

**A LOCAL LAW OF THE TOWN OF SANFORD AMENDING LOCAL LAW #1-1992
ENTITLED “RENEWABLE ENERGY SYSTEMS”**

Be it enacted by the Town Board of the Town of Sanford as follows:

Section 1.

Local Law #1-1992 entitled “Land Use Management Local Law” be and hereby is amended by this Local Law #1 of 2017 to add a new Article XIV as follows:

Article XIV. Renewable Energy Systems

Section 1401. Legislative intent.

This Article is adopted to advance and protect the public health, safety, and welfare of the Town of Sanford, including:

- 1) Taking advantage of a safe, abundant, renewable, and low-carbon emitting energy resource;
- 2) Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses and farm operations; and
- 3) Increasing employment and business development in the region by furthering the installation and development of renewable energy systems.

These renewable energy regulations are intended to supplement existing zoning ordinances and land use practices, and ensure these systems are appropriately designed, sited and installed. However, to the extent that a provision of this Local Law conflicts with any other local law or zoning regulation of the Town, the provision of this Local Law shall apply. These regulations are in place to balance the need to improve energy sustainability through increased use of renewable energy systems such as solar energy systems and wind energy conversion systems with concerns for preservation of public health, welfare, and safety, as well as environmental quality, visual and aesthetic values, and existing neighborhood social and ecological stability. Further, the intent is to minimize any adverse impacts on the character of the neighborhoods, property values, scenic, historic, and environmental resources of the Town.

Section 1402. Wind Energy Conversion Systems (WECS).

A. Definitions.

ACCESSORY FACILITIES or EQUIPMENT: Any structure other than a wind turbine, including substations, meteorological towers, overhead and underground electrical lines, guy wires, access roads, operations and maintenance building or other facility related to the use and purpose of deriving energy from such tower.

APPLICANT: Any individual, corporation, municipal corporation, municipal corporation-private entity cooperation, estate, trust-partnership, joint-stock company, association of two or more persons, limited liability company or other entity submitting an application to the Town of Sanford for a special permit for WECS, and its successors and assignees.

APPLICATION: The form approved by the Board, together with all necessary and appropriate documentation that an applicant submits in order to receive a special permit for WECS.

BOARD: The Planning Board of the Town of Sanford.

DECOMMISSIONING PLAN: A plan that includes all of the elements set forth in Section 1402.6.

NACELLE: The portion of the wind turbine that connects the rotor to the support tower, and houses the generator, gearbox, drive train, and breaking system.

NON-PARTICIPANT: A parcel of land which is not subject to any lease, good neighbor agreement or other contract with the Applicant which authorizes WECS development by Applicant.

RIGHT OF WAY: A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

SPECIAL PERMIT: The official document or permit by which an Applicant is allowed to construct and use a WECS as granted or issued by the town.

TOWER FACILITY: Site where one or more wind energy-deriving tower(s) or wind turbines will be located, including all accessory facilities or equipment.

TOWN: The Town of Sanford, New York.

WIND ENERGY-DERIVING TOWER or WIND TURBINE: Any tower, pole, or other structure, whether attached to a building, guyed, or freestanding, designed to be used for the support of a rotor that consists of blades and hub, as well as a nacelle and generator for producing electricity.

WIND ENERGY CONVERSION SYSTEM (WECS): Shall mean any mechanism including a wind turbine designed for the purpose of converting wind energy into electrical energy and all accessory facilities related thereto. A WECS may be:

a. Commercial - A WECS that primarily produces energy for off-site sale or consumption, or any WECS that has a capacity of 200 kilowatts or more.

b. Non-Commercial - A WECS that is incidental and subordinate to another use on the same parcel and which primarily produces energy for on-site consumption; provided, however, that if such parcel uses the WECS for net-metering with a utility company, such WECS may be considered non-commercial unless net revenue is produced.

WIND MEASUREMENT TOWER or METEOROLOGICAL TOWER (MET TOWER): A tower used solely for the measure of meteorological data such as temperature, wind speed, and wind direction.

Section 1402.1. Authority

No WECS shall be constructed in the Town except in accordance with this Article. Unless a building permit, site plan approval and a Special Permit are received. Notwithstanding anything to the contrary, the Board is hereby authorized to approve, approve with conditions, or disapprove a WECS Special Permit applications in accordance with this Article.

Section 1402.2. Requirements for Commercial and Non-Commercial WECSs.

