-weighted noise floor and the one-third octave band noise floors, if utilized, for each meter used.

5.8.3.4. Background prediction and measurement

Background measurements shall be conducted throughout the area using sufficient sites to generally characterize the background in various areas of the community such as along busy roads, in town, near the river, and in the countryside. The Town, using the services of the Town Engineer,

shall contract for the background measurements and determination of background levels for general areas of the township such that every parcel is assigned a background level for daytime and nighttime. The contractor shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the consultant's project leader shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA. The WECS applicant shall pay for the contract to measure and determine background levels. This payment shall include the cost of the contract, the cost of letting the contract, and the cost of supervising the contractor. The number of measurement sites and study plan shall be developed jointly between the Town and the contractor with input from the public and from the applicant.

Note: It is anticipated that background measurements will be performed on the order of 9 to 12 locations.

5.8.4. The starting point for predicting WECS A- and C-weighted levels at potentially impacted residential parcels shall be the manufacturer-supplied octave band sound power levels as measured by the manufacturer in accordance with International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11). At a minimum, the octave band data shall include the 10 octave bands with nominal center frequencies ranging from 16 Hz to 8000 Hz (see ANSI S1.6-1984), and the sound power levels for these bands shall be tabulated in the report. Any data not available from the manufacturer shall be estimated from field measurements on like wind turbines already in use. Any such field measurements shall be described fully and documented in the report. Predictions for certain times of the day such as nighttime may use manufacturer certified lower sound power levels that correspond to a reduced wind turbine output power setting, if the application warrants and affirms that this reduced power setting always will be used during the time of the day in question (e.g., nighttime).

5.8.5. In the event audible noise due to Wind Energy Facility operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in subparagraph I) of this subsection shall be reduced by five (5) dBA. A pure tone is defined to exist if the one-third (1/3) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one third (1/3) octave bands by five (5) dBA for center frequencies of five hundred (500) Hz and above, by eight (8) dBA for center frequencies between one hundred and sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dBA for center frequencies less than or equal to one hundred and twenty-five (125) Hz.

Note: Minimum distances or setbacks are a very inexact means to limit WECS noise. It is far more appropriate to deal with each application on its own merits,

taking into account the ground surface in the area, the number and placement of the wind turbines, and the sound power produced by the particular model of the WECS.

- 5.8.6. Any noise level falling between two whole decibels shall be rounded to the nearest whole decibel.
- 5.8.7. The maximum noise level for any WECS measured from the property boundary lines of any school shall not exceed 45 dBA.
- 5.8.8. Enforcement shall be by measurement. The Town, using the services of the Town Engineer, shall be responsible for and shall contract for any enforcement measurements. The contractor shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the consultant's project leader shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA.

The duration of any WECS measurement shall be 30 minutes. During the 30-minute period, the equivalent level (LEQ) generated by the WECS shall be measured. The measurement location shall be at any residential property as given in Section 5.8, and at any point on this residential property at which the background community noise may be measured per Section 5.8.3. Measurements shall be entirely within the appropriate time period, e.g., during nighttime for nighttime enforcement, and the WECS shall operate continuously during the 30-minute measurement.

The microphone shall be situated between 4 and 4.5 ft above the ground. Measurements shall be conducted within the general provisions of ANSI S1.13-2005, and using a meter that meets at least the Type 2 requirements of ANSI S1.4 and S1.4A-1985 (R2006). The instrument noise for shall be at least 10 dB below the lowest level measured.

A calibrator shall be used as recommended by the manufacturer of the sound level meter. The fundamental level of the calibrator and the sensitivity of the sound level meter shall be verified annually by a laboratory using procedures traceable to the National Institute of Standards and Technology.

A wind screen shall be used as recommended by the sound level meter manufacturer.

An anemometer shall be used and shall have a range of at least 5 to 15 miles per hour (2.2 to 6.7 meters per second) and an accuracy of at least ± 2 miles per hour (± 0.9 meters per second).

A compass shall be used to measure wind direction to at least an 8-point resolution: N, NE, E, SE, S, SW, W, NW. Measurements shall be A-weighted, or, alternatively, in one-third-octave bands. For A-weighted measurements, the uncertainty (tolerance) of measurements shall be 1 dB for a type 1 meter and 2 dB for a type 2

meter. For one-third-octave-band measurements, the meter shall meet the type 1 requirements of ANSI S12.4 and S12.4a-1985 (R2006), and the uncertainty of measurements shall be 5 dB in each and every one-third-octave band.

For all measurements, the surface wind speed, measured at a 1.5-m height, shall be less than 5 m/s.

All measurements shall be corrected for the background on the basis of mean square pressures. For one-third-octave-band measurements, each one-third-octave band shall be individually corrected for the background in that band. That is, both the WECS (which always includes the background) and the background alone shall be measured in each one-third-octave band. For either A-weighted data or one-third-octave band data, the background shall be measured during a like period when the WECS is not operating, and Table II shall be used to correct for the background, by band in the case of one-third-octave-band data. A like period includes the same or like location, like surface wind speed and direction, like time of day and day-of-the-week (e.g., Monday-Thursday night, Friday or Saturday night, or Sunday night), etc.

After correction, when using data measured in one-third-octave bands, all remaining bands, excluding bands set equal to zero, shall be converted to A-weighted bands and then shall be summed on a mean square pressure basis to establish the WECS background-corrected A-weighted sound level.

Table 11. Correction in dB that shall be subtracted from the WECS sound level measurement (which always includes the background sound level) because of the background sound so that the result is just the sound level of the WECS alone (See Note 6.8.8.1. below).

Δ , difference (dB)	<3	3-4	5-6	7-10	>10
K, correction (dB)	Notes 6.8.8.2 and 3	3	2	1	0

Notes:

5.8.8.1. This table provides a simple correction to measurements of WECS sound in the presence of the background. For example, the sound of a WECS (along with the background sound which is always present) is measured as 40 dB(A), and the background sound level alone (without the WECS) is measured as 34 dB(A). Then Δ , the difference in decibels is 6 dB (first row, third column), and the corresponding correction shall be 2 dB (second row, third column). That is, 2 dB shall be subtracted from the measured 40 dB(A) level, and it is adjusted to and reported as 38 dB(A). The same procedure is followed in each band for one-third-octave-band data.

5.8.8.2. When using directly measured A-weighted levels, if the difference between the WECS sound level (plus background sound level) and the background sound level alone is less than 3 dB, then it shall not constitute a violation of this Section.

5.8.8.3. When using measured one-third-octave-band data, if the difference between the WECS sound pressure level (plus background sound pressure level) and the background sound pressure level alone, each in the same one-third-octave band, is less than 3 dB, then the WECS level for that one-third-octave band shall be set to zero.

The report shall include a sketch of the site showing distances to the structure(s), to the property line, etc., and several photographs showing the structure(s), the property, and the acoustical instrumentation. All instrumentation shall be listed by manufacturer, model, and serial number. This instrumentation listing also shall include the A-weighted noise floor and the one-third-octave band noise floors, if utilized, for each sound level meter used.

5.9. Variance and Project Oversight

5.9.1. The Board of Appeals (BOA) (Article X, Section 10.03) has the power to vary or modify the strict application of the requirements contained in this Section pursuant to the provisions for granting a variance as stated in this law, together with the other powers and duties enumerated in this Section. In no event shall the BOA have the authority to issue a use variance to permit the location of a WECS in an area outside of the Wind Overlay District as established under this Law. The BOA shall keep with the spirit and intent of this local law in their determinations and shall specify, in its findings, the reasoning behind such determinations.

5.9.2. Project Oversight

5.9.2.1. Administer permit fees and use of escrow funds subject to 8. of this Section.

5.9.2.2. Solicit, evaluate, retain, administer, manage, and terminate all professional, advisory and/or consultant of any nature required to evaluate, supervise, process, analyze, advocate for or provide any other service deemed necessary to support any and all aspects of a Wind Energy Facility project in the Town of Hammond. The Town Board must approve all contracts that exceed six months in term and/or exceed \$1000 in value.

5.9.2.3. Supervise enforcement of the provisions of this law and any permit issued hereunder.

5.9.2.4. Monitor safety precautions and any other operations or administration of a Wind Energy Facility. Specific examples of areas to monitor include ongoing evaluation of environmental impact, ongoing evaluation of geological impact, project construction, roads and traffic, and sound compliance.

- 5.9.2.5. Investigate complaints and if violations of this law or the permit are found, issue Orders to Remedy and for failure to remedy recommend prosecution under 8.4 of this Section or permit revocation under 5.12, or both.
- 5.9.2.6. Administer decommissioning program.
- 5.9.2.7. Evaluate and recommend to the Town Board any insurance requirements and risk mitigation actions.
- 5.9.2.8. Evaluate project ownership changes in order to make recommendations to the Town Board
- 5.9.2.9. Maintain ongoing assessment and make appropriate recommendations to the Town Board on the Wind Energy Facility's impact on the town to include, but not be limited to, health related issues, changes in the existing condition of the aquifer, and any other broad impact issues.
- 5.9.2.10. Provide any and all other support to the Town Board or the Planning Board as requested regarding the Wind Energy Facility.
- 5.9.2.11. Develop and present an annual report to the Town Board on the status of the Wind Energy Facility.

5.10. **Decommissioning**

- 5.10.1. If any WECS remains non-functional or inoperative for a continuous period of 1 year, the applicant shall, without any further action by the Town Board, remove said system at its own expense in accordance with the provisions in this Section. This provision shall not apply if the applicant demonstrates to the Town that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town Board's ability to order a remedial action plan.
- 5.10.2. Non Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA or by lack of income generation. The applicant shall make available to a designee (i.e. town engineer, project manager, etc.) appointed by the Town Board, all reports from the purchaser of energy from individual WECS, if requested to prove the WECS is functioning. This designee may also request periodic documentation reporting the power output generated by the WECS.
- 5.10.3. Decommissioning and Site Restoration Plan and Requirements
 - An application for a Wind Energy Facility permit shall include a decommissioning and site restoration plan containing the information and meeting the requirements in this section.
 - 5.10.3.1. The plan shall provide for the removal from the Project Parcels, and lawful disposal or disposition of, all Wind Turbines and other structures, hazardous materials, electrical facilities, and all foundations to a depth of not less than 48 inches below grade. The plan shall provide for the removal of all access roads that the owner of the Project Parcels wants removed. The plan shall provide for the restoration of the Project

Parcels to farmland of similar condition to that which existed before construction of the WECS.

5.10.3.2. The plan shall provide for the decommissioning of the site upon the expiration or revocation of the WECS permit, or upon the abandonment of the WECS. The WECS shall be deemed abandoned if its operation is ceased for 12 consecutive months.

5.10.3.3. The Plan shall include: a) the estimated decommissioning cost in current dollars; (b) how said estimate was determined; (c) the method of ensuring that funds will be available for decommissioning and restoration; and (d) the method that will be used to keep the decommissioning costs current. The Town Board will make arrangements to ensure the fund amount is adjusted annually based on a suitable index such as the "RS Means Heavy Construction Cost Data" index unless the wind developer supplies convincing evidence that market conditions have changed.

5.10.3.4. The plan shall include provisions for financial security to secure completion of decommissioning (removal of non-functional towers and appurtenant facilities) and site restoration. The applicant, or successors, shall continuously maintain a fund payable to the Town of Hammond, in a form approved by the Town Attorney, and in an amount to be determined by the Town Board for the period of the life of the facility. This fund shall be no less than 125% of the cost of full decommissioning (including salvage value) and restoration in the form of a cash deposit with the Town in the amount of 25% of such fund and the balance of such fund in the form of an irrevocable bond in form and content as approved by the Town Board. All decommissioning funding requirements shall be met prior to commencement of construction.

5.10.3.5. The plan shall include written authorization from the permit holder and the owners of all Parcels within the project for the Town to access the Parcels and implement the decommissioning and site restoration plan, in the event the permit holder fails to implement the plan. The written authorization shall be in a form approved by the Town.

5.10.3.6. Use of Decommissioning Fund

5.10.3.6.1.1. Any non-functional or inoperative utility scale WECS, or any utility scale WECS for which the special permit has been revoked, shall be removed from the site and the site restored in accordance with the approved decommissioning and site restoration within 180 days of the date on which the facility becomes non-functional or inoperative, as defined above, or of the revocation of the special permit.

5.10.3.6.1.2. If removal of the WECS is required and the applicant, permittee, or successors fails to remove the WECS and restore the site in accordance with the approved decommissioning and site restoration plan, the permittee, by accepting the permit, authorizes the Town Board to contract for such removal and restoration and to

pay for the removal and restoration from the posted decommissioning and site restoration fund.

5.10.3.6.1.3. If the fund is not sufficient, the Town shall charge the permit holder for the costs over and above the amount of the fund.

5.11. Limitations on Approvals; Easements on Town Property

5.11.1. Nothing in this Local Law shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the Wind Energy Facility. Nothing in this Local Law shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any Wind Energy Facility. It shall be the sole responsibility of the Facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.

5.11.2. Pursuant to the powers granted to the Town to manage its own property, the Town may enter into noise, setback, or wind flow easements on such terms as the Town Board deems appropriate, as long as said agreements are not otherwise prohibited by state or local law.

5.11.3. Notwithstanding anything to the contrary contained in this Local Law or any other local law, ordinance, rule or regulation of the Town of Hammond, Building Permits shall not be issued for new construction on the same parcel as a permitted WECS when the proposed construction is located at a distance of five times the height from of any WECS tower on the parcel unless the party requesting the permit has signed and recorded in the County Clerk's Office an easement in favor of the WECS and the Town of Hammond acknowledging and permitting such proximity. In addition, no property or lot upon which a WECS has been permitted shall be further subdivided in a manner that would result in a reduction of the setbacks required by this Local Law and/or as set forth in the permit, unless the party requesting the subdivision has signed and recorded an easement in the County Clerk's Office in favor of the Town of Hammond and the WECS owner acknowledging and consenting to such reduced setbacks.

5.12. Permit Revocation

5.12.1. Testing fund. A Special Permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which shall be included in the annual Operation Maintenance and Compliance report required in this Section, and may be required more frequently upon request of the Code Enforcement Officer in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Special Permit and this Local Law and shall include an evaluation of any complaints received by the Town. A non-compliant WECS shall be shut down immediately if it exceeds any of the limits in this Section. The applicant shall have 90 days after written notice from the Code Enforcement Officer, to cure any deficiency. An extension of the 90-day period may be

considered by the Code Enforcement Officer, but the total period may not exceed 180 days.

5.12.2. Operation. A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, it shall be shut down immediately. The owner, or operator shall remedy the situation within 90 days after written notice from the Code Enforcement Officer. The applicant shall have 90 days after written notice from the Code Enforcement Officer, to cure any deficiency. An extension of the 90-day period may be considered by the Code Enforcement Officer, but the total period may not exceed 180 days.

5.12.3. Notwithstanding any other abatement provision under this Local Law, and consistent requirements in this Section, if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Town may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (1) order either remedial action within a particular timeframe, or (2) order revocation of the Wind Energy Permit for the WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the Board of Appeals shall have the right to use the security posted as part of the Decommission Plan to remove the WECS.

6. Wind Measurement Towers

6.1. Wind Site Assessment

The Town Board acknowledges that prior to construction of a WECS, an assessment is typically needed to determine local wind speeds and the feasibility of using particular sites. Installation of Wind Measurement Towers, also known as anemometer ("Met") towers, shall be permitted as Special Uses, but shall be limited to those areas delineated as Wind Overlay Districts.

6.2. Applications for Wind Measurement Towers

6.2.1. An application for a Wind Measurement Tower shall include:

6.2.1.1. Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

6.2.1.2. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

6.2.1.3. Address of each proposed tower Site, including Tax Map section, block and lot number.

6.2.1.4. Site plan.

- 6.2.1.5. Decommissioning Plan, including a security bond or cash for removal.