A. A Non-Commercial WECS may be permitted as a customary accessory use in all zoning districts and without the necessity of site plan review or special permit, subject to Town Code and Uniform Code requirements applicable to accessory uses, to the extent not inconsistent with this Article. In addition

to any other building permit requirements or requirements applicable to accessory uses, the following shall apply to non-commercial WECSs:

- (1) If any license, approval, permit, certification, or any type of registration or similar type of endorsement is required from any other agency, receipt of such agency approvals shall be a pre-condition to the building permit.
- (2) All wind turbine towers shall be set back from adjacent property lines, right of ways, easements, public ways, power lines (not to include individual residential feed lines), and any pre-existing structures by a distance at least equal to its fall zone as certified by a New York State Licensed Professional Engineer plus an additional twenty-five percent (25%) of its fall zone.
- (3) The minimum distance between the ground and any part of the rotor blade shall be no less than fifteen (15) feet.
- (4) An emergency telephone number shall be provided to the Town.
- (5) All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point at least twelve (12) feet above the ground. Setbacks for any anchor point for guy wires or cables shall be a distance of thirty (30) feet from any adjacent property lines.
- (6) WECS shall be sufficiently secure so as to prevent access by unauthorized individuals.
- (7) The color of the WECS shall be a single, non-reflective matte finished color or other industry standard color which minimizes negative visual impact.
- (8) Wind energy-deriving towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Use of nighttime and overcast daytime condition stroboscopic lighting to satisfy FAA lighting requirements shall be subject to Board on-site review, with specific respect to Section 1402.5, subsection (F)1 of this Article.

B. A Commercial WECS is permitted where indicated in the Schedule of Regulations, but shall be subject to receipt of site plan approval and a special permit in accordance with this Section 1402.

Section 1402.3. Special Permit Required.

A. All applicants for a special permit for a commercial WECS shall, in addition to the other requirements in the Town Code, comply with the procedures set forth in this Section 1402. The Board is the officially designated agency or body of the community that is authorized to review, analyze, evaluate, and make decisions with respect to granting or denying special permits for commercial WECSs and facilities (except where the application is subject entirely to Article 10 of the Public Service Law).

B. An application for a special permit for a commercial WECS shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The Applicant shall provide proof that the landowner, if different than the Applicant, consents to the filing of the Application or the Applicant shall provide a copy of the agreement between the Applicant and the landowner authorizing the Applicant to use the landowner's property as proposed in the application. At the discretion of the Board, any false or misleading statement in the application may subject the Applicant to denial of the application without further consideration or opportunity for correction.

C. Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the Board.

D. Completed applications for siting commercial WECS shall be submitted to the Town Clerk at least ten (10) days prior to the regular meeting of the Board. The Applicant shall attend any Board meeting where it wishes the application to be considered.

E. The decision of the Board on the application shall be filed in the office of the Town Clerk and a copy thereof mailed to the applicant.

Section 1402.4. Application Requirements.

A plan for the proposed development of a Commercial WECS shall be submitted with the application and such plan shall show and include:

A. Name and address of the Applicant., name of project, boundary lines of parcel that project will be located on, a location map showing proposed site's location, date, north arrow, and scale of the plan.

B. Application fee (non-refundable) of \$750.

C. Name and address of all owners of record of abutting parcels and those within fifteen hundred (1,500) feet of the property lines of parcel where development is proposed.

D. A map showing all existing lot lines, easements and right of ways, and a sketch plan showing proposed road access including provisions for paving, if any, proposed transmission lines, guy wires and accessory facilities, and location of all existing and proposed utility systems to the facility.

E. A survey of the parcel.

F. A map showing existing and proposed topography at five-foot contour intervals.

G. A landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features including size and type of plant material and erosion control measures.

H. Completed State Environmental Quality Review Act (SEQRA) Full Environmental Assessment Form (EAF) and Broome County GML 239 referral form.

I. Photography assessing the visibility from key viewpoints, existing tree lines, and proposed elevations. Pictures shall be digitally enhanced to simulate the appearance of the as-built above ground site facilities as they would appear from distances within a three (3) mile radius of such wind turbines. Pictures from specific locations may be required by the Board and all pictures shall be no smaller than 5" x 7".

J. Documentation of the proposed intent as well as a justification for the height of any wind energy-deriving tower and justification for any clearing required.