6.3. Standards for Wind Measurement Towers

- 6.3.1. The distance between a Wind Measurement Tower and the property line shall be at least 1.5 times the Total Height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.
- 6.3.2. Special Permits for Wind Measurement Towers may be issued for a period of up to twenty-six (26) months. Permits may be renewed if the Facility complies with the conditions of the Special Permit.
- 6.3.3. Anchor points for any guy wires for a Wind Measurement Tower shall be located within the property that the system is located on and not on or across any aboveground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from original grade at the ground level to eight feet above the ground.
- 6.3.4. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind farm projects shall be adhered to both inside and outside of agricultural districts.

6.4. Application Review Process for Wind Measurement Towers

- 6.4.1. Applicants may request a pre-application meeting with the Town Planning Board, or with any consultants retained by the Planning Board for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.
- 6.4.2. Six copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.
- 6.4.3. Town staff or Town-designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this Article is included in the application. Unless the Planning Board waives any application requirement, no application shall be considered until deemed complete.
- 6.4.4. If the application is deemed incomplete, the Planning Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number' of Wind Measurement Towers proposed is increased.
- 6.4.5. Upon submission of a complete application, including the grant of any application waiver by the Planning Board, the Town Clerk shall transmit the application to the Planning Board.
- 6.4.6. The Planning Board shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within 1,250 feet of each proposed Wind Measurement Tower and published in the Town's official

newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

6.4.7. The public hearing may be combined with, public hearings on any Environmental Impact Statement or requested variances.

6.4.8. Notice of the project shall also be given, when applicable, to (1) the St. Lawrence County Planning Board, if required by General Municipal Law §239-1 and 239-m, and (2) to adjoining Towns under Town Law §264.

6.4.9. SEQRA review. Applications for Wind Measurement Towers are deemed Unlisted projects under SEQRA. The Planning Board may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said communities shall be part of the record of the Planning Board's proceedings. The Planning Board may require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review.

6.4.10. Upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the applications, in accordance with the standards in this Section.

7. Small Wind Energy Conversion

7.1. Purpose and Intent

The purpose of this Article is to provide standards for Small Wind Energy Conversion Systems designed for on-site home, farm, and small commercial use, and that are primarily used to reduce onsite consumption of utility power. The intent of this Article is to encourage the development of small wind energy systems and to protect the public health, safety, and community welfare.

7.2. Permitted Areas

Small Wind Energy Conversion Systems (Small WECS) may be permitted anywhere within the Town of Hammond on a Site of at least one (1) acre, upon issuance of a Special Permit. A Small WECS shall be set back from all property lines a distance equal to at least 1.5 times its height.

7.3. Applications

Applications for Small WECS special permits shall include the following:

7.3.1. Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.

7.3.2. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission

- signed by the property owner (i) confirming that the property owner is familiar with the proposed application and (ii) authorizing the submission of the application.
- 7.3.3. Address of each proposed tower Site, including Tax Map section, block and lot number.
 - 7.3.4. Site plan of each tower site, including but not limited to showing the location of the tower in relation to other structures and lot lines, topography of the site, location of trees and other landscape elements.
 - 7.3.5. Ownership and land use information within a 1,250-foot radius of the location proposed for each tower.
 - 7.3.6. Evidence that the proposed tower height does not exceed the height recommended by the manufacture or distributor of the system.
 - 7.3.7. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Electric Code.
 - 7.3.8. Sufficient information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.
 - 7.3.9. Written evidence that the electric utility service provider that serves the proposed Site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan to connect the system to the electricity grid, and so states so in the application.
 - 7.3.10. A visual analysis of the Small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

7.4. Application Review Process

- 7.4.1. Applicants may request a pre-application meeting with the Town Planning Board, or with any consultants retained by the Planning Board for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.
- 7.4.2. Six copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.
- 7.4.3. Town staff or Town-designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this Article is included in the application. Unless the Planning Board waives any application requirement, no application shall be considered until deemed complete.
- 7.4.4. If the application is deemed incomplete, the Planning Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of Small WECSs proposed is increased.

- 7.4.5. Upon submission of a complete application, including the grant of any application waiver by the Planning Board, the Town Clerk shall transmit the application to the Planning Board.
- 7.4.6. The Planning Board shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within 1,250 feet of each proposed Small WECS and published in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.
- 7.4.7. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested variances.
- 7.4.8. Notice of the project shall also be given, when applicable, to (I) the St. Lawrence County Planning Board, if required by General Municipal Law §239-1 and 239-m, and (2) to adjoining Towns under Town Law §264.
- 7.4.9. SEQRA review. Applications for small WECS are deemed unlisted projects under SEQRA. The Planning Board may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said communities shall be part of the record of the Planning Board's proceedings. The Planning Board may require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review.
- 7.4.10. Upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the applications, in accordance with the standards in this Section.

7.5. Development Standards for Small WECS

All Small Wind Energy Systems shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this Article that are not in conflict with the requirements contained in this section.

- 7.5.1. Small WECS may be used to generate on-Site power or to reduce the on-Site consumption of electricity.
- 7.5.2. Notice of an application for installation of a small wind energy system shall provide to property owners within 1000 feet of the property line on which the system is to be located.
- 7.5.3. Tower height of not more than 140 feet shall be allowed on parcels up to five acres. For property sizes of five acres or more, there is no limitation on tower height, except as imposed by the FAA regulation, provided that the application includes evidence that the proposed height does not exceed the height recommended by the manufacturer or distributor of the system.
- 7.5.4. All parts of the system and its tower, including guy-wire anchors shall be located on the WECS parcel, and shall be more than ten (10) feet from the closest part of the WECS property boundary. Additionally, the outer and innermost guy-wires shall be

marked and clearly visible to a height from the ground level to eight feet above the guy-wire anchors. All small WECS shall be set back from the site boundary a distance equal to one and one-half the height of the Tower measured from the center of the WECS.

- 7.5.5. The system's towers and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize and visible disruption.
- 7.5.6. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
- 7.5.7. All on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the Town if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
- 7.5.8. Decibel levels for the system shall not exceed the limits in Table 1 of 5.8.8 of this Section when measured at the nearest point of any residential property. For purposes of this clause, residential property shall include property that contains one or more existing residences and/or a building permit has been issued for a residence on said property, and/or said property is zoned for residential use.
- 7.5.9. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the damage or cease operation of the system.
- 7.5.10. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the damage or cease operation of the system.
- 7.5.11. The system shall be operated such that no damage is caused by stray voltage. If it has been demonstrated that a system is causing stray voltage, the system operator shall promptly mitigate the damage or cease operation of the system.
- 7.5.12. The system shall comply with all applicable Federal Aviation Administration requirements, including Part 77 of Title 14 of the Code of Federal Aviation Administration Regulations regarding installation close to airports.
- 7.5.13. At least one sign shall be posted on the tower at a height of five (5) feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo, or advertising shall be placed or painted on the tower, rotor, generator, or tail vane where it would be visible from the ground, except that a system or tower manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.
- 7.5.14. All small wind energy system tower structures shall be designed and constructed to comply with pertinent provisions of the Uniform Building Code and National Electric Code.
- 7.5.15. All small wind energy system shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

7.5.16. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:

7.5.16.1. Tower-climbing apparatus located no closer than twelve (12) feet from the ground

7.5.16.2. A locked anti-climb device installed on the tower.

7.6. Variances for Small WECS (5.9 of this Section).

7.7. Abandonment of Use

7.7.1. Small WECS, which is not used for twelve (12) successive months, shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with all conditions that may be attached to the granting of any permit shall constitute grounds for the revocation of the permit by the Town of Hammond. If not removed within 180-days from revocation, the town shall have the right to remove the small WECS at the owner's expense.

7.7.2. All Small WECS shall be maintained in good condition and in accordance with all requirements of this section.

8. Miscellaneous

8.1. Fees

Non-refundable Application Fees for WECS, Wind Measurement Towers, and Small WECS shall be established by the Town Board and reviewed on an annual basis.

8.1.1. WECS Special Permit: \$ 1,000.00 per megawatt of rated maximum capacity

8.1.2. Wind Measurement Towers: \$500.00 per tower.

8.1.3. Small WECS: \$150.00 per Small WECS

8.1.4. Wind Measurement Tower Special Permit renewals: \$50.00 per Wind Measurement Tower per year.

8.1.5. Reimbursement of Expenses Related to WECS Project: The Town Board of the Town of Hammond has determined that the review of building and electrical permits for WECS requires specific expertise for those facilities. Accordingly, for such facilities (WECS), an administrative fee of \$500.00 per permit request shall be charged for administrative costs, plus the amount charged to the Town by the outside consultant hired by the Town to review the plans and inspect the work. The Town and the applicant will enter into an agreement for an inspection and/or certification procedure for these unique facilities, and the applicant will be required to deposit the sum of \$100,000.00 in an escrow account with the Town which the Town may use to pay for any expenses it incurs related to this project. The Board of Appeals will manage this account. If the escrow account balance falls below \$10,000.00, the applicant will agree to immediately remit the amount of \$25,000.00 to be placed in the escrow account.

8.1.6. Nothing in this Local Law shall be read as limiting the ability of the Town to enter into Host Community agreements with any applicant to compensate the town for expenses or impacts on the community. The Town shall require any applicant to

enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required by SEQRA.

8.1.7. The Town Board may amend these fees, by resolution, after a properly noticed public hearing.

8.2. Project Management and Oversight

8.2.1. Upon approval by the Planning Board of a WECS Special Permit application, and as a condition to the issuance of a WECS Special Permit, the applicant shall designate a field representative and site manager who will be responsible for overseeing compliance with the conditions of the Permit. Such representative and site manager shall be in place for as long as the WECS is in place and will interact directly with the Board of Appeals (BOA), the project monitor hired by the town and the designated engineering firm representative. This person will have the authority to make management and technical decisions as situations demand. The applicant shall provide and update, at all times, the names, addresses, daytime telephone numbers and emergency telephone numbers of field representative and site manager to the BOA. The applicant shall also provide contact information for all entities providing operation, maintenance and monitoring services.

8.2.2. The BOA will make the telephone numbers of the field representative or site manager available to local residents and officials upon request.

8.2.3. As a condition to the issuance of a WECS Special Permit, the services of an independent engineering firm and an independent full-time on-site monitor shall be retained by the Town of Hammond during the construction phase of the WECS project. The applicant shall assume all costs associated with the hiring and managing of these two positions who will report directly to the BOA.

8.2.4. The engineering firm shall have prior experience in commercial wind development, construction, and operation. Documentation and references will be required.

8.2.5. The engineering firm will oversee all aspects of construction and will be included in all design, construction, and planning meetings and shall be provided with all technical information, specification and drawings. A representative of the engineering firm shall be on-site at all times during the construction phase.

8.2.6. The engineering firm duties shall include code enforcement and project specification compliance and they will be responsible for confirming that all project specifications are implemented. The firm's representative and the independent monitor will have the authority to issue a "stop work order" for issues including but not limited to: (a) safety, (b) developer compliance issues, and (c) insufficient project documentation.

8.2.7. The applicant shall file daily, weekly and monthly construction plans and will follow the planned work schedule as much as possible. When daily, weekly, or monthly schedules are not completed as planned, updated schedules shall be developed and given to the BOA monitor and the engineering firm representative.

8.2.8. Any design changes during construction must be pre-approved by the engineering firm and the BOA. The applicant shall provide the BOA and the engineering firm representative with "As Build" Drawings within (1) one week of completion of each

portion of the construction phase or as requested by the BOA monitor or engineering firm representative.

8.2.9. All up-grades or changes to the WECS project, as permitted, shall be reviewed and approved by the engineering firm and the BOA monitor prior to the implementation of such upgrades or changes.

8.2.10. A maintenance plan shall be developed by the applicant and approved by the engineering firm representative and the BOA monitor prior to turbine start-up. The plan will include, but not be limited to:

8.2.10.1. List of all item requiring regular maintenance.

8.2.10.2. Duration of accumulated time between scheduled maintenance.

8.2.10.3. Work to be completed during the maintenance operation.

8.2.10.4. Person responsible for the maintenance.

8.2.10.5. Process applicant uses to ensure maintenance is carried out appropriately.

8.2.11. All performance data routinely monitored during turbine operation shall be made available to the engineering firm representative and the BOA monitor. Data shall include but not limited to:

8.2.11.1. Vibration levels.

8.2.11.2. Noise levels.

8.2.11.3. Rotational Speeds.

8.2.11.4. Kilowatt hours of production

8.2.12. Performance of an individual turbine or group of turbines shall be reported to the BOA and/or Town Board, upon request, within 24 hours.

8.2.13. All maintenance reports shall be filed with the BOA weekly.

8.2.14. All information provided to the Town shall be made part of the public record.

8.2.15. In the event of an accident, the town engineering firm, the BOA monitor and the (BOA) shall have the authority to shut down all of the affected turbines. Turbines will not be placed back in service until a thorough investigation has taken place, a cause has been determined and steps have been taken to ensure the problem will not reoccur.

8.3. Complaint Resolution Process

8.3.1. Any property owner or resident within the Town of Hammond may register a complaint with the Board of Appeals (BOA) that a Wind Energy Facility is being operated in violation of the permit issued pursuant to this law, or otherwise in violation of the criteria set forth in this law. Such complaints may include, but will not be limited to: excessive noise, flicker or shadow affect, change in water quantity or quality, loss of or diminished telephone, television, or radio reception, interference with a medical device, or the new presence of radon gas. The BOA shall investigate the complaint as provided in this section and, where necessary, may engage the services of an expert to assist in such investigation and provide a report to the BOA. The cost for such expert services shall be paid from the Escrow Account established by an applicant for a Wind Energy Facility as provided in this law. In the event that the BOA determines that the complaint is valid, and that the Wind Energy Facility is being operated in violation of its permit or otherwise in violation of the criteria as set forth in this law, the BOA shall issue an Order to

Remedy to the owner and/or operator of the Wind Energy Facility, which Order to Remedy shall specify the actions required to be taken by the owner/operator of the Wind Energy Facility in order to cure the violation, and the time period within such action must be taken.

- 8.3.2. In the event that the owner/operator of the Wind Energy Facility fails to comply with such Order to Remedy, the BOA shall report such failure to the Town Board with a recommendation that the Town Board proceed with the enforcement provisions contained in 8.4 of this Section, or where appropriate permit revocation pursuant to the provisions of 5.12 of this Section.
- 8.3.3. If the BOA determines that the Facility is not being operated in violation of the permit issued under this law or otherwise in violation of the criteria set forth in this law, the BOA shall set forth its findings which shall be filed with the Town Clerk and forwarded by registered mail to the complaining party. The complaining party shall have a right to challenge such determination in a proceeding commenced pursuant to the provisions of Article 78 of the Civil Practice Law and Rules.
- 8.3.4. The following criteria/process shall apply to the specific areas of complaints as identified below, and where the complaint falls outside of these specific areas, the BOA shall investigate and engage the services of experts as it deems necessary to its investigation:
 - 8.3.4.1. Shadow flicker: Upon the receipt of a written complaint of disturbance due to shadow flicker filed by a Non-Participant together with a video thereof identifying the particular WECS(s) by number within the Wind Energy Facility, the BOA shall notify the owner/operator of the Facility that such complaint has been received, and that the BOA shall meet at a date and time certain to review the complaint. The owner/operator of the Facility may present evidence to the BOA to contradict the evidence presented by the complaining party. The BOA shall meet at the date and time stated in the notice to review the complaint and the evidence provided therewith, together with any evidence provided by the owner/operator of the Facility, and shall make a determination as to the validity of the complaint. In the event the BOA determines that the complaint is valid, it will notify the owner/operator of the Facility and order that the disturbance be mitigated within 48 hours. Mitigation may be accomplished by ceasing operation of the identified WECS during peak flicker hours or in another manner acceptable to the BOA as proposed by the owner/operator of the Facility. In the event that the owner/operator of the Facility fails to provide the required mitigation as indicated in the order issued by the BOA, the BOA shall render a written report to the Town Board and filed with the Town Clerk with the recommendation that the Town Board commence enforcement proceedings pursuant to 8.4 of this Section.
 - 8.3.4.2. Setbacks: Upon receipt of a written complaint filed by a Non-Participant that a setback requirement imposed under the provisions of this law, or specified in the permit issued pursuant to this law has been violated, the BOA shall cause such complaint to be investigated and shall meet to review the results of such investigation. In the event a setback

violation is confirmed, the BOA shall notify the owner/operator of the Facility in writing by personal service or registered mail of such violation. The notification shall include an order to remedy which shall set forth the particular method by which such violation may be cured and the time period within which the same shall be completed. Failure to comply with the Order to Remedy may result in enforcement pursuant to 8.4 of this Section or the revocation of the permit under 5.12, or to both such enforcement and revocation.

8.3.4.3. Noise/sleep interference: Upon receipt of a written complaint filed by a Non- Participant that a noise disturbance in violation of the provisions of this law and/or the permit issued thereunder is occurring, together with a recorded time noise log of the specific WECS alleged to be in violation, the BOA shall retain an independent acoustic investigator to investigate the complaint. The fees for such services shall be paid from the Escrow Account established pursuant to the provisions of this law. Copies of the acoustical investigation report shall be supplied to the complaining party, the owner/operator of the Facility, and the BOA. The BOA shall meet to review the results of the investigation, and in the event that the investigation confirms a violation of the noise requirements, the BOA shall issue an Order to Remedy which shall require the WECS causing the noise violation to be shut down during normal sleeping hours as established in this local law. Failure to comply with the Order to Remedy may result in enforcement pursuant to 8.4 of this Section or the revocation of the permit under 5.12, or to both such enforcement and revocation.

8.3.4.4. Electromagnetic-stray voltage: Upon receipt of a written complaint from a Town of Hammond resident of electromagnetic interference of stray voltage, the BOA shall retain the services of an electrical engineer to conduct a stray voltage or electromagnetic interference investigation with the cost of such services to be paid from the escrow fund established pursuant to this law. The BOA shall meet to review the results of the investigation and, in the event that the complaint is determined to be valid, the BOA shall issue an Order to Remedy to the owner/operator of the Facility with a period of one (1) week to cure the violation. Failure to comply with the Order to Remedy may result in enforcement pursuant to 8.4 of this Section or the revocation of the permit under 5.12, or to both such enforcement and revocation.

8.3.4.5. Contamination of aquifers, ground water, or wells: Upon receipt of a complaint, written or oral, from a resident of the Town of Hammond that an aquifer, ground water, or well water has been disturbed by the Wind Energy Facility, the BOA shall immediately notify the owner/operator of the Facility that such complaint has been received, and the owner/operator shall have 24 hours from receipt of such notice to verify whether the complaint is due to development impact from the Facility. If the owner/operator of the Facility determines that the disturbance is not related to the development and notifies the BOA

thereof, the BOA may engage the services of a professional engineer to conduct appropriate and necessary tests and render a report to the BOA as to the causation of the disturbance. The expense for such services shall be paid from the escrow account established pursuant to this law. If the report establishes that the development is the cause of such impact, the BOA may order the owner/operator of the Facility to provide potable water to the affected residents and to file with the BOA an action report of the proposed resolution of the disturbance. In the event of verification of toxic contamination to a well, ground water or aquifer, the owner/operator of the Facility and/or the BOA shall notify the New York State Department of Conservation. In the event the incident falls under the jurisdiction of the NYS DEC, the Town shall defer to the NYS DEC for remediation/action in connection therewith. In the event the incident is not within the jurisdiction of the NYS DEC, but disturbance or contamination is found, the owner/operator of the Facility shall have five (5) days from receipt of such findings to correct the disturbance/contamination in a manner satisfactory to the BOA. Failure to comply with an order of the BOA issued hereunder shall subject the owner/operator of the Facility to the enforcement provisions in 8.4 of this Section or the revocation of the permit under 5.12, or to both such enforcement and revocation.

8.4. Enforcement; Penalties and remedies for violations

8.4.1. The Town Board shall appoint such Town staff or outside consultants as it may from time to time determine are necessary to enforce this Section.

8.4.2. Any person owning, controlling or managing any building, structure or land who shall undertake a Wind Energy Facility in violation of this Local Law or, operates such facility in noncompliance with the terms and conditions of any permit issued pursuant to this Local Law, or any order of the BOA, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than \$1,000.00 or to imprisonment for a period of not more than six (6) months, or to both such fine and imprisonment. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue, and in the event such violation involves the failure to comply with operational restrictions imposed under this Law or pursuant to any permit or approval issued hereunder such as, but not limited to, noise levels or setback requirements, each WECS within the Wind Energy Facility that is in violation of such restriction shall constitute a separate and distinct offense for each such restriction violated. In addition to the criminal penalties imposed hereunder, the Town may institute a civil proceeding to collect civil penalties in the amount of \$1,000.00 for each violation, and each week said violation continues shall be deemed a separate violation and/or for injunctive relief in connection with such violation.

8.4.3. Special Proceeding: The designated enforcement officer may, with the consent of the Town Board, institute an action or proceeding available at law to prevent, correct or abate any unlawful construction, erection, structural alteration, reconstruction, modification and/or use of a Wind Energy Facility, Small Wind

Energy Facility, or Wind Measurement Tower in the Town. This shall be in addition to other remedies and penalties herein provided or available at law.

- 8.4.4. In case of any violation or threatened violation of any of the provisions of this Section, including the terms and conditions imposed by any permit issued pursuant to this local law, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.

Article VI. Site Plan Review

Section 6.01 General Standards

1. Uses Requiring Site Plan Review

All proposed activities that involve:

- 1.1. an expansion of an existing principal or accessory use of property; or
- 1.2. the addition of a new accessory use of property; or
- 1.3. a change in the principal use of property to another principal use; or
- 1.4. the construction or location of any structure within seventy-five (75) feet of the right-of-way of any public road or highway;
- 1.5. and require the issuance of a building permit or certificate of occupancy shall be subject to site plan review except those exempt uses listed in Article IV, Section 4.04.

2. Effects on Existing Uses, Buildings and Structures

- 2.1. Existing Buildings and Structures Exempt. This Law does not apply to any use, building or structure that is lawfully in existence as of the effective date of this Law so long as there is no change, alteration, modification, expansion or addition to the use, building or structure.
- 2.2. Future Diminution of Use also Exempt. The reduction or lessening of the use, size or extent of any building or structure that is otherwise exempt from this Law under any provision of this Article, including the demolishing, razing or removal of the building or structure or any portion thereof shall be also exempt from the provisions of this Law.
- 2.3. Complete Destruction or Removal. On the complete destruction or removal of any building or structure, whether intentional or otherwise, any exemption from this Law under Article IV, Section 4.04 shall automatically terminate, without requirement of notice to the owner. Complete destruction or removal shall be deemed to have occurred when more than 75% of the gross square footage of the building or structure involved is affected. Any replacement or reconstruction of a completely destroyed building or

structure shall be subject to site plan review under this Law, unless one of the exemptions in Article IV, Section 4.04 applies.

2.4. Partial Destruction or Removal. Following the partial destruction or removal of any building or structure, whether intentional or otherwise, any exemption from this Law under Article IV, Section 4.04. of this Section that applies to the building or structure shall continue as to the portions of the building or structure that are not affected. Partial destruction or removal shall be deemed to be any destruction or removal that is not complete destruction or removal. Any replacement or reconstruction of a partially destroyed building or structure shall also be exempt from the provisions of this Law, provided that the following criteria are met:

2.4.1. The Enforcement Officer shall have been notified of the partial destruction or removal within ninety (90) days of the date on which the building or structure was partially destroyed or removed. The Enforcement Officer shall inspect the building or structure, determine the extent of the destruction or removal, and notify the owner of the property and the Planning Board as to whether the destruction or removal was partial or complete. In the event the destruction or removal is found by the Enforcement Officer to be partial, the Planning Board shall so notify the owner of the property by letter. The notification shall include information about the right to replace or reconstruct the building or structure in a manner exempt from this Law and shall state the date by which replacement or reconstruction must be commenced.

2.4.2. The replacement or reconstruction shall be commenced within 180 days of the date on which the building or structure was partially destroyed or removed and shall be pursued diligently to completion.

2.4.3. The replacement or reconstruction shall be the reasonable equivalent of the portion of the building or structure that was destroyed or removed, and shall not constitute, comprise or incorporate a change, modification and alteration, expansion or addition to the building or structure, except for such changes, modifications and alterations that are required to connect, upgrade or modernize utilities, maintain the building or structure in accordance with applicable building regulations, or are otherwise needed to provide for the safety of occupants and users of the building or structure and the general public.

Section 6.02 Planning Board Review and Decision

1. **Procedure.** Within 62 days of receipt of a complete preliminary application as defined in Article III of this Local Law, the Planning Board may approve the preliminary application or schedule a public hearing. If a public hearing is held, the Planning Board shall approve, approve with modifications or disapprove the preliminary application within 62 days of the completion of the hearing. If a preliminary application is approved, the applicant and the Code Enforcement Officer shall be notified in writing by the Planning Board and a building permit issued within ten (10) days. The applicant shall not have to file a final site plan if the preliminary site plan is approved without modifications.

If the Planning Board approves the preliminary application with modifications the applicant shall submit a final detailed site plan to the Planning Board for approval according to the requirements set forth in Section 6.05 of this Article.

The Planning Board shall comply with County Planning Board referral requirements set forth in Article II, Section 2.02.

Within 62 days of receipt of the application for final site plan approval, the Planning Board shall render a written decision to the applicant and the Code Enforcement Officer, and such decision shall be signed by the Chairperson of the Planning Board.

2. **Public Hearings.** If the Planning Board, in its discretion, decides to hold a public hearing concerning an application for final site plan approval, such public hearing will be held within 62 days of receipt of said application. The Planning Board shall render its decision concerning said application for final site plan approval within 62 days after the public hearing. Hearings shall be advertised in accordance with Article X, Section 10.06.
3. **Time Limitations.** The time periods within which Planning Board actions are required by Article III of this Local Law are the maximum times allowable. The Planning Board shall make every effort to act as quickly as possible in reviewing applications in order to minimize delays to the applicant.
4. **Justification and Notice**
 - 4.1. The Planning Board shall apply all of the review standards described in Article VII of this Local Law in reviewing site plans.
 - 4.2. Decisions of the Planning Board shall be in writing and may include reasonable conditions to further the intent of this Local Law. Reasons for disapproval shall be clearly stated.
 - 4.3. Decisions of the Planning Board shall be filed within five (5) business days in the office of the Clerks of the jurisdiction in which the property is located and a copy mailed to the applicant by certified mail, with return receipt requested.
 - 4.4. Approval of a Site Plan by the Planning Board shall be valid for a period of one (1) year from the date thereof for the purpose of obtaining a building permit. Failure to secure a building permit during this one-year period shall cause the Site Plan approval to become null and void. No building permit shall be issued and no site work shall commence until all necessary permits and approvals from Town, County, and State agencies are obtained and any required performance bond is filed with the Clerk of the jurisdiction in which the property is located. The Planning Board may extend the time period for good cause shown.

Section 6.03 Sketch Plan Conference

1. **Purpose.** Prior to submission of an application as defined in Article VI of this Local Law an applicant has the option to request an informal Sketch Plan Conference with the Planning

Board. The purpose of this conference is to save time and money and to make the most of opportunities for desirable development. This conference may be used to review the basic site design concept, discuss site characteristics (advantages and limitations), determine the information to be required by the Planning Board on the preliminary site plan, and address environmental concerns as required by the New York State Environmental Quality Review Act (6 NYCRR 617) previously referred to in Article I, Section 9.

2. **Sketch Plan Submission.** Prior to the Sketch Plan Conference, the applicant shall submit in as much detail as possible a written letter to the Town of Hammond Code Enforcement Officer including, as a minimum, the following:
 - 2.1. A statement describing the proposed use.
 - 2.2. A sketch map of the proposed activity, and adjacent property owners' boundaries, including north arrow, scale, dimensions of the parcel of property involved, and the locations of any easements of record.
 - 2.3. Proof of ownership of the parcel.

Upon receipt of the Sketch Plan, the Code Enforcement Officer, in conjunction with the applicant, shall complete the Sketch Plan Review Questions Form as adopted by the Planning Board and shall schedule a time for the Sketch Plan Conference which is mutually convenient to the applicant and the Planning Board, but not to exceed 30 days from the date of submission of the Sketch Plan.

3. **Sketch Plan Conference Actions.** Upon receipt and review of the Sketch Plan Review Questions Form, the Planning Board shall take the following actions:
 - 3.1. Complete the SEQRA review.
 - 3.2. Do one of the following:
 - 3.2.1. Require a Preliminary Site Plan to be prepared by the applicant. The Planning Board may at this time and at its discretion, waive any preliminary requirements which are clearly not relevant to the proposed activity.
 - 3.2.2. Declare the Sketch Plan to be incomplete. The applicant may resubmit it with the addition of the indicated missing information.

Section 6.04 Preliminary Application Requirements

1. **Application.** An application for Preliminary Site Plan Approval shall be submitted in writing to the Code Enforcement Officer who shall then forward it to the Planning Board within 10 days of filing. The application shall be accompanied by required documents from the list in 2. of this Section. The application for Site Plan approval shall be on a form adopted by the Planning Board. The final determination as to completeness of the application shall be made by the Planning Board.
2. **Required Documents.** The following shall be required, unless specifically waived by the Planning Board or otherwise indicated and shall constitute application for a Site Plan review:

- 2.1. Application form (as approved by the Planning Board and available from the Code Enforcement Officer and Town or Village Clerk).
- 2.2. Location map with scale, north arrow, boundaries and dimensions of the parcel of property involved, and identification of adjacent properties including ownership and roads and any known easements or rights-of-way.
- 2.3. Map showing existing features of the site including structures, roads, bodies of water, flood-prone areas, wooded areas, land uses, water and sewer lines, paved areas, wells, and on-site sewage disposal facilities.
- 2.4. On the same or a separate map as in Section 6.03, 3. above, indicate the location, dimensions, and arrangement of any proposed buildings or uses on the site, including roads, pathways, etc., providing ingress and egress.
- 2.5. Sketch of any proposed building or structure including exterior dimensions and elevations of front, side, and rear.
- 2.6. Name and address of applicant and any professional advisors.
- 2.7. Copy of deed to the property.
- 2.8. Authorization of the owner to apply for a permit if the applicant is not the owner of the property in question.

Section 6.05 Final Application

1. **Submission of Final Site Plan.** After receiving approval with modifications from the Planning Board on a preliminary site plan, the applicant shall submit a final, detailed site plan to the Planning Board for approval. If more than six (6) months has elapsed since the date of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require re-submission of the preliminary site plan for further review and possible revisions prior to accepting the final site plan for review.
2. **Final Application Requirements.** The following additional information shall accompany an application for final site plan approval:
 - 2.1. Record of application for and approval status of all necessary permits from Federal, State, and County agencies.
 - 2.2. Detailed sizing, location, and materials specifications for all modifications specified in the initial conditional approval by the Board.
 - 2.3. An estimated project construction schedule.

Article VII. Site Plan Review Standards

Section 7.01 General Standards

The proposed land use activity should not be in conflict with the Town's intent as expressed in Article II Section 2.01 of this Local Law and community goals and objectives as expressed in the Town Plan or in future community planning documents.