K. Preliminary report prepared by the Applicant describing:

(1) Surrounding topography in relation to the capabilities for generation of electricity by wind,

(2) Required improvements for construction activities, including those within the public's right of way or land controlled by the Town of Sanford,

(3) Proposed mitigation measures for visual impacts and other environmental impacts of the WECS, if any,

(4) Proposed safety measures to mitigate wind energy-deriving tower structural failure.

L. Elevation map showing each wind energy-deriving tower's height and design including a cross-section of the structure and components of the nacelle; each wind energy-deriving tower's compliance with applicable structural standards; and the WECS' nameplate capacity. A copy of all manufacturers' specifications for the wind turbines to be installed shall be included.

M. A description of the general geographic areas that would be acceptable for wind projects within the Town of Sanford; furthermore, demonstration that the proposed site is the most appropriate site within the immediate area for the location of the WECS.

N. If the WECS is a "major electric generating facility" subject to Article 10 of the Public Services Law and its accompanying regulations, all documents and information required to be provided to the Town, as well as any document or information provided to the Public Service Commission or other public agency which is specifically requested by the Town.

O. Report showing soil logs, soil profile analysis, and storm water run-off calculations for the area being disturbed.

P. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, and flooding of other properties, as applicable. There should be pre-construction and post-construction drainage calculations for the site completed by a certified engineer. From this the engineer must show how there will be no increase in runoff from the site, or how such runoff is sufficiently mitigated.

Q. Insurance certificates in compliance with Section 1402.5(H).

R. 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, but may be in memo or summary form.

S. Appropriate geotechnical, vibration, structural safety, and noise studies prepared by qualified professionals.

T. Demonstrated compliance with, or inapplicability of, any Town road maintenance or road use local laws, which may include, but shall not be limited to, a proposed road use agreement.

U. If any license, approval, permit, certification, or any type of registration or similar type of endorsement is required from any other agency, the applicant shall notify the Board of such requirement and the Board shall coordinate the review as deemed appropriate. A copy of any such license, approval, permit, certificate or registration shall be provided to the Board prior to approval of any special permit.

V. The Board, upon request in writing by the applicant, may waive specific requirements of this Section when in its opinion such information is not necessary for the Board to take into account when considering an application. Any such waiver will not have the effect of nullifying the spirit and intent of these standards, the Comprehensive Plan, or any other regulations or ordinance, if such exist.

Section 1402.5 Standards for Design.

Every Commercial WECS shall be subject to the following requirements.

A. Location – Applicants for a WECS special permit shall locate, erect, and site wind energy-deriving towers in accordance with the following requirements:

(1) WECS shall be located in a manner that minimizes significant negative impacts on existing microwave communications links. No WECS shall be installed in any location along the major axis of an existing microwave communications link where, when considering any mitigation strategies of Applicant, its operation is still likely to produce significant electromagnetic interference in the links operation.

(2) WECS shall be located in a manner that minimizes significant negative impacts on existing fixed broadcast, or reception antenna (including reception antenna) for radio, television, or wireless phone or other personal communications systems. No individual tower facility shall be installed in any location where, when considering any mitigation strategies of Applicant, its proximity with existing fixed broadcast, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems is still likely to produce significant electromagnetic interference with signal transmission or reception.

(3) WECS shall be located in a manner that minimizes significant negative impacts on bird and bat species. No individual tower facility shall be installed in any location where, when considering any mitigation strategies of Applicant, there are still likely to be significant, negative impacts on birds or bats. The Applicant shall present and implement a plan for such mitigation.

(4) All WECS shall be set back from adjacent Non-Participant property lines, right of ways, easements, public ways, power lines (not to include individual residential feed lines and not otherwise directly connected to the WECS), and any pre-existing structures by a distance at least equal to its fall zone as certified by a New York State Licensed Professional Engineer plus an additional twenty-five percent (25%) of its fall zone.

(5) The level of noise produced during WECS operation shall not exceed 50 (dBA) measured from the exterior wall of the nearest Non-Participant residence.

(6) With respect to the potential negative impacts described in this Section (A), Applicant shall present and implement a plan for mitigation.

B. Construction, Notice and Safety Considerations

(1) An emergency telephone number shall be provided to the Board and posted at the operations and maintenance building so that the appropriate people may be contacted should any WECS need immediate attention.

(2) All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point at least twelve (12) feet above the ground. Setbacks for any anchor point for guy wires or cables shall be a distance of fifty (50) feet from any Non-Participant.