Section 7.02 Specific Standards

The Planning Board's review of the site plan shall include and evaluate, at a minimum, each of the following criteria:

1. Compatibility of development with natural features of the site and with surrounding land uses.
2. Measures to avoid damage from floods.
3. Landscaping arrangements and the retention of existing vegetation for aesthetic qualities.
4. Buffers to protect neighboring properties against noise, glare, or other nuisances (Berms, Fences, Screening).
5. Vehicular traffic access and circulation, including intersections, road widths, pavement surface dividers, and other traffic controls.
6. Parking provisions.
7. Exterior lighting.
8. Fire protection provisions.
9. Erosion control methods during and after construction.
10. Stormwater and drainage facilities.
11. Water Supply.
12. Sewage disposal facilities.
13. Signs and billboards.
14. Preservation of scenic vistas.
15. Bulk storage of petroleum products.

Section 7.03 Explanations of Standards

1. **Specific Standards.** The specific standards listed in Section 7.02 above are further described as follows:
 - 1.1. Compatibility of development with natural features of the site and with surrounding land uses. The proposed use should not be located in such a manner on the site so as to:
 - 1.1.1. Create a traffic hazard by limiting site distance.
 - 1.1.2. Be located in a poorly drained area.
 - 1.1.3. Be located on soils, which according to the USDA Soil Conservation Service criteria, are unsuitable for the particular proposed use.
 - 1.1.4. Substantially obstruct an existing view of a river, stream, lake, historic structure, or other identified scenic vista.
 - 1.1.5. Disturb existing bodies of water that contribute to the natural beauty of the site.
 - 1.1.6. Be located on slopes too steep to accommodate roads, walkways, riding trails, or bike paths, as appropriate.
 - 1.1.7. On a corner lot, no fence, wall, hedge, sign, or other structure or planting more than 40 inches in height shall be erected, placed, or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street line at points which are 30 feet distance from the point of intersection. All buildings shall be located no less than 50 feet from the right-of-way. Buildings on corner lots shall be set back 50 feet from right-of-way.
 - 1.2. Measures to avoid damage from floods. Projects in a floodplain must comply with NYS DEC floodplain development regulations so that the lowest elevated floor is elevated at base flood elevation (BFE) plus two (2) feet. Uses should, insofar as possible, be located in areas outside of designated flood hazard areas. Uses should not be situated in such a manner that they would endanger life or property if carried away by a flood.
 - 1.3. Landscaping arrangement and the retention of existing vegetation for aesthetic qualities. Existing stone walls, mature trees, and roads should be retained, insofar as it is possible, to the extent that they will enhance the visual and aesthetic appeal of the site.
 - 1.4. Means to protect neighboring properties against noise, glare, or other nuisances. If a proposed use is likely to generate noise, odor, vibration, or other emissions, the feasibility of using the following should be considered:
 - 1.4.1. Berms.
 - 1.4.2. Fences
 - 1.4.2.1. Max height: Six (6) feet, otherwise an area variance is required.
 - 1.4.2.2. Setback: Two (2) feet from all property lines.

1.4.3. Mufflers/Buffer.

1.4.4. Vegetation for screening.

All berms, fences, mufflers and vegetation should fit with the character of the surrounding area. They must be constructed of quality material and maintained in good repair. All new tree plantings shall be USDA zone-hardy; be resilient to salt and sand applications when in close proximity to roads and parking areas; should diversify the community's tree canopy; and not consist of Ash or Maple species as they are highly susceptible to the long term threat of invasive species such as the Emerald Ash Borer and the Asian Long Horned Beetle. Street trees are to be the responsibility of the subdivider; they shall be watered regularly in the first year of planting during extended periods of dry weather, and shall be replaced in the event of dying within the first two years of planting.

Signs shall be designed so as not to be confused with any traffic sign or signal. Signs may be illuminated by a steady light provided the lighting does not directly illuminate or cause light trespass onto the adjacent properties or road.

1.5. Vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and other traffic controls. Uses generating traffic should be reviewed for the following possible negative impacts:

1.5.1. Poor access off a State, County, or Town road, safe sightline distance.

1.5.2. Poorly designed parking arrangement that forces vehicles to back into a public roadway or block entrances or exits.

1.5.3. Unclear or confusing traffic control signs.

1.5.4. Traffic flow that creates hazards to pedestrians.

1.6. Parking Provisions. Adequate off-street parking facilities shall be provided for the use of occupants, employees, and patrons of all structures and facilities so that parking does not obstruct the flow of traffic. All parking lots shall be designed so that vehicles will be traveling forward when exiting onto the road. A minimum number of parking spaces is required for certain uses and structures follows:

1.6.1. Apartments, Manufactured Home Parks - Two (2) parking space for each dwelling unit.

1.6.2. Stores, Shops, Offices - One (1) parking space for each 300 square feet of gross floor area.

1.6.3. Churches, Meeting Halls, other places of Public Assembly - One (1) parking space for each eight (8) seats provided for its patrons based on maximum seating capacity.

1.6.4. Restaurants - One (1) parking space for each five (5) seats.

- 1.6.5. Motels, Tourist Cottages - One (1) parking space for each guest room.
- 1.6.6. Nursing Homes - One (1) parking space for each five (5) patients.
- 1.6.7. Industries - One (1) parking space for each employee per the largest shift.
- 1.6.8. Other uses, including home occupations, rural businesses and rural industries -
Parking space adequate to meet expected maximum demand based on the requirements for similar uses and on reasonable estimates. Such estimates are to be included in the application for a building permit.

The Planning Board shall determine parking requirements for other uses not defined above.

- 1.7. Exterior lighting. Exterior lighting shall be neither too poor, nor excessively bright. Lighting should be directed at those areas where people are likely to come into contact with vehicles, machinery, etc. Site illumination should not be directed at residences adjacent to the site so as to create a nuisance. Site illumination should be Dark Sky compliant with downcast fixtures, recessed bulbs, cut off shields, etc.
- 1.8. Fire protection provisions. The New York State Uniform Fire Prevention and Building Code regulates fire protection. The Planning Board shall consult with the Code Enforcement Officer to see if Code compliance exists.
- 1.9. Erosion control methods during and after construction. Existing vegetation should be retained insofar as possible. Hay bales, netting, retaining structures, sediment ponds, and timely seeding of ground cover should be considered depending on the erodibility of the site.
- 1.10. Stormwater and drainage facilities. Provisions for control of stormwater and drainage should be made if necessary.
- 1.11. Water Supply. Water supply must be clearly identified in the application and must comply with the Uniform Fire Prevention and Building Code.
- 1.12. Sewage disposal facilities. Sewage disposal facilities must comply with the Uniform Fire Prevention and Building Code, specifically the standards documented in Standards for Individual Water Supply and Individual Sewage Treatment Systems, 10 NYCRR Chapter II, Appendix 75A (or its replacement).
- 1.13. Signs, Electronic Reader Boards, and Billboards. All shall be permitted only according to standards listed as follows, unless otherwise stated in this local law.
 - 1.13.1. Standards for signs and billboards:
 - 1.13.1.1. None shall project into a public right-of-way.

- 1.13.1.2. None shall directly illuminate or cause light trespass onto an abutting residential property.
- 1.13.1.3. None shall compete for attention with or may be mistaken for a traffic signal.
- 1.13.1.4. None shall be erected on a public utility pole or traffic control structure.
- 1.13.1.5. No general advertising unrelated to the authorized use of the premises are allowed.
- 1.13.2. Standards for signs:
 - 1.13.2.1. No sign attached to a building shall be higher than the principal building, and shall not exceed 25 feet in height above average finished grade of the site.
 - 1.13.2.2. No freestanding sign shall be higher than twenty (20) feet above the finished grade of the site.
 - 1.13.2.3. All existing signs at the enactment of this local law shall be allowed to remain as long as they are properly maintained and their use remains current.
 - 1.13.2.4. Temporary unlighted signs erected by and for non-profit organizations, such as churches, American Legion, scouts, political organizations, etc. advertising suppers, banquets, benefits, fund-raising sales, etc. may be erected for a forty-day period without a permit, provided that the sign, include a date posted, will not constitute a traffic hazard, and the property owner has given permission. Said sign shall be removed within forty-eight (48) hours after the advertised event.
 - 1.13.2.5. Signage per site permitted: two (2) free standing signs with a total of sixty-four (64) square feet with no side to exceed thirty-two (32) square feet. In lieu of one (1) freestanding sign, sign/signs on the building, not to exceed a total of forty (40) square feet are permitted.
 - 1.13.2.6. Home Occupation: One attached or one free standing sign having no more than six (4) square feet per side with a maximum of two (2) sides and a maximum height of eight (8) feet.
- 1.13.3. Standards for billboards
 - 1.13.3.1. Billboards permitted per site: one (1) free standing billboard with a total of 256 square feet with no side to exceed 128 (8 feet x 16 feet) square feet.
- 1.13.4. Standards for Electronic Reader Board (ERB)
 - 1.13.4.1. Only one ERB sign is permitted per parcel.
 - 1.13.4.2. The minimum duration of a message must be 8 seconds

- 1.13.4.3. Transition time between messages must be instantaneous
- 1.13.4.4. Maximum brightness is 5,000 cd/m² (daytime) and 280 cd/m² (nighttime)
- 1.13.4.5. All ERB signs must be put in a static mode from 11:00 p.m. to 6:00 a.m.
- 1.14. Preservation of Scenic Vistas. The specific considerations pertaining to this item are found in Section 7.03, 1.3 above.
- 1.15. Bulk storage of petroleum products. Applicants proposing uses involving the bulk storage of petroleum products should demonstrate that:
 - 1.15.1. Containment in below-ground tanks is accomplished in such a way as to prevent leakage from settling, cracking or corrosion of the tank.
 - 1.15.2. Containment in above-ground tanks is accomplished in such a way as to prevent surface spills leaving the property or entering surface or groundwater.

Article VIII. Subdivision Regulations

Section 8.01 General Standards

1. All standards set forth herein shall apply to all parcels of a subdivision, regardless of whether said parcels have been sold, rented, or offered for sale or lease singly or collectively.
2. All standards set forth herein shall apply to the extent that they are applicable as determined by the Planning Board and are required minimum standards. In certain circumstances where a subdivision application would otherwise be returned to the applicant as incomplete, the Planning Board, consistent with good planning practices and at its discretion, may by majority vote waive one or more of the submission requirements.
3. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other natural hazard and shall be in keeping with the objectives of the Town or Village Comprehensive Plan.

Section 8.02 Specific Standards

1. **Block Design** The length, width and shape of blocks shall be determined with due regard to:
 - 1.1. The type of development proposed;
 - 1.1. The need for convenient access, circulation, control, and safety of vehicular traffic, with particular attention to limitation of the number and location of points of ingress and egress; and

- 1.2. Limitations and opportunities of topographic and other site characteristics. Where the subdivision is laid out in conventional block form, block lengths shall generally not exceed 1,500 feet, nor be less than 750 feet. Block width should generally be two (2) lots deep.

Nonresidential blocks intended for commercial or industrial use shall be of a length and width that is suitable for their prospective use. Such blocks shall include adequate provisions for off-street parking and service areas.

2. Lot Arrangement

- 2.1 Each lot shall have access to a public roadway as is determined appropriate by the Planning Board based on the size, location, and nature of the subdivision.
- 2.2 Each lot shall have the minimum required lot size based on the district regulations in Article IV, Section 4.04. The R-A Residential-Agricultural District: One (1) acre minimum lot size a minimum width of 75 feet measured at the roadway. The S Shoreline District: Three-quarters (.75) acre minimum lots size and a minimum width of 75 feet measured at the roadway. Minimum lot size within the Village boundary: One-quarter (.25) acre.
- 2.3 No lot shall have a maximum length dimension greater than five (5) times its minimum width dimension.
- 2.4 Double frontage lots with access to two (2) roads shall not be approved except where no other arrangement is possible, and then only where the minimum lot depth is 100 feet measured at each roadway.
- 2.5 Side lot lines should be substantially at right angles to straight road lines or radial to curved road lines.
- 2.6 Driveway access and grades should generally conform to the terrain, but shall not exceed a 15 percent grade over any 50 foot length, and shall not exceed three (3) percent within 25 feet of the improved surface area of the roadway, as measured along the centerline of the driveway.

3. Easements

- 3.1 Adequate easements centered on rear or side lot lines shall be provided for utilities, where necessary. A minimum easement width of 15 feet shall be required. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.
- 3.2 Where appropriate for the jurisdiction in which the lot is located, a pedestrian easement, not less than 15 feet wide, in addition to any road, shall be provided where required by the Planning Board to provide safe circulation, or access to schools, recreation areas, and other community facilities.
- 3.3 Where a subdivision is traversed by a water course, drainageway, channel, or stream, a storm-water easement or drainage right-of-way conforming substantially with the lines of such water course there shall be provided, as will such further width or construction, or both, as will be adequate for the purpose, as determined by the Planning Board.
- 3.4 Where a subdivision is situated so as to involve a noteworthy scenic view or vista, either for the subdivision, along a travel corridor, or for established residences, a scenic easement of appropriate configuration may be required by the Planning Board.

- 4 **Roadways.** All roadway and related construction, whether to be offered for dedication or not, shall be the responsibility of the subdivider unless otherwise indicated and shall be in accordance with the following criteria:
- 4.1 The arrangement, character, extent, width, grade, and location of all roadways shall conform to the Town or Village design standards. Road grades shall conform as closely as possible to the natural topography, and all roads shall be arranged so as to allow for a maximum number of the proposed number of building sites to be situated at or above the finished grade level of the roadway.
 - 4.2 The arrangement of roadways in a subdivision shall provide for the continuation, if appropriate, of residential roadways in the surrounding areas and for the composition of a convenient system for both the subdivision and connection to the existing highway system.
 - 4.3 Roadway layout shall consider the installation of utility distribution and service lines and shall be situated so as to best accommodate these installations in an acceptable manner.
 - 4.4 Road layout shall minimize stream crossings, avoid traversing slopes in excess of 25 percent, and avoid soils with a susceptibility to erosion or slope failure.
 - 4.5 Local roadways shall be laid out so that their use by through traffic is discouraged.
 - 4.6 The arrangement of roadways in any subdivision shall consider provision for continuation of collector or key local roads to adjoining property which has the potential to be similarly subdivided and to existing road systems.
 - 4.7 Clearing and grading for road and utility installation shall be limited to that which is necessary to construct safe roads, provide needed roadside and embankment drainage, construct stable cuts and fills, and provide for utility installation.
 - 4.8 The construction of roads and the installation of utilities shall be planned sequentially, so that construction operations do not interfere with or destroy completed work.
 - 4.9 Every roadway shown on a plat that is hereafter filed or recorded in the office of the County Clerk shall be deemed to be a private road until such time as it has been formally offered for cession to the Town or Village and formally accepted as a public road by resolution of the Town or Village Board, or alternatively, until it has been condemned by the Town or Village for use as a public roadway.
 - 4.10 Roadway jogs with centerline offsets of less than 150 feet shall not be permitted. Any subdivision road intersecting an existing arterial or collector road shall be no closer to another intersecting roadway than the stopping site distance as determined by the configuration of the roadway at that point and the legal speed limit.
 - 4.11 All roadway intersections shall be rounded by curves with a minimum radius of 25 feet as measured from the edge of the improved travel surface. Within the triangular area formed by connecting two (2) points 50 feet from the intersecting road rights-of-way, visibility shall not be restricted by the natural landform nor by the location of any

structure or planting.

- 4.12 The length of a tangent between reverse curves on arterial and collector roadways shall be a minimum of 150 feet, and on local roadways a minimum of 100 feet.
- 4.13 Roadways shall be laid out so as to intersect as nearly as possible at right angles. No roadway shall intersect any other roadway at less than 75 degrees and all roadways shall join each other so that for a distance of at least 100 feet, the roadway is approximately at right angles to the roadway it joins.
- 4.14 Roadway vertical gradients should not be more than 12 percent over any 100 foot distance and shall not exceed three (3) percent within 50 feet of any intersection.
- 4.15 Dead-end roadways shall not be permitted, except as provided herein:
- 4.15.1 A closed turn-around or cul-de-sac may be permitted where no through connection is possible or desirable providing it is designed with a turnaround having an outside roadway diameter of at least 100 feet and a right-of-way diameter of at least 150 feet.
- 4.15.2 No such dead-end roadway or segment thereof shall provide the sole means of access to more than 25 dwelling units.
- 4.15.3 Reservation of an easement of appropriate width shall be provided for pedestrian or utility connection to adjoining property or the existing roadway system, where desirable.
- 4.16 Proper roadway drainage facilities shall be installed where required. Double wall corrugated polyethylene or corrugated metal pipe shall be used throughout for all culverts or subsurface drainage systems. Drainage shall be accommodated by one (1) or a combination of the following:
- 4.16.1 A roadside ditch a minimum of 18 inches below the finished centerline;
- 4.16.2 A concrete or asphalt gutter; or
- 4.16.3 A concrete or asphalt curb with storm sewer.
- 4.17 Road ditches shall be designed to have a minimum hydraulic capacity equal to the peak runoff rate from a five- (5) year, 24-hour rainfall. Drainage culverts shall be of adequate size and located so as to maintain pre-construction surface drainage patterns, provided such patterns were acceptable prior to construction.
- 4.18 Catch basins, manholes, seepage drains, reinforced concrete pipe, or other drainage appurtenances and all underdrains shall be installed or constructed in accordance with the direction and requirements of the Planning Board, shall vary in size as conditions may require, and shall be connected from basins or manholes to the proper lines and grades in such a manner as directed by the Board and all such underdrains shall connect with piping or ditches leading to a live stream or natural drainageway as required by the Board.

- 4.19 Stream crossings shall be roughly at right angles, and bridge structures or culverts shall be designed to carry the peak runoff rate from:
- 4.19.1 A ten- (10) year, 24-hour rainfall if the contributing drainage area is one (1) square mile or less:
- 4.19.2 A 25-year, 24-hour rainfall if the contributing drainage area is between one (1) and four (4) square miles.
- 4.19.3 A 100-year, 24-hour rainfall if the contributing drainage area is more than four (4) square miles.
- 4.20 Fill slopes shall not be steeper than two (2) horizontal on one (1) vertical (2:1) and cut slopes shall not be steeper than four (4) horizontal on one (1) vertical (4:1).
- 4.21 Rights-of-way and pavement or improved surface area shall have the following widths:

Minimum Right-of-Way

Min. Pavement or Improved Surface Area

50 feet

a. 18 feet + curbing or two (2), five (5) foot shoulders (populated area of 24 lots or more)

b. 16 feet + two (2), two - (2) foot shoulders (rural area and less than 25 lots)

- 4.22 Where curbs exist on abutting properties, their extension by the subdivider may be required, at the discretion of the Planning Board, throughout all or a portion of the proposed subdivision. All curbs shall be approved by the Planning Board. Where curbs are not required, adequate ditches or gutters shall be constructed and protected by seeding or appropriate surfacing by the subdivider.
- 4.23 The Planning Board may require such sidewalks as it deems necessary to provide for the safety of pedestrians. Concrete sidewalks at least four (4) feet wide and four (4) inches thick shall be installed where required, as specified by the Planning Board.
- 4.24 All topsoil, humus, tree stumps, and like organic material shall be removed from the roadbed, and the sub-base shall be approved by the Highway Superintendent before any gravel is placed upon it.
- 4.25 Each road that is intended for cession to the Town or Village shall be constructed in a manner specified by the Town or Village Board.
- 4.26 All cleared areas associated with the construction of roads and installation of utilities, excluding those areas comprising road surfaces or shoulders, all exposed borrow areas, and all cut and fill slopes including ditch banks, shall be successfully vegetated to grasses or legumes that are suited to site conditions and as approved by the Planning Board. Ditch bottoms shall be constructed and maintained to minimize soil erosion during periods of design flow by means of revegetation, sodding, mulching, netting, stone paving, riprap,

and other materials or combinations of these, depending on hydraulics and soil properties.

5. Flooding, Drainage, and Runoff

- 5.1 Any subdivision involving lands designated as Flood Hazard Areas by the Federal Insurance Administration of the U.S. Department of Housing and Urban Development and any other land subject to repeated flooding or deemed by the Planning Board to be subject to flood hazard shall, depict base flood elevation (plus two (2) feet) as determined by a licensed surveyor and demonstrate construction can be readily accommodated on the newly subdivided lots, and, be reviewed by the Board in accordance with published guidelines or development in flood hazard areas.
- 5.2 Storm and surface drainage shall be designed for the tract in relation to the drainage area above the tract and drainage outlets into adjacent tracts. Drainage systems must be sufficient to handle discharge from the entire drainage area whether inside or outside the subdivision and not impact adjacent land owners or property.
- 5.3 Drainage structure and facilities shall be installed as necessary to assure adequate drainage for the tract, and drainage easements shall be provided where necessary.
- 5.4 The subdivider shall not allow holes, depressions, or other undrained areas to remain, except such wetlands as may be natural features or necessary retention basins that shall be protected or situated at the direction of the Planning Board.
- 5.5 The grading plan and the design of roadways in relation to storm drainage shall be such that the runoff from roofs, driveways, and other impervious surfaces will be collected in the ditches and/or gutters along the roadway in short runs of generally less than 500 feet and will then be diverted from the roadway surface into storm sewers or a natural drainage course.
- 5.6 The use of open water courses for drainage involves considerations related to safety, erosion control, stagnant water, protection of capacity, and appearance, which considerations will be recognized according to the following:
- 5.7 Safety. Broad, shallow courses shall be created wherever necessary to increase capacity or eliminate steep banks. Ditches shall, wherever feasible, be in the shape of a wide top "U" with a round or squared invert.
- 5.8 Erosion Control. Adequate measures shall be taken to prevent erosion. The Planning Board shall require seeding, sodding, planting, riprap, or such other measures as may be necessary to prevent scouring.
- 5.9 Drainage. The subdivider shall guard against the creation or continuation of non-regulated wetlands (swampy areas or stagnant pools) in close proximity to any development.
- 5.10 Capacity. The subdivider shall provide adequate measures for the protection of open drainage channels by establishing satisfactorily located drainage easements of sufficient width.

- 5.11 Appearance. As a natural water course can be an attractive visual asset to the subdivision as well as to the community, the subdivider shall, where possible, retain and improve the appearance of any natural water course used for surface or storm drainage as is practical. State and Federal permits may be required for work in, along, or around a watercourse.
- 5.12 Storm sewers shall have a minimum diameter of 12 inches and a minimum grade of one-half of one (0.5) percent.
- 5.13 Manholes shall not be more than 300 feet apart where pipe sizes of 24 inches or less are used, and not more than 500 feet apart where larger sizes are installed.
- 5.14 Subdivisions shall be designed so that the length of flow for water in a gutter or roadside ditch does not exceed 500 feet, except as permitted by the Board. Runs exceeding the maximum length shall be connected to storm sewers or diverted to a natural drainageway.
- 5.15 Water in gutters and ditches shall not be allowed to flow over intersecting roadways, but shall be placed in adequate culverts.
- 5.16 Suitable headwalls, endwalls, ditch seeding or sodding, and other procedures or devices to prevent erosion shall be used.

6 Utilities

- 6.1 Fire Hydrants. Fire Hydrants shall be required if there is a community water system servicing the subdivision. The installation, type, and location of all fire hydrants shall be as approved by the Planning Board and shall be in conformance with the standards of the New York Fire Insurance Rating Organization, the Division of Fire Safety of the State of New York.
- 6.2 Location. Utilities shall be located in accordance with any applicable Public Service Commission guidelines and as approved by the Planning Board. The Planning Board shall require, whenever physically possible and when the size, location, and present service permits, that utilities be placed underground and in the road right-of-way line between the travel service and right-of-way line or in a consistent location within individual property lines to simplify location and repair of lines when they require attention. Utilities that are installed above ground in the R-A district shall provide a minimum clearance of 18 feet. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the road is surfaced.

7 Re-vegetation of Disturbed Soil Areas

- 7.1 Areas on which vegetation has been destroyed or removed, excluding areas proposed for road surfaces or shoulders, driveways, building sites or parking lots, shall be successfully re-vegetated or otherwise established with structural measures to minimize the potential for soil erosion as soon as practicable.
- 7.2 Re-vegetation measures and efforts shall be evaluated by visual inspections, which shall include identification and measurement of the actual condition of new vegetation. Such

evaluation shall be made not sooner than 180 calendar days from the date of planting and not later than 360 calendar days from the date of planting.

7.3 Corrective action shall be instituted and completed within the time specified by the Code Enforcement Officer upon determination of unsatisfactory compliance with this Section. In making any determination required by this Section, the Code Enforcement Officer shall consider significant rills, gullies, loss of mulch or seed, or failure of seed germination as evidence of unsatisfactory compliance.

7.4 Construction operations requiring re-vegetation of an aggregate area larger than 20,000 square feet shall be done in stages. Each stage shall receive complete treatment for re-vegetation or mulching as if the stages were individual constructions.

7.5 Upon completion of final grading of any area, re-vegetation operations shall begin within five (5) days and shall be completed within ten (10) days. In the event that more than five (5) days shall elapse between any consecutive construction operations that materially disturb the soil, such areas shall be adequately mulched or otherwise stabilized with structural measures within five (5) days of disturbance and shall be completed within ten (10) days to minimize the potential for soil erosion.

8 Street Lights, Trees, Signs and Seedings

8.1 Where street lighting is proposed or part of the subdivision, street lights shall be arranged for by the subdivider where appropriate, as determined by the Planning Board, and be of the type and at such interval as specified by the Planning Board. All lighting shall be Dark Sky compliant with downcast fixtures, recessed bulbs, cut off shields, etc.

8.2 Street trees are to be the responsibility of the subdivider. Retention and preservation of existing trees and location and type of new trees shall be approved by the Planning Board.

8.3 The area between the drainageway and the property line shall be seeded and otherwise improved by the subdivider and maintained by the owner.

8.4 Street name signs shall be of the type and in the location determined by the Planning Board and shall be provided by agreement between the Planning Board and the applicant.

9 Public Sites and Open Space

9.1 Where a proposed park, playground, school, or other public use shown in the Town Plan, or desirable for use as same, is located in whole or in part in a subdivision, such area shall either be dedicated to the proper public agency, or it shall be reserved for acquisition by such agency within a specified period by purchase or other means and an agreement shall be entered into between the subdivider and the public agency regarding the time and method of acquisition, and the cost thereof.

9.2 In the instance of a subdivision involving the creation of 15 lots or more, the Planning Board shall, require that at least 5 percent and up to ten percent of the land area of such subdivision be reserved and improved for open space recreation purposes. In the instance of a subdivision of 14 lots or less, the Planning Board may, require that the same actions

be taken.

- 9.3 If the Planning Board determines that suitable open space recreation area cannot be located in a given subdivision or it is otherwise not practical to do so, the Planning Board may require, as a condition of approval of any such plat, other or further conditions as may be authorized by law. These include payment to the Town or Village of a recreation fee as established by the Town or Village Board. The fee shall constitute a trust fund to be used exclusively for open space recreational purposes designed to serve such subdivision, including the improvement of existing facilities.

10 Monuments

- 10.1 The tract boundary lines, and the lines of all streets or roads shall be indicated with monuments of concrete, stone, or iron with monument caps.
- 10.2 Individual property boundaries shall have corners marked with iron pins or pipe.
- 10.3 The Planning Board may require that all such monuments be in place and capable of verification prior to the Planning Board Chairman recording his or her signature on the Subdivision Plat.

Article IX. Subdivision Review Procedures

Section 9.01 Application Requirements

1. **Sketch Plan Conference.** Prior to the filing of an application for approval of a preliminary plat, the subdivider or his authorized representative may request a Pre-Application Conference with the Code Enforcement Officer and Chairman of the Planning Board. The purpose of such a conference is to consult informally and at an early stage with the Board for the purpose of conserving time and exchanging information that will aid in assuring a desirable subdivision in the public interest.
2. **Preliminary Plat.** Whenever any subdivision of land is proposed, the subdivider or his designated agent shall file a preliminary plat with the Code Enforcement Officer, who shall immediately ensure that it contains the required information and forward it to the Planning Board for review and action.
 - 2.1. The preliminary plat shall be titled "Preliminary Plat" and shall contain the following information:
 - 2.1.1 The subdivision's name, scale, date, north arrow, and location within the Town.
 - 2.1.2 Topographic data on the tract including existing drainageways, water bodies, wetlands, and hydric soils, proximate to the tract.
 - 2.1.3 Tract boundaries, tract area, and street layout.
 - 2.1.4 Name and right-of-way width of each street or other right-of-way. Street names should not duplicate existing street names within the town.

- 2.1.5 Location of all utilities on or adjacent to the tract.
 - 2.1.6 Names of all property owners within 500 feet of the boundaries of the tract to be subdivided.
 - 2.1.7 Location, dimensions, owners of record, and purpose of any easements.
 - 2.1.8 A number to identify each lot and a letter to identify each block.
 - 2.1.9 The location and purpose for which sites other than residential lots are dedicated or reserved.
 - 2.1.10 Minimum front, side and rear yard setback lines on all lots and other sites.
 - 2.1.11 Summarized site data including number of residential lots, typical lot size, lineal feet of streets, area in parks, etc.
 - 2.2 Three (3) copies of the preliminary plat and any supplementary material shall be submitted to the Code Enforcement Officer.
- 3 **Final Plat.** Upon receiving approval or conditional approval for a preliminary plat, a final plat shall be filed with the Code Enforcement Officer who shall immediately ensure that it contains the required information and forward it to the Planning Board for review and action. The subdivider shall submit the final plat within six (6) months after approval with or without modifications of a Preliminary Subdivision Plat or approval shall be null and void unless an extension of time is applied for and granted by the Board. The final plat shall conform substantially to the preliminary plat as conditionally approved and shall indicate any conditions or modifications that have been imposed by the Planning Board. Three (3) paper copies and one (1) digital copy shall be submitted.
- 3.1 Information contained in the final plat shall consist of, at a minimum, the following items:
 - 3.1.1 All information required by 2. of this Section above for a preliminary plat except the title shall be "Final Plat:
 - 3.1.2 Tract boundary lines, right-of-way lines, easements and individual lot lines with accurate dimensions, bearing, radii, areas and central angles of all curbs, and the location and description of all monuments.
 - 3.1.3 Topographic data showing a contour interval of two (2) feet related to USGS or other permanent bench mark where natural contours are to be changed.
 - 3.1.4 Typical cross-sections of streets, including pavement, shoulders, ditches, walks, and cross-sections of drainage easements.
 - 3.1.5 Profiles of street centerlines showing vertical curve data, slope of tangents, elevations of street intersections, and other critical points.
 - 3.1.6 Profiles of waste distribution lines, any storm and sanitary sewers showing pipe diameter and distance between individual lines, manholes, and catch basins.