(3) A caution sign shall be placed at the primary entrance of each parcel where a Tower Facility is located. Signs shall be four (4) to six (6) feet high, i.e., at eye level. Said signs shall be a minimum of one foot square and no larger than two square feet in size and shall have the words “CAUTION: WIND TURBINES IN USE” printed thereon. In addition, the owner’s name, address, and telephone number shall be printed thereon.

(4) WECS shall be sufficiently secure so as to prevent access by unauthorized individuals.

(5) Each wind energy-deriving tower shall conform to the following specifications:

(a) WECS shall use tubular towers

(b) The color of all WECS shall be a single, non-reflective matte finished color or other industry standard color which minimizes negative visual impact.

(c) Each wind turbine within a WECS shall be generally uniform in size and geometry.

(6) All WECS shall be equipped with manual and automatic overspeed controls, whose design and fabrication, together with the design and fabrication of its rotors, shall conform to good engineering practices as certified by its manufacturer. Such controls shall be designed to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

(7) No communication antennae's may be affixed to or made part of any commercial WECSs. No advertising shall be depicted on any part of any commercial WECSs.

C. Lighting. Wind energy-deriving towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Use of nighttime and overcast daytime condition stroboscopic lighting to satisfy FAA lighting requirements shall be reviewed with specific respect to Section 1402.5, subsection (F)1 of this Article.

D. Utility Service. All collection lines from the wind generation electricity generation facilities to on-site collection substations shall be underground to the maximum extent practicable given topography and other constraints.

E. Height

(1) The minimum distance between the ground and any part of the rotor blade shall be no less than thirty (30) feet.

(2) Any WECS (commercial and non-commercial) or Met Tower which is otherwise compliant with this Local Law shall be excluded from the requirements and restrictions of Section 520 of the Land Use Management Local Law.

F. Environmental Impact.

(1) Scenic / View Impact – Appropriate viewshed studies assessing potential impacts on scenic views within the Town shall be submitted for consideration by the Board. The wind turbines at a tower facility shall each be of substantially the same design, construction material, finishing and color.

(2) Access Roads - Whenever possible, existing roadways shall be used for access to the WECS site. In the case of constructing roadways, they shall be constructed in a manner so that they are not conspicuous to the surrounding environment and mitigate any increased runoff.

(3) Accessory Structures / Facilities – Transmission facilities or buildings shall be located behind ridges or vegetation, where feasible, to screen from visibility.

(4) Bird/Bat Migration Study – Appropriate bird and bat migration studies shall be submitted. The applicant shall solicit input for the NYSDEC on such studies.

G. Operating Considerations.

(1) Building and Grounds Maintenance – Upon completion of installation the site shall be returned as close as possible to its natural state. Any damaged, spare or unused parts, maintenance equipment, oil and all similar materials shall be removed from the premises within thirty (30) days or kept at a covered, on-site storage facility.

(2) Ownership Changes – If the ownership of a WECS operating under a special permit changes, subject to the requirements of Section 1405, the special permit shall remain in force and all conditions of the special permit will continue to be obligations of succeeding owners. The Town Clerk shall be notified and the ownership change registered with the Town. All signs required under provisions of this Article shall be changed accordingly.

(3) Modifications – Subject to Section 1405, any and all substantial modifications, additions, or changes to a WECS authorized to operate under this Article, whether structural or not, shall be made by application to the Board except where modification is required for routine maintenance and repairs which become necessary in the normal course of use of such WECS or become necessary as a result of natural forces, such as wind or ice. Additionally, any modification resulting in significant modifications to the public health, safety, welfare, environment, of the Town or the visual or sound impacts of the project, must be reviewed and approved by the Board.

H. Certifications.

(1) Post-Installation - A post-installation field report identifying the facilities generation of electricity and any unanticipated impacts upon the environment shall be submitted to the Town within sixty (60) days of when such information becomes available.

(2) Insurance / Liability – Prior to the commencement of construction of the WECS or Met Tower, the Applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of public liability insurance, of a level to be determined by the Board in consultation with the Town’s insurer, to cover damage or injury which might result from the failure of a tower or towers or any other part(s) of the generation or transmission facility. The public liability insurance policy shall specifically include the Town and its officers, boards, employees, committee members, attorneys, agents, and consultants as additional named insureds (using endorsement # CG2026), with coverage of at least \$1,000,000 per occurrence / \$2,000,000 aggregate (\$2,000,000 and \$5,000,000, respectively, for WECS subject to Article 10 of the Public Service Law).