- 3.1.7 Preliminary drawings for buildings to be constructed, if any, including floor plans, exterior elevations, and sections.
 - 3.1.8 Landscaping, lighting, and all site improvements, including final grading plans where natural contours are changed beyond the road and building area.
 - 3.1.9 Evidence of approval, or pending approval, of any environmental impact statement or other submission under SEQR for which approval is required.
- 3.2 Accompanying data to be submitted with the final plat shall include:
- 3.2.1 Deed showing owner of the tract to be subdivided.
 - 3.2.2 Authorization of the owner to apply for final plat approval if the applicant is not the owner of the property in question.
 - 3.2.3 Documentation showing that the proposed subdivision has been approved by the New York State Department of Health if appropriate.
 - 3.2.4 A one-time application fee shall be required and shall be set by the Town or Village Board.
 - 3.2.5 Offers of cession that have been approved as satisfactory by the Town or Village Attorney dedicating streets, easements, open space, or other facilities. (Note: Approval of the final plat shall not constitute acceptance by the Town or Village Board of dedication of such facilities without formal acceptance by the Town or Village Board).
- 3.3 The final plat shall be filed a minimum of ten (10) days prior to the regularly-scheduled Planning Board meeting.
- 3.4 The approval of a final plat showing lots, blocks or sites, with or without streets or highways, or the approval by the Planning Board of the development of a plat or plats already filed in the Office of the St. Lawrence County Clerk if such plats are entirely or partially undeveloped, or the certificate of the Town or Village of Hammond as to the date of the submission of the final plat and the failure of the Planning Board to have taken action thereon within the time prescribed, shall expire within 62 days from the date of such approval, or from the date such certificate is issued, unless such final plat has been filed in the office of the County Clerk.

Section 9.02 Planning Board Review and Decision

1. **Preliminary Plat.** Upon receipt of the preliminary plat application, the Planning Board shall refer it to the St. Lawrence County Planning Board if said plat is located within the 500 foot distance thresholds set forth in Section 239-n of New York State General Municipal Law. The Planning Board shall comply with Articles VIII and IX of this Local Law.

Upon receipt of a preliminary plat and accompanying information from the Code Enforcement Officer, the Planning Board shall classify the subdivision as minor or major. An applicant that is proposing a subdivision that is classified by the Planning Board as

minor subdivision may proceed directly to the preparation of the final plat and shall not be required to comply with other requirements applying to major subdivisions established in these regulations. Subdivisions classified as major shall hold a public hearing within 62 days, which hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days before such hearing and comply with Article X, Section 10.06. In the case where a subdivision plat is located within 500 feet of a municipal boundary, notice shall be sent to the clerk of the adjacent municipality prior to holding a hearing. Notice must be given at least 10 days prior to the hearing.

Within 62 days after the date of the preliminary plat hearing, the Planning Board shall approve, approve with modifications, or disapprove such preliminary plat in accordance with the criteria set forth in Article VIII of this Local Law, and in accordance with the Town or Village Plan and other relevant planning documents produced by the Planning Board.

When so approving a preliminary plat, the Planning Board shall state in writing, any modifications it deems necessary for submission of the plat in final form. Within five (5) days of the approval of such preliminary plat, it shall be certified by the Clerk of the Town or Village as preliminarily approved, a copy filed in his or her office, and a certified copy mailed to the subdivider.

Within six (6) months of the approval of the preliminary plat, the subdivider must submit the plat in final form or preliminary approval by the Planning Board is revoked. If the Planning Board fails to take action within the time constraints set forth in this subsection, such plat shall be deemed granted preliminary approval. The certificate of the Code Enforcement Officer as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.

2. **Final Plat.** Within 62 days of the submission of a plat in final form for approval by the Planning Board, an advertisement for a public hearing shall appear at least once in a newspaper of general circulation in the Town at least five (5) days before such hearing and comply with Article X, Section 10.06., provided however, that when the Planning Board deems the final plat to be in substantial agreement with a preliminary plat and modified in accordance with requirements of such approval if such preliminary plat has been approved with modification, the Planning Board may waive the requirement for such public hearing.

The Planning Board shall by resolution conditionally approve with or without modifications, disapprove, or grant final approval and authorize the signing of such plat, within 62 days of its receipt by the Code Enforcement Officer if no such hearing is held, or in the event that such hearing is held, within 62 days after the date of such hearing.

Notwithstanding for the foregoing provisions of this subdivision, the time in which the Planning Board must take action on such plat may be extended by mutual consent of the owner and the Planning Board. In the event that the Planning Board fails to take action on a final plat within the time prescribed, the plat shall be deemed approved and a certificate of the Code Enforcement Officer to the date of the submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required. This section shall be

cited in the certificate. Upon resolution of conditional approval of such final plat the Planning Board Chairman or duly authorized officer shall sign the plat subject to completion of such requirement as may be stated in the resolution.

The Planning Board may require the posting of an irrevocable line of credit or other form of security to ensure the satisfactory completion or required improvements in accordance with Section 277 of Town Law.

Within five (5) days of such resolution, the final plat shall be certified by the Code Enforcement Officer as conditionally approved, a copy filed in his office, and a certified copy mailed to the owner including a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of such requirements the final plat shall be signed by the Planning Board Chairman or his or her duly authorized representative.

Conditional approval of a final plat shall expire within 180 days after the date of the resolution granting conditional approval unless such requirements have been certified as completed. Notwithstanding the foregoing provisions of this section, the Planning Board may extend the time in which a conditionally approved final plat must be submitted for signature, if, in its opinion, such extension is warranted by the particular circumstances. Such extension may not exceed two (2) additional periods of 90 days each.

Prior to granting conditional or final approval of a final plat, the Board may permit the plat to be subdivided into two (2) or more sections and may, in its resolution granting conditional or final approval, state that such requirements as it deems necessary to insure the orderly development of the plat be completed before such sections may be signed by the Planning Board Chairman or his or her duly authorized representative. Conditional or final approval of the sections of a final plat, subject to any conditions imposed by the Board, shall be granted concurrently with conditional or final approval of the plat.

Once a final plat is approved the owner shall file the plat in the office of the County Clerk (in a form and on a media acceptable to the County Clerk) within sixty-two days from the date of final approval by the Planning Board or such approval shall expire.

Article X. Administration

Section 10.01 Code Enforcement Officer

1. Creation. The Town Board has previously established the Office of Code Enforcement Officer in the Town of Hammond. This Local Law ratifies the continuance of this Office. The Code Enforcement Officer shall be appointed by the Town Board upon the consent of the Village Board and be compensated at a rate to be fixed by the Town Board. In the absence of the Code Enforcement Officer, or in the case of the inability of the Code Enforcement Officer to act for any reason, the Supervisor shall have the power, with the consent of the Town Board to designate a person to act in this capacity.
2. Duties and Powers. The Code Enforcement Officer shall perform all of the functions identified in this Local Law and shall otherwise assist the Town and Village Board in the administration and enforcement of this and other local laws.

3. The Code Enforcement Officer shall obtain the required State certification for the position and attend training workshops and courses, as they become available.

Section 10.02 Planning Board

1. Creation and Membership. Pursuant to Section 271 of New York State Town Law, the Hammond Planning Board shall consist of five (5) members, four (4) who are appointed by the Town Board and one (1) who is appointed by the Village Board. No person who is a member of the Town or Village Board shall be eligible for membership on the Planning Board. No member of the Planning Board shall hold simultaneous membership on the Board of Appeals.
2. Vacancies. If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint a new member for the unexpired term.
3. Chairperson. The Town Board shall designate the Chairperson. In the absence of a chairperson, the Planning Board may designate a member to serve as acting chairperson.
4. Alternate Members. The Town Board shall have the authority to establish alternate planning board member positions for purposes of substituting for a member in the event such a member is unable to participate because of a conflict of interest or absence due to sickness, vacation, temporary relocation, etc. Alternate members of the Planning board shall be appointed by resolution of the Town Board for terms established by the Board.

The Chair of the Planning Board may designate an alternate member to substitute for a member when such a member is unable to participate because of a conflict of interest or absence on an application or matter before the Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made.

5. Compensation. Compensation of Planning Board members for expenses associated with their duties may be fixed, from time to time, by resolution of the Hammond Town Board.
6. Training. Each member of the Planning Board shall complete, at a minimum, four (4) hours of training each year designed to enable such members to more effectively carry out their duties. Training in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet this training requirement. To be eligible for reappointment to such board, such member shall have completed this training requirement. This training may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.
7. Removal. A Planning Board member may have his or her appointment terminated for cause by a resolution of the Hammond Town Board following a public hearing. Cause may include, but is not limited to, failure of a member to obtain the required training or failure to attend at least 75% of regularly scheduled meetings during any calendar year.

8. Meetings. All meetings of the Planning Board shall be held at the call of the Chairman and at such other times as a majority of the members of the full Board may determine. All meetings of the Planning Board shall be open to the public and in accordance with the requirements for public notice, access and participation established in the State's Open Meetings law.
9. Duties and Powers. The Planning Board shall have the following duties:
 - 9.1. Develop its official procedures and maintain records of its actions. Review subdivision plats and approve, approve with conditions, or disapprove them.
 - 9.2. Review site plans and special permits, and approve, approve with conditions, or disapprove them.
 - 9.3. Conduct studies, planning, or surveys as needed to further the purposes of this Local Law.
10. Procedure.
 - 10.1. The Planning Board shall act in strict accordance with the procedures specified by law and by these Regulations and shall be in accord with the following:
 - 10.1.1. Application. All applications made to Planning Board shall be in writing, in the form prescribed by the Board. Every application shall refer to the specific provisions of the Regulations involved. The Code Enforcement Officer shall transmit to the Board all of the records concerning the application.
 - 10.1.2. Referrals. Where any application involves lands within the 500 foot thresholds of Section 239-m of New York State General Municipal Law it shall be referred to the St. Lawrence County Planning Board and acted upon in accord with Article II, Section 2.02. of this Local Law.
 - 10.1.3. Notification of Public Hearing. The Planning Board, if it so chooses shall fix a reasonable time for any public hearing in connection with the application and shall be given public notice thereof, by publication in an official paper of a notice of such public hearing at least five (5) days prior to that date; and shall, at least five (5) days before such public hearing, mail notice thereof to the applicant and to the adjacent land owners. Additional provision set forth in Article X, Section 10.06 are required.
 - 10.1.4. Decision and Notification. Within 62 days from the date of any public hearing, the Board shall render a determination on any appeal and notify the applicant in writing within five (5) working days of the date of determination.

Section 10.03 Board of Appeals

1. Creation and Membership. Pursuant to Section 267 of New York State Town Law, the Town Board hereby establishes the Hammond Board of Appeals, which shall consist of three (3) members, two (2) who are appointed by the Town Board and one (1) who is appointed by the Village Board. No person who is a member of the Town or Village Board shall be eligible for membership on the Board of Appeals. No member of the Board of Appeals shall hold simultaneous membership on the Planning Board.

2. Vacancies. If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint a new member for the unexpired term.
3. Chairperson. The Town Board shall designate the Chairperson of the Board of Appeals. In the absence of a chairperson, the Board of Appeals may designate a member to serve as acting chairperson.
4. Alternate Members. The Town Board shall have the authority to establish alternate members to substitute for a member who is unable to participate because of a conflict of interest. Alternate members of the Board of Appeals shall be appointed by resolution of the Town Board, for the terms established. The Chair of the Board of Appeals may designate an alternate member to substitute for a member who is unable to participate because of a conflict of interest on an application or matter before the Board. Such designation shall be entered into the minutes of the Zoning Board meeting at which the substitution is made.
 - 4.1. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. All provisions relating to training attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members.
5. Compensation. Compensation of Board of Appeals members for expenses associated with their duties may be fixed, from time to time, by resolution of the Town Board.
6. Training. Each member of the Board of Appeals shall complete, at a minimum, four (4) hours of training each year designed to enable such members to more effectively carry out their duties. Training in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet this training requirement. To be eligible for reappointment to such board, such member shall have completed this training requirement. This training may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.
7. Removal. A Board of Appeals member may have his or her appointment terminated for cause by a resolution by the Town Board after a public hearing. Cause may include, but is not limited to, failure of a member to obtain the required training or failure to attend at least 75% of regularly scheduled meetings during any calendar year.
8. Meetings. All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as a majority of the members of the full Board may determine. All meetings of the Board of Appeals shall be open to the public and in accordance with the requirements for public notice, access and participation established in the State's Open Meetings law.
9. Jurisdiction. The jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from, and reviewing any order, requirement, decision, interpretation, or determination made by the Town Code Enforcement Officer.
10. Initiating an Appeal. An appeal to the Board of Appeals may be initiated by any person or party aggrieved under, or with a legitimate interest in, these regulations including the Town and its officials. An appeal for an interpretation or variance may be made only after a determination or notification of action taken by the Code Enforcement Officer or other body of original jurisdiction, except where such appeal is instituted by a Town official.

11. Time of Appeal. Each order, requirement, decision, interpretation or determination of the Code Enforcement Office shall be filed and be a public record within five (5) business days from the day it is rendered. An appeal shall be taken within sixty (60) days after the filing of the determination that is being appealed.
12. Application. All appeals and applications made to the Board of Appeals shall be in writing, in a form prescribed by the Board. Every appeal or application shall refer to the specific provisions of the regulations involved, and shall exactly set forth the interpretation that is claimed, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted. The Code Enforcement Officer shall transmit to the Board all of the records concerning the case which is being appealed.
13. Public Hearing and Legal Notice. The Board of Appeals shall fix a reasonable time for a public hearing in connection with an appeal or application, and shall publish a notice of such public hearing in the Town's official newspaper, and shall mail the notice thereof to the applicant or appellant, and to property owners of land that is adjacent to the subject property at least five (5) days prior to public hearing date. Additional provision set forth in Article X, Section 10.06 are required.
14. Referrals to County Planning Board. Where an appeal for an area variance or use variance to the Board of Appeals involves land within the 500 foot thresholds of Section 239-m of New York State General Municipal Law of the following features shall be referred to the St. Lawrence County Planning Board in Article II, Section 2.02. of this Local Law
15. Time of Decision. The Board shall render a decision within sixty-two (62) days from the date of a public hearing. The time to render a decision may be extended by mutual consent by the applicant and the Board.
16. Voting Requirements. Every decision of the Board of Appeals shall be by resolution. The concurring vote of a majority of the full membership of the Board shall be required to constitute an official action by the Board of Appeals.
17. Extraordinary Vote. If the County Planning Board disapproves or approves an appeal with condition(s), the Board of Appeals shall not act contrary to the decision except by a vote of a majority plus one of the full membership of the Board of Appeals.
18. Default Denial. If an affirmative vote of a majority of the full membership of the Board is not attained to grant a variance, or to reverse an order, requirement, decision or determination of the Code Enforcement Officer, the appeal is denied. The Board may amend a failed motion or resolution and vote on an amended motion or resolution within sixty-two (62) days of a public hearing without being subject to a rehearing process.
19. Records. The Board of Appeals shall keep minutes of its proceedings, including interpretations, findings, and official actions and shall record the vote of each member upon every question put to vote or, if absent or failing to vote, indicating such fact. All decisions of the Board of Appeals shall be recorded in the minutes, which shall fully set forth the reasons for its decision and the findings of fact on which the decision was based.

20. Notification of Decision. The Board of Appeals shall notify the Code Enforcement Officer, Town Clerk, and Planning Board of action taken on any appeal before the Board of Appeals. Within five (5) working days of the date of determination, the Board of Appeals shall notify the applicant of its decision, and an appropriate record of every official determination shall be on file in the office of the Village Clerk and shall be a public record.
21. Rehearing. A motion to hold a rehearing to review any order, decision or determination by the Board not previously reheard may be made by any member of the Board. A unanimous vote of all members of the Board present is required for such rehearing to occur. A rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing, the Board may reverse, modify or annul its original decision upon the unanimous vote of all members present, provided the Board finds no action has been taken by persons affected by the Board's original decision.
22. Duties and Powers. The Board of Appeals shall have all the powers and duties prescribed by law and by these Regulations. In particular, the powers of the Board of Appeals are as follows:
- 22.1. Interpretation. To decide any question involving the interpretation of any definition or the administration or application of these regulations, which may include determining the exact location of any zoning district boundary. Such interpretation shall be considered and rendered by the Board of Appeals only upon application or appeal following a determination made by the Code Enforcement Officer.
- 22.2. Variance. The Board of Appeals may vary or adapt the strict application of any of the requirements of these regulations where strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved. Such variance shall be considered and rendered by the Board of Appeals only upon appeal following a determination made by the Code Enforcement Officer.
- 22.3. Area Variance. In making its determination, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community. In making such determination the board shall consider:
- 22.3.1. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- 22.3.2. whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
- 22.3.3. whether the requested area variance is substantial;
- 22.3.4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- 22.3.5. whether the alleged difficulty was self-created, which consideration shall be relevant to the discussion of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

23. Use Variance. No use variance shall be granted without a showing by the applicant that the zoning regulations have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board that for each and every permitted use under these regulations for the particular district where the property is located:
- 23.1. the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - 23.2. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - 23.3. that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - 23.4. that the alleged hardship has not been self-created.
24. The Board of Appeals, in the granting of variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time, preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.
25. Imposition of Conditions. The Board of Appeals shall have the authority to impose reasonable conditions and restrictions as are directly related and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this zoning law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
26. State Environmental Quality Review. In all instances that require action, the Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act.

Section 10.04 Amendments

- 1. The Town and Village Boards may on their own motion, on a petition, or on recommendation of the Planning Board or Board of Appeals, amend the provisions of this local law pursuant to the applicable requirements of law. In the event that the proposed amendments change the district classification of real property within the thresholds set forth in Section 239-m of New York State General Municipal Law, the Town and Village Board must refer such amendments to the St. Lawrence County Planning Board pursuant to Article II Section 2.02 of this Local Law.
- 2. All proposed amendments shall be referred to the Planning Board for a report and a recommendation. The Planning Board shall submit its report within 30 days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to constitute their recommendation for approval of the proposed amendment.
- 3. Before any amendment, there shall be a public notice and hearing thereon as provided by law. Notice of the hearing shall be published in a paper of general circulation at least five (5) days prior to the hearing.

4. After the public hearing, a majority vote of the members of the Town Board shall be required to amend these Regulations.

Section 10.05 Judicial/Court Review

Any person or persons, jointly or separately aggrieved by any decision of the Planning Board, Town or Village Board, or any official instrument of the Town or Village in the administration of this Local Law, may apply to have the decision reviewed in the manner provided by Article 78 of the Civil Practice Law and Rules, provided the proceedings are commenced within 30 days after the filing of the decision in the office of the Town or Village Clerk. Costs shall not be allowed against the Town or Village unless it appears to the Court that the Town or Village or its representative acted with gross negligence, in bad faith, or with malice in making the appealed decision.

Section 10.06 Public Hearings and Notification

Any public hearing held under the provision of this Local Law shall be advertised by a notice of public hearing, to be posted in municipal buildings, and published, on municipal websites and once in the official newspaper of the Town at least five (5) days prior to the date of the hearing. In addition, notices shall be mailed to the applicant and all owners of real property within 500 feet of the exterior boundary of the parcel in question. Notices shall be mailed by certified mail, return receipt requested, or may be presented in person. Mailed notices must be sent at least 10 days prior to the date of the public hearing. The applicant must cover the costs associated with notification mailing (postage, letters, etc.). Access, participation, and notice shall be in accordance with the State's Open Meetings Law. Any hearing may be recessed by the Planning Board in order to obtain additional information or to serve further notice upon property, owners or other persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

Notification for property within an agriculture district containing a farm operation or on property with boundaries within 500 feet of a farm operation located in an agriculture district, shall include an agriculture data statement.

Section 10.07 Repealer

Upon filing of this Local Law with the New York Secretary of State, the following shall be repealed:

1. The Town and Village of Hammond, Site Plan and Subdivision Review Law of October 1992.
2. Local Law No. 1 of the Year 2010: Authorize the Town Board of the Town of Hammond to Adopt Land Use Regulations
3. Local Law No. 1 of the Year 2009: Wind Energy Facilities
4. Local Law No 1. of the Year 2004: Regulating the Siting of Wireless Telecommunications Facilities
5. 2014 Intermunicipal Agreement - Town and Village of Hammond

Section 10.08 Effective Date

This Local Law shall take effect on October 2021.

Article XI. Definitions

Words and phrases used in this Local Law shall be defined as follows in this Article. The words "will", "shall" and "must" are mandatory. Words and phrases that are not defined below shall be defined as in the New York State Uniform Fire Prevention and Building Code. Other zoning definition reference documents may also be used to define terms not listed below. The Planning Board shall make interpretation of terms and definitions. The Planning Board has the discretion to direct the Code Enforcement Officer to utilize generally accepted standards (OSHA, Uniform Fire Prevention and Building Code, other applicable standards developed by state and federal agencies such as the DEC, DOT, DOH, FCC, FAA, etc.) in making determinations of nuisance levels.

Section 11.01 General

Accessory Structure or Use: A use of land, building, or portion thereof customarily incidental and subordinate to the principal use of the land or building on the same lot with such principal use.

Agriculture: Raising livestock and/or crops, including tree crops.

Agricultural Operation: A land use involving, on a more or less continuous basis, the growing and harvesting of agricultural crops, the raising of livestock, and the conduct of dairy farming operations, with the intent of selling all or the substantial part of the production for profit, without regard as to whether any actual profit is made. Agricultural uses include, but not limited to; maple syrup production, greenhouse cultivation, bee-keeping, grape harvesting and Christmas tree production.

Animal Hospital: A place where animals are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

Automobile Sales: A place where new or used automobiles may be marketed and leased or sold.

Automobile Service: A place where petroleum products are kept for retail sales for automobiles and other motor vehicles and where repairs, rental, washing, servicing, or equipping of automobiles may be performed, excluding painting and body work.

Bank: An institution where money is deposited, kept, lent, or exchanged.

Bar: See "Tavern."

Bed and Breakfast Home: An occupied dwelling used incidentally to provide accommodations and meals to travelers. Includes a tourist home but not a boarding or rooming house.

Berm: A constructed mound of earth in excess of two (2) feet in vertical height used to shield or buffer properties from adjoining uses, highways, or noise, or to control the direction of surface water flow.

Block: A rectilinear group of lots served by a road within subdivision.

Boarding or Rooming House: A dwelling in which the proprietor supplies sleeping accommodations, with or without board, for a fee to at least three (3) people, and not more than ten (10) people exclusive of the proprietor and his/her family.

Buffer: An undeveloped area of property, or of a parcel of property, that is specifically intended and designed to separate and thus minimize the effects of a land use activity on contiguous properties. Buffers are generally used in combination with other screening techniques to further promote the desired separation. See "Berm".

Building: A wholly or partially walled structure with a roof used for the shelter of persons, animals, or property.

Business or Professional Office: Any building or part of a building in which one (1) or more persons are employed in the management, direction, or conducting of an agency, business or brokerage, or labor or fraternal organization, and shall exclude such uses as retail store, manufacture, assembly or storage of goods, or places of assembly or amusement.

Campground: An area to be used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, or similar movable or temporary sleeping quarters of any kind.

Church: A building or structure, or groups of buildings or structures, which, by design and construction, are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

Collective Solar: Installations of Solar Energy Systems that are owned collectively through a homeowner's association, community or municipal system, "adopt-a-solar-panel" programs, or other similar arrangements.

Community Residence: A supportive living facility with four to 14 residents or a supervised living facility subject to licensure by the Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities, which provides a residence for up to 14 mentally disabled persons, including residential treatment facilities for children and youth.

Convenience Store: Any retail establishment offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood.

Day Care Center: See school.

Double Frontage Lot: A lot that has a portion of its boundaries coinciding with the rights-of-way of two (2) intersecting roads or streets.

Dwelling, Group: A building or portion thereof with sleeping and living accommodations for more than five (5) persons, used or occupied as a club, dormitory, assisted living center, or rooming house, but not as a tourist home or similar uses.

Dwelling, Multi-family: A building or portion thereof designed for year-round occupancy, containing separate apartments or condominium dwelling units for three (3) or more families living independently of each other, excluding hotels, motels, campsites and rooming houses.

Dwelling, Single-family: A detached building designed for year-round occupancy by one (1) family, excluding mobile/manufactured homes, recreational vehicles, or any temporary structure.

Dwelling, Two-family: A detached building designed for year-round occupancy by two (2) families living independently of each other, excluding mobile/manufactured homes, recreational vehicles, or any temporary structure.

Family: A household constituting a single housekeeping unit occupied by one (1) or more persons.

Fence: An artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas.

Forestry: Any management, including logging, of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of wood roads, skidways, landings, fences and forest drainage systems.

Gas Station: A place where gasoline, motor oil, lubricants, or other minor accessories are retailed directly to the public on the premises in combination with the retailing of items typically found in a convenience store.

Glare: A continuous source of excessive brightness, relative to diffused lighting. This is not a direct reflection of the sun, but rather a reflection of the bright sky around the sun. Glare is significantly less intense than glint.

Home Occupation: Any occupation or business or commercial activity that is, or is proposed to be:

1. conducted in whole or part on property where the principal building is a single or two family residence;
2. results in the production of a product or the provision of a service, or any combination thereof, for financial gain, but without regard as to whether such product or service is actually profitable;
3. that meets the following additional criteria:
 - a. The total area of all such activity conducted on the premises is limited to less than 49% of the gross floor area of the principal building, but never more than 750 square feet.
 - b. The activity employs no more than the equivalent of one (1) full-time employee other than residents of the premises.
 - c. The activity does not involve the resale of goods or items produced or otherwise purchased for resale off the premises on which the home

occupation is conducted, except for such minimal quantities of goods or items as are ancillary and necessary to the resale of goods and items produced on the premises, or to a service not involving the primary sale of merchandise that is provided on the premises.

- d. If the activity involves the provision of instruction to students or services to clients, the total number of such students or clients on the premises at any one time shall be limited to no more than four (4) persons.
- e. The activity produces no noise, vibration, glare or fumes apparent to any person on adjoining or nearby properties or public ways and does not create any electronic interference of any type that can be detected from those locations.
- f. The activity does not require or create a requirement for on-street parking.
- g. The activity is not a hotel, motel, inn or bed-and-breakfast, or a salvage yard or landfill, and does not involve automotive sales, service or repair, the use of excavation equipment, or commercial outdoors storage.

Hotel or Motel: A building or group of buildings wherein accommodations are provided for transient lodgers, with or without meals, and having at least four (4) rooms.

Industrial (See also Light Manufacturing) Of, relating to, concerning, or arising from the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or mineral extraction, or demolition, reconversion of materials, transportation, generation of electrical power and heat, or wholesale trade, excluding commercial junkyards (See Junkyard, Commercial).

Junkyard, Commercial or Major: Such portion of a lot, land, parcel, unenclosed building, or structure used for the storage, collection, processing, purchase, sale, or abandonment of scrap materials in quantities greater than four (4) cubic yards or six (6) or more uninspected, unregistered, or inoperable motor vehicles. (See Junkyard, Minor).

Junkyard, Minor: Such portion of a lot, land, parcel, unenclosed building, or structure used for the storage of more than two (2) but less than six (6), uninspected, unregistered, or inoperable motor vehicles or scrap materials in quantities of four (4) cubic yards or less which the property owner intends to reuse. A motor vehicle shall be deemed inoperable if the wheels, engine or portions of the drivetrain have been removed for a period exceeding 60 days.

Kennel: Any structure or premises in which more than six (6) non-agricultural animals are kept, boarded, bred, or trained for commercial gain, or where any number of wild (feral) animals are harbored, kept, boarded, bred, or trained, whether or not for commercial gain.

Laundromat: A building or structure where coin-operated laundry machines, using only water, detergents, and additives, are made available to the public for the purpose of laundry cleaning.

Lead Agency: The public agency or board authorized to classify actions as excluded, exempt, unlisted, Type I, or Type II, and to determine the environmental significance of an action pursuant to Article 8, Part 617 of the New York Code of Rules and Regulations (6 NYCRR, 617, SEQR).

Light Manufacturing: Any process whereby the nature, size or shape of articles or raw materials is changed or where articles are assembled or packaged.

Lot: A designated parcel, tract, or area of land as may be described as a unit on a deed, plat, map, or tax roll listing.

Marina: Waterfront establishments whose business is offering the sale or rental of boats and marine sporting equipment and the servicing, repair, or storage of same. Such establishments may also provide travel lift services, slip rental, gasoline, sanitary pumpout service and food, drink and transient lodging accommodations.

Manufactured Home: Factory manufactured housing bearing the insignia of approval issued by the State of New York, including all forms of such structures. Manufactured homes were formerly referred to as "mobile homes."

Manufactured Home, Class A: A new or used "double wide" manufactured housing unit certified as meeting the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development and bearing the seal of that Department, and meeting the following compatibility standards:

1. The minimum width of the manufactured home at its narrowest point shall be not less than 20 feet when erected on site.
2. The exterior material of the manufactured home shall be similar to that customarily used in site-built residential structures.
3. The manufactured home shall have a sloping roof. The roof shall be constructed with composition shingles or other materials customarily used in site-built residential structures.
4. The manufactured home shall be attached to a permanent foundation approved by the Code Enforcement Officer. Permanent foundation shall include a slab on grade.
5. The exterior covering material of the manufactured home shall extend to the ground, except that where a permanent perimeter foundation is to be used, the exterior covering material need not extend below the top of the foundation.

Manufactured Home, Class B: A 12-foot or greater width "single wide" manufactured home certified as meeting the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development and bearing the seal of that Department. Each unit shall be inspected by the Code Enforcement Officer and determined to be in good condition and safe for residential occupancy.

1. The manufactured home shall be attached to a permanent foundation approved by the Code Enforcement Officer.
2. The exterior covering material of the manufactured home shall extend to the ground, except that where a permanent perimeter foundation is to be used, the exterior covering material need not extend below the top of the foundation.

Manufactured Home Park: A site intended for the long-term parking of five (5) or more manufactured home dwellings, which may include services and facilities for residents.

Modular Home: A dwelling unit constructed on site in accordance with state building codes and composed of components substantially assembled in a manufacturing facility and transported to a building site for final assembly on a permanent foundation.

Nuisance: An interference with the enjoyment and use of property including smoke, odors, waste materials, radiation, noise, dust, vibration, heat, glare, and visual blight.

Parish House: An accessory structure to a church intended for use as a single-family dwelling for the staff of the church.

Parking Space: An area used for parking a vehicle that is a minimum of 9' by 20' in size.

Plat: A map representing a tract of land showing the boundaries and location of individual lots and streets.

Plat, Preliminary: A preliminary map indicating the proposed layout of a subdivision which is submitted to the Planning Board for consideration and preliminary approval.

Plat, Final: A final map drawn by a licensed engineer or land surveyor showing a proposed subdivision, including all detailed information required by New York State and these regulations, which is submitted to the Planning Board and, if approved, filed with the County Clerk.

Private Club: A building or part of a building used exclusively by the members and guests of a club for social, recreational, or athletic activities.

Public or Semi-Public Use: A use which is primarily for the benefit of the public such as a park, picnic area, recreation area, or a related use which may or may not be operated as a business.

Restaurant: A building or part of a building where food and drink is offered for sale or sold to the public primarily for immediate consumption.

Retail Store: A building or part thereof in which foods, wares, merchandise, substances, articles, or things are offered or kept for sale directly to the public.

Right-of-Way: A defined area of land that provides for parking, road construction, maintenance, drainage, improvement and/or widening.