(3) National and State Standards – The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation, and maintenance of the proposed wind turbine have been met or are being complied with. Wind turbines shall be built, operated, and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI). The applicant shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such wind turbine is in compliance with such standards.

(4) Lightning Strike / Grounding – The applicant shall show that all applicable manufacturers specifications, New York State and U.S. standards for the construction, operation, and maintenance of the WECS have been or are being complied with.

(5) Wind Speed / Wind Load – Certification is required by a registered professional engineer or manufacturer’s certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State.

(6) Continuing Obligations – All requirements detailed in Section 1402.5(H) shall remain in force for the life of the special permit.

I. Public Hearing. Upon a majority vote of the Board, the Board may hold a public hearing on the Commercial WECS application, if one is not otherwise required.

Section 1402.6. Abandonment of use.

A. All permit applications for a Commercial WECS or a Wind Measurement Tower shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the WECS or Met Tower. Prior to issuance of a building permit, the owner or operator of the WECS or Met Tower shall post a performance bond or other suitable financial guarantee in a face amount of not less than 110% of the estimated cost of complete decommissioning and removal to ensure proper, safe removal of the WECS or Met Tower and accessory facilities in accordance with the decommissioning plan described below. The amount of the financial guarantee shall be reviewed by the Applicant and the Board every five years and may be changed based upon majority vote of the Board. The form of the guarantee must be reviewed and approved by the Town Attorney, and the guarantee must remain in effect until the system is fully removed and final inspection is completed by the Code Enforcement Officer. Prior to removal of a WECS or Met Tower, a demolition permit for removal activities shall be obtained from the Town of Sanford.

(1) The applicant shall submit a decommissioning plan that ensures that the site will be restored to a useful, nonhazardous condition, which plan shall be implemented without delay if (1) the Applicant ceases operation of the WECS or Met Tower for a period of 18 months, (2) begins but does not complete construction of the project within 18 months after receiving special permit approval, or (3) the special permit for the WECS or Met Tower expires or is not renewed. The plan shall include but not limited to the following:

(a) WECS removal shall include removal of all aboveground equipment, and removal of foundations to a depth of four (4.0) feet below grade. Below ground accessory facilities, such as collection lines, are not required to be removed, unless otherwise required by applicable law. In addition, access roads may be left in place if written consent is received by the Town from the landowner. However, all WECS equipment or materials or accessory facilities installed underground must be fully removed and the land reclaimed where such equipment or materials will (i) interfere with or prevent continued compliance by the landowner with any Environmental Laws, (ii) give rise to any liability to the Town or the landowner under any Environmental Laws, or (iii) form the basis of any claim, action, suit, proceeding, hearing or investigation under any Environmental Laws. "Environmental Laws" shall mean any applicable law (including common law), statute, regulation, ordinance, order, code, guidance standard recognized by regulatory authorities, or other legal requirement relating to protection of the environment, Hazardous Material(s) and/or worker health and safety adopted by any applicable federal, state, or local governmental authority. "Hazardous Material" means any pollutant, contaminant, hazardous or toxic substance, waste, and any other material (a) subject to regulation or governed by any Environmental Law; and (b) the presence, or discharge of, or exposure to which could result in liability as a result of its impact or potential impact on human health or the environment; and including asbestos and asbestos containing material; petroleum, petroleum products and waste oil; any flammable explosives, radioactive materials, or toxic mold.

(b) Restoration of the surface grade and soil after removal of equipment.

(c) Revegetation of restored soil areas with native seed mixes, excluding any invasive species.

(d) A reasonable timeframe for the completion of site restoration work.

(2) In the event that construction of the WECS or Met Tower has been started but is not completed and functioning within 18 months of the issuance of the final site plan approval, the Town may notify the Applicant to complete construction and installation of the facility within 90 days. If the Applicant fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of such notification by the Town.

(3) Upon cessation of activity of a fully constructed WECS or Met Tower for a period of 18 months, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within 140 days of notice being served, the owner and/or operator can either restore operation equal to 50% of approved capacity, or implement the decommissioning plan which must then be fully complete within 12 months of the beginning of its implementation.

(4) Upon revocation, termination or non-renewal of the special permit for a WECS or Met Tower, the applicant, owner and/or operator must fully complete the decommissioning plan.

(5) If the owner and/or operator fails to fully implement the decommissioning plan within the a 12 month time period (or 180 days, in the case of (A)(2) above) and restore the site as required, the Town may, at its own expense, provide for the restoration of the site in accordance with the decommissioning plan and may, in accordance with the law, recover all expenses incurred for such activities from the bond or guarantee and from the defaulted owner and/or operator. Any cost incurred by the Town which has not been fully paid by the owner and/or operator shall be assessed against the property, shall (in addition to any other available remedies) 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.

Section 1402.7 Wind Measurement Towers.

A. Wind Site Assessment. As a wind site assessment is typically conducted to determine the wind speeds and the feasibility of using particular sites, installation of Wind Measurement Towers shall be permitted in accordance with this Section.

B. Applications for Wind Measurement Towers. A Met Tower shall be permitted as a customary accessory use in the Agricultural-Residential zoning district and without the necessity of site plan review, subject to Town Code and Uniform Code requirements applicable to accessory uses, to the extent not inconsistent with this Article. A Special Permit application for a Wind Measurement Tower shall include:

1. Building permit application, including all materials required thereby.
2. 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.
3. 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(s) and
 - ii. authorizing the submission of the application.
4. Address of each proposed wind measurement tower location, including Tax Map section, block and lot number.
5. Proposed development plan and map, including a site plan for the property as described in Section 524 of this Local Law.
6. Decommissioning Plan, including a security bond for removal.
7. If any license, approval, permit, certification, or any type of registration or similar type of endorsement is required from any other agency, evidence indicating the applicant's receipt of such agency approvals.

C. Standards for Wind Measurement Towers.

1. All met towers shall be set back from adjacent property lines, right of ways, easements, public ways, power lines (not to include individual residential feed lines), and any pre-existing structures by a distance at least equal to its fall zone as certified by a New York State Licensed Professional Engineer plus an additional twenty-five percent (25%) of its fall zone.
2. All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point at least twelve (12) feet above the ground. Setbacks for any anchor point for guy wires or cables shall be a distance of fifty (50) feet from any Non-Participant.
3. Wind Measurement Towers shall be sufficiently secure so as to prevent access by unauthorized individuals.
4. Wind Measurement Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Use of nighttime and overcast daytime condition stroboscopic lighting to satisfy FAA lighting requirements shall be subject to Board on-site review to determine visual impact on adjacent parcels.
5. Special permits for Wind Measurement Towers shall be issued for a period of up to three (3) years. Permits shall be renewable upon application to the Planning Board.
6. Upon expiration of the special permit, the wind measurement tower shall be fully removed and the land reclaimed in accordance with the Decommissioning Plan.

Section 1403. Geothermal energy systems.

A. Definitions.

(1) A "closed loop system" uses buried high-density polyethylene (HDPE) plastic piping installed in drilled and grouted boreholes that conductively exchanges thermal (heat) energy with the ground via circulating water or a water/antifreeze mixture through the piping system.

(2) An "open loop system" is a series of standard water wells that extract and use groundwater directly as a heat-exchange source then return the heated or cooled groundwater back to the aquifer.

(3) A "direct exchange system" uses buried copper tubing that conductively exchanges heat energy with the ground via circulating a refrigerant through the tubing.

B. There are several types of geothermal systems, also known as "ground source heating pumps". They include closed loop, open loop, and direct exchange systems and are distinguished by the type of ground heat exchange (GHX) installed in the earth for heat transfer.

C. The closed loop and direct exchange (DX) GHXs may be installed vertically in drilled boreholes or horizontally in excavated trenches then backfilled. The open loop systems are installed only in vertical drilled boreholes.

D. When geothermal systems are proposed in conjunction with applications for the approval of sewage disposal and water supply facilities at a particular project site, the installation is also subject to guidelines issued by Broome County Department of Health Services (SCDHS) regarding the installation of geothermal wells.

E. Geothermal energy systems shall be permitted, installed, and erected within the Town pursuant to a building permit so long as they meet the provisions of this Local Law and all applicable sections of the Town Code. Further, no building permit shall be issued to construct a geothermal energy system until all other applicable permits have been secured. Subject to compliance with this Local Law and all other sections of the Town Code, geothermal energy systems shall be permitted in all zoning districts as customary accessory uses.

Section 1403.1. Permitted geothermal systems and locations.

A. Permitted geothermal systems eligible to receive a building permit are those that (1) are of a system listed in Section 1403(A) (2) comply with the applicable general requirements in Section 1403.2 and 1403.3 satisfy the following basic criteria:

(1) An open loop system using standard water well(s) to both extract and return groundwater from/to the same aquifer and with well screens set within 50 vertical feet of one another.