Salvage Operation: See Junkyard, Major and Minor.

School: A building or structure, or groups of buildings or structures, including any accessory structures or open areas, which by design and construction are primarily intended to house education facilities to serve students from a minimum of two (2) households. A day care center is considered a school, whether or not educational facilities are present.

Setback: The distance between the street centerline and the front of a building or any projection thereof, excluding uncovered steps.

Setback Line: The line that establishes the required minimum distance from the street centerline or any other lot that establishes the areas within which the principal structure must be erected or placed.

Sewerage: System for treatment and disposal of wastes from sanitary drains. Sewage treated and disposal in sewerage systems shall not consist of industrial wastes or liquids containing hazardous chemicals.

Small Rural Business: A small-scale business conducted on a rural lot by the owner-occupant, employing no more than four (4) persons.

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

Structural Alteration: Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

Subdivision: Any division of a parcel of property into two or more lots, without regard as to whether such lots are to be offered for sale. Subdivisions, for the purpose of this Law, are further defined in this section as "Subdivision (Major)", and "Subdivision (Minor)".

"Subdivision (Major)": Any division of a parcel of property into four (4) or more lots, or any division of a parcel of property where the construction of an internal road is required pursuant to any provision of this law or is otherwise proposed by the applicant. Notwithstanding the foregoing, a division into four (4) or more lots shall not be deemed to be a major subdivision when:

1. All lots that are to be created are to thirty-five (35) or more acres in area, and
2. The construction of an internal road is not required by any provision of this law and is not otherwise proposed by the applicant, and
3. The Planning Board makes the determination that the proposed subdivision is a minor subdivision.

"Subdivision (Minor)": A proposed subdivision that;

1. Involves the division of a parcel of property into two (2) or three (3) lots, or
2. Into any number lots when all lots to be created are to be thirty-five (35) or more acres in area, and that does not require the construction of an internal road and construction of an internal road is not otherwise proposed by the applicant.

Tavern: A building or part thereof where liquor, beer, or wine or any combination thereof are served for consumption on the premises, with or without food.

Telecommunication Tower: A structure on which transmitting and/or receiving antenna are located. This includes but is not limited to freestanding towers, guyed towers, monopoles and similar structures. It is a structure intended for transmitting and/or receiving telecommunications but excluding those either for fire, police or other dispatch communications or exclusively for

private radio and television reception and private citizens' bands, amateur radio and other similar communications.

Temporary Use: A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

Tourist Cottage: Residential buildings offered for rent for short terms, typically for vacations.

Tract: Anybody of land, including contiguous parcels of land, under one (1) ownership or under common control of any group of persons acting in concert as part of a common scheme or plan.

Uniform Code: New York State Uniform Fire Prevention and Building Code (Title 9, Subtitle 5, Chapter 1, New York Code of Rules and Regulations).

Use: The purpose or activity for which lands or buildings are designed, arranged, or intended, or for which lands or buildings are occupied or maintained.

Warehouse: A building used primarily for the storage of goods and materials.

Waste Disposal Facility: Any public or private facility, which receives, transships, processes and/or disposes of solid, liquid, or gaseous waste materials. Temporary storage of reusable or recyclable materials and compost piles for gardens are not waste disposal facilities unless such uses are conducted as part of a commercial venture.

Wholesale Business: Places of business primarily engaged in selling merchandise to retailers; industrial, commercial, institutional, or professional business users; or other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Section 11.02 Battery Energy Storage Systems

ANSI: American National Standards Institute

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

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

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

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

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

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

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

1. The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
2. No other occupancy types are permitted in the building.
3. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
4. Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:
 - 4.1. The areas do not occupy more than 10 percent of the building area of the story in which they are located.
 - 4.2. A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

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

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

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

NEC: National Electric Code.

NFPA: National Fire Protection Association.

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

NON-PARTICIPATING PROPERTY: Any property that is not a participating property.

NON-PARTICIPATING RESIDENCE: Any residence located on Non-participating Property.

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

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

UL: Underwriters Laboratory, an accredited standards developer in the US.

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

Section 11.03 Solar Energy Facilities

Building-Integrated Photovoltaic (BIPV): The incorporation of photovoltaic (PV) material into a building's envelope. Technologies include PV shingles or tiles, PV laminates, and PV glass. Examples of placement include vertical facades, semi-transparent skylights, awnings, fixed awnings, and roofs.

Collective Solar: Installations of Solar Energy Systems that are owned collectively through a homeowner's association, community or municipal system, "adopt-a-solar-panel" programs, or other similar arrangements.

Glare: A continuous source of excessive brightness, relative to diffused lighting. This is not a direct reflection of the sun, but rather a reflection of the bright sky around the sun. Glare is significantly less intense than glint.

Glint: A momentary flash of light that may be produced as a direct reflection of the sun on a solar collection system.

Ground-Mounted System: A solar energy system that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure.

Major Solar Collection System: An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid but also may be for on-site use and is intended to be used for any purpose, other than private, or residential, or agricultural use, including community based systems. Solar farm facilities consist of one or more freestanding GROUND-MOUNTED or ROOF-MOUNTED solar collector devices. Major solar systems are those systems which generate more than 110% of the energy demand for onsite use.

Minor Or Accessory Solar Collection System: A solar photovoltaic cell, panel, array, solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat, secondary to the use of the premises for other lawful purposes, Minor solar collection systems may consist of BUILDING-INTERGRATED PHOTOVOLTAICS, GROUND-MOUNTED or ROOF-MOUNTED solar collector devices. Minor or accessory solar collection systems that do not generate more than 110% of the energy demand of a farm operation in an agricultural district shall be considered as farm equipment under New York State Agriculture and Markets Law §301.

Roof-Mounted System: A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

Solar Access: Space that is open to the sun and clear of overhangs or shade. Structures constructed on private property will not infringe on the rights of adjacent properties.

Solar Energy Equipment and other solar accessory structures and buildings, assembled with the intent to facilitate the collection of solar energy, including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

Solar Energy Systems: Energy storage devices, material, hardware, or electrical equipment and conduit associated with the production of electrical energy.

Solar Panel: A device capable of collecting and converting solar energy into electrical energy.

Section 11.04 Telecommunications Facilities

Accessory Facility or Structure: An accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

Applicant: Any Wireless service provider submitting an Application for a Special Permit for Wireless Telecommunications Facilities.

Application: All necessary and appropriate documentation that an Applicant submits in order to receive a Special Permit for Wireless Telecommunications Facilities.

Antenna: A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

Board: The Town Board of the Town of Hammond.

Co-location: The use of an existing Tower or structure to support Antennae for the provision of wireless services.

Commercial Impracticability or Commercially Impracticable: The inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercial impracticable" and shall not render an act or the terms of an agreement "commercially impracticable".

Completed Application: An Application that contains all information and/or data necessary to enable an informed decision to be made with respect to an Application.

FAA: The Federal Aviation Administration, or its duly designated and authorized successor agency.

FCC: The Federal Communications Commission, or its duly designated and authorized successor agency.

Height: When referring to a Tower or structure, the distance measured from the preexisting grade level to the highest point on the Tower or structure, even if said highest point is an Antenna or lightening protection device.

Modification or Modify: The addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas,

cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or changeout of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site as a co-location is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

NIER: Non-Ionizing Electromagnetic Radiation.

Person: Any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.

Personal Wireless Facility: See definition for 'Wireless Telecommunications Facilities'

Personal Wireless Services or PWS or Personal Telecommunications Service or PCS: Shall have the same meaning as defined and used in the 1996 Telecommunications Act.

Repairs and Maintenance: The replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

Special Permit: The official document or permit by which an Applicant is allowed to file for a building permit to construct and use Wireless Telecommunications Facilities as granted or issued by the Town.

Stealth or Stealth Technology: To minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances,.

State: The State of New York.

Telecommunications: The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

Telecommunication Site: See definition for Wireless Telecommunications Facilities.

Telecommunications Structure: A structure used in the provision of services described in the definition of Wireless Telecommunications Facilities.

Temporary: Temporary in relation to all aspects and components of this Local Law, something intended to, or that does, exist for fewer than ninety (90) days.

Tower: Any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

Wireless Telecommunications Facilities or Telecommunications Site or Personal

Wireless Facility: A structure, facility or location designed, or intended to be used as, or used to support Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for Antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

Section 11.05 Wind Energy Facilities

Ambient Sound - Ambient sound encompasses all sound present in a given environment, being usually a composite of sounds from many sources near and far. It includes intermittent noise events, such as, from aircraft flying over, dogs barking, wind gusts, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road. The ambient also includes insect and other nearby sounds from birds and animals or people. The near-by and transient events are part of the ambient sound environment but are not to be considered part of the long-term background sound.

ANSI- refers to or means the AMERICAN NATIONAL STANDARDS INSTITUTE.

Applicant - The person or entity filing an application and seeking license under this local Law.

Background Sound - Background Sounds are those heard during lulls in the Ambient Sound environment and represent the quietest 10% of the time, for example the quietest one minute.

dBA - A-Weighted Sound Pressure Level. A measure of over-all sound pressure level designed to reflect the response of the human ear, which does not respond equally to all frequencies. It is used to describe sound in a manner representative of the human ear's response. It reduces the effects of the low with respect to the frequencies centered around 1000 Hz. The resultant sound level is said to be "Weighted" and the units are "dBA". Sound level meters have an A-weighting network for measuring A-weighted sound levels (dBA) meeting the characteristics and weighting specified in ANSI Specifications for Integrating Averaging Sound Level Meters,

51.43-1997 for Type 1 instruments and be capable of accurate readings (corrections for internal noise and microphone response permitted) at 20 dBA or lower. In this law dBA means LAeq unless specified otherwise.

dBC - C-Weighted Sound Pressure Level. Similar in concept to the A-Weighted sound Level (dBA) but C-weighting does not de-emphasize the frequencies below 1k Hz as A-weighting does. It is used for measurements that must include the contribution of low frequencies in a single number representing the entire frequency spectrum. Sound level meters have a C-weighting network for measuring C-weighted sound levels (dBC) meeting the characteristics and weighting specified in ANSI S1.43-1997 Specifications for Integrating Averaging Sound Level Meters for Type 1 instruments. In this law dBC means L unless specified otherwise.

Decibel - A dimensionless unit describing the amplitude of sound and denoting the ratio between two quantities that are proportional to power, energy, or intensity. One of these quantities is equal to 20 times the logarithm to the base 10 of the ratio of the measured pressure to the reference pressure, which is 20 micropascals.

EAF - Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules, and Regulations.

Non-Participant - Any and all Hammond landowners having no contractual relationship with a wind developer.

Participant - Any and all Hammond landowners having a signed lease, easement, or good neighbor agreement with a wind developer.

Qualified Independent Acoustical Consultant- A person with demonstrated competence in the specialty of community noise testing who is contracted by the Town for purposes of noise measurement or evaluation of noise analysis or noise complaints. An example is a person with full membership in the Institute of Noise Control Engineers (INCE) or other specialist who is qualified by education and experience in acoustics and regularly engaged in community noise testing. While such a consultant is preferably also a licensed professional engineer, such licensure does not by itself establish qualification for community noise testing or analysis without further qualification. The Qualified Independent Acoustical Consultant can have no financial relationship with the Wind Energy Facility developer or related entity.

Residence - means any dwelling suitable for habitation existing in the Town of Hammond on the date an application for a Wind Energy Facility Permit is received. A residence may be part of a multi-dwelling or multipurpose building, and shall include buildings such as hunting camps, seasonal residences, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes, or correctional institutions.

ROTOR DIAMETER- The diameter of the largest swept area of a rotating turbine blade.

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

Setbacks- a distance measured from the centerline of the road right-of-way, property lines, village limits, edge of wetlands, or closest point of residence foundation to the base of the turbine or measurement tower.

Shadow Flicker - the visual effect of viewing the moving shadow of the Wind Energy Conversion System (WECS) rotor blades when they are in a position between the receptor (person viewing them) and the sun and/or the "strobe" lighting effect of this condition as perceived by the receptor whether directly or indirectly (as in a reflection off a light colored wall).

Site - The minimum area necessary for a Wind Energy Facility to satisfy the required setbacks and any other standards in this local law. The Site may be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where an individual or group of individuals own or control adjacent properties, those properties may be combined for the purposes of this law through an Easement Agreement to be recorded in the Real Property records in the St. Lawrence County Clerk's Office. The easement must, at a minimum, describe all lands that may be impacted if the WECS fell and must remain in effect as long as the WECS is in place. Where multiple adjacent lots are in single ownership or are combined through an Easement Agreement, such multiple or combined lots shall together be considered the "Site".

Small Wind Energy Conversion System - ("Small WECS") - A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of no less than 500 watts and not more than 100 kilowatts and which is intended to primarily generate on-site power or reduce on-site consumption of utility power.

Sound Pressure Level - means the level, expressed in decibels, which is equaled or exceeded a stated percentage of time. Sound Pressure Level is spectrally weighted to correspond to a spectrum of interest. For example, the A-weighted decibel scale (dBA) represents those frequencies most readily audible to the human ear. The C-weighted decibel scale (dBC) approximates response of the human ear to low-frequency sounds. The G-weighted decibel scale (dBG) is designed for infrasound. Sound Measurements shall use sound meters that meet the American National Standard Institute Specifications for Integrating Averaging Sound Level Meters, S1.43-1997 for Type I instruments and be capable of accurate readings (corrections for interval noise and microphone response permitted) at 20 dBA or lower.

Special Permit - A construction and operating permit granted in accordance with the provisions of this local law.

Total Height - The height of the tower from the finished ground elevation to the furthest vertical extension of the turbine rotor plane.

Tower Height - The height of the tower from the finished ground elevation at the tower base to the center of the hub forming the attachment point for turbine blades.

Wind Energy Conversion System ("WECS") -A machine that converts the kinetic energy in the wind into electricity with a rated capacity in excess of 100kW/hour (commonly known as a "wind turbine" or "windmill").

Wind Energy Facility - Any Wind Energy Conversion System, Small Wind Energy Conversion System, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

Wind Measurement Tower - A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

Wind Overlay District - Those areas of the Town of Hammond that the Town Board has determined may or may not be appropriate for the development of Wind Energy Conversion Systems (WECS) and related infrastructure, electrical lines and substations, access roads and accessory structures, depending on adequate health, environmental, economic, and safety setbacks. The boundaries of the Wind Overlay District shall be as shown on the map entitled Town of Hammond Wind Overlay District and on file in the Town Clerk's Office, a copy of which is attached to this local law as Appendix "B" and is described as follows:

1. Railroad bed from the St. Lawrence/Jefferson County line to the village limits of the Village of Hammond.
2. Black Lake Road from the village limits of the Village of Hammond to the town line between the Town of Hammond and the Town of Morristown.
3. South side of NYS Route 12 from the St. Lawrence/Jefferson County line to Hammond/Morristown town line.
4. St. Lawrence/Jefferson County line from the railroad bed to the south side of the NYS Route 12 right of way line.
5. Hammond/Morristown town line from Black Lake Road to the south side of the NYS Route 12 right of way line.

Appendix

1. New York State Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Wind Power Projects.
https://agriculture.ny.gov/system/files/documents/2019/10/wind_farm_guidelines.pdf
2. New York State Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Solar Energy Projects.
https://agriculture.ny.gov/system/files/documents/2019/10/solar_energy_guidelines.pdf

3. St. Lawrence River Resiliency Study.
[https://www.stlawco.org/sites/default/files/Planning/CommunityProjects/SLC%20REPO
RT%20DRAFT_FINAL_BCA_Rootz%2007.15.19.pdf](https://www.stlawco.org/sites/default/files/Planning/CommunityProjects/SLC%20REPO%20DRAFT_FINAL_BCA_Rootz%2007.15.19.pdf)

4. District Map