(2) An open loop system that is not connected to a potable water system.

(3) An open loop system where the depth to groundwater is at least 20 feet below the surface.

(4) A vertical closed loop system using standard HDPE "U-bends" installed into drilled boreholes and grouted fully from bottom to top per industry standards.

(5) A horizontal closed loop system using standard HDPE pipe installed into horizontal trenches and backfilled per industry standards.

(6) A DX-to-earth contact system including either horizontal, diagonal or vertical loops and DX-to-water system including vertical loops.

(7) Is not proposed to be located within the following areas of potential sensitivity:

(a) One-hundred-year flood hazard zones considered a V or AE Zone on the FEMA flood maps.

(b) Tidal or freshwater wetland or within 100 feet landward of the aforementioned.

(c) Regulated tidal or freshwater surface water body.

(d) Coastal erosion hazard areas.

- (e) Historic and/or culturally significant resources, in an historic district, or historic district transition zone.
- (f) Identified wellhead protection areas and aquifer protection districts.
- (g) Lake Protection Overlay District.

B. Other geothermal systems that are not eligible for a building permit under the requirements of Subsection A, including those within areas of potential sensitivity listed in Subsection A(7) of this Section, may be allowed if a special permit is granted by the Town Planning Board, subject to the criteria set forth in Article VI, Section 611, and contingent on obtaining such required permits or approvals from other regulatory agencies, such as the New York State Department of Environmental Protection Agency (USEPA) and New York State Department of Environmental Conservation.

Section 1403.2. General requirements.

All permit applications shall be submitted to the Code Enforcement Officer on forms it provides and shall comply with all the requirements therein, including but not limited to the following:

A. Application for permit. Permit applications shall include, but not be limited to, the following items which may be satisfied by documentation supplied by the design engineer, installer or equipment manufacturer as applicable:

- (1) Demonstrate compliance with applicable building permit requirements.
- (2) A plot plan on an approved property survey no greater than a scale of one inch equals 40 feet depicting the limits of the setback zone distance from structures, property lines and public roads.
- (3) Certification by the design engineer and/or installer that the geothermal system complies with all applicable regulations and all applicable state and/or local building codes, including but not limited to those applicable to the use, storage or disposal of hazardous materials and chemicals.
- (4) Subsequent to installation and on or before final inspection, certification by the design engineer and/or installer that the geothermal system was installed as designed and that the design and installation complies with the relevant industry standards and guidelines outlined below in Subsection B of this section, including but not limited to Air Conditioning Contractors of America (ACCA) Manual J heat pump unit sizing for residential systems, ACCCA Manual N or comparable load calculation techniques for commercial systems, and manufacturer-specified closed loop and DX field design guidelines.
- (5) A one-line diagram of the electrical components on the plan in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code, Electric Code of the Town of Sanford (if any) and the New York State Uniform Fire Prevention and Building Code.
- (6) An engineering analysis of the geothermal energy systems showing compliance with the New York State Uniform Fire Prevention and Building Code and certified by a licensed professional engineer.
- (7) Soil studies. Soil studies shall be required for geothermal energy systems having installations to be located on nonstandard soil conditions such as gravel, sand, muck, dune, beach, or dredge spoil (as determined by the Town Code Officer). No soil studies shall be required for all other geothermal energy systems, provided the manufacturer thereof submits a certification stating that the geothermal energy system and its foundation are suitable for installation in the soil at the proposed location.
- (8) A chemical data sheet including amounts of each chemical used in the system.
- (9) A spill prevention plan.

B. Design standards and guidelines.

(1) The design and installation standards of geothermal systems, including related wells and boreholes for the GHX, shall conform to applicable industry standards, including, but not limited to, those listed below by type of system, and shall comply with the Sanford Town Code:

(a) All systems: the American National Standards Institute (ANSI), the International Ground Source Heat Pump Association (IGSHPA), the American Society for Testing and Materials (ASTM), the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), the Air-Conditioning and Refrigeration Institute (ARI), ACCA, Refrigeration Section of the International Building Code, and other similar certifying organizations. The manufacturer specifications shall be submitted as part of the application.

[1] The individual piping loops and circuits, and fully constructed piping network for all geothermal systems shall be pressure tested for integrity of original material and joints prior to backfill in accordance with the manufacturer's instructions and the governing standards or guidelines.

[2] Materials used to backfill horizontal GHXs and the buried, horizontal piping for vertical GHXs shall be suitable granular soil and shall be free from frozen lumps, ashes, refuse, vegetable or organic matter, rocks, or boulders over 150 mm (six inches) in any dimension, or other materials that may damage the piping. The backfilled excavations shall be compacted in accordance with industry standard practice and governing guidelines and regulations.

[3] To avoid any cross-contamination, geothermal systems shall not be cross-connected with building plumbing or water systems.

(b) Open loop systems: the National Ground Water Association (NGWA) and the American Water Works Association (AWWA).

(c) Closed loop systems: the International Ground Source Heat Pump Association (IGSHPA) and the NGWA.

(d) Direct exchange (DX) systems: the Canadian Standards Association (CSA), the National Association of Corrosion Engineers (NACE), the American Society of Mechanical Engineers (ASME) and in accordance with manufacturer's guidelines, methods and standards.

(2) For closed-loop systems, the following specifically apply:

(a) Closed loop borefield installers must be trained and accredited by IGSHPA and certified by the piping manufacturer in polyethylene pipe heat-fusion or electro-fuse welding techniques, whichever is used.

(b) Closed loop borefields that will supply greater than 50 tons of heating/cooling capacity must be designed by an IGSHPA certified geothermal designer in good standing with the IGSHPA.

(c) To the extent possible, non-toxic, non-hazardous materials shall be used in all closed loop systems. If antifreeze solutions are used as a circulating fluid in the buried ground heat exchanger, only antifreeze recommended by IGSHPA such as methanol, ethanol and food-grade propylene glycol shall be permitted.

(d) The borehole annulus (space between the borehole wall and the piping) shall be filled and sealed through its entire depth with a high-solids bentonite clay grout (at least twenty-percent solids by weight), from the bottom of the borehole to the top using the tremie method of grouting.

(e) All horizontal closed-loop systems shall be no more than 20 feet deep.

(3) For open horizontal loop systems, the following specifically apply:

(a) Open loop system contractors must be registered with the NYSDEC for drilling and installing wells and installing and start-up of submersible pumps and a copy of a NYSDEC well completion report must be submitted after the installation of the wells.

(b) Well drilling contractors must appropriate state and local authorities of the location of wells installed as part of an open loop geothermal system.

(c) Open loop systems with rated pumping capacity of greater than 45 gallons per

minute (gpm), or systems of lesser capacity proposed on a site with existing water supply wells and for which the combined pumping capacity of proposed on a site with existing water supply wells and for which the combined pumping capacity of proposed and existing wells exceeds 45 gpm, must obtain a well permit from the NYSDEC Division of Water.

(d) Open loop systems with a rated pumping capacity of greater than 45 gpm shall employ use of a plate-frame or shell-in-tube heat exchanger (HX) installed between the well piping and building hydronic loop to prevent cross-contamination of the return water by refrigerant, biocides, or corrosion inhibitors.

(e) Heat pump coils and HS material of construction for open loop systems must be compatible with the groundwater chemistry per manufacturer's limits.

(f) Water extraction.

[i] Open loop systems may utilize a waterway to the extent permissible under federal, state or local municipal laws or regulations.

[ii] Installation requirements for open loop wells shall be the same as those for potable water wells with respect to the means to prevent aquifer contamination (grouting, etc.), or in conformance with standards, regulations, or guidelines established by the Town Engineer, NYSDEC, NGWA, and AWWA.

[iii] Any water table drawdown caused by an extraction well or wells shall not cause harm to the environment or otherwise impact the use of existing water supply wells on neighboring properties.

(g) Discharge of water.

[i] Discharge of water from open loop systems into storm or sanitary sewer systems shall be prohibited, except upon written approval of the BCDHS, NYSDEC, or other authority having jurisdiction.

[ii] Discharge of water from open loop systems into a waterway or tidal or freshwater wetland is not allowed unless approved by applicable federal, state and local authorities.

[iii] Underground injection of water discharge from an open loop system shall be subject to the following conditions:

[A] Returned water shall contain no treatment or additives or other introduced chemicals.

[B] The return well shall recharge the same aquifer from which the supply water is extracted and recharge shall occur within 50 vertical feet of the supply well screen.

[C] The return well shall discharge the water below the water table depth to prevent aeration of the return water which can lead to precipitation of iron or other minerals and premature plugging of the well screens.

[D] The return well shall be located a minimum distance of 200 feet from wells on adjacent properties.

[E] The return well shall be located a minimum distance of 100 feet from the on-site well.

[F] The return well shall recharge the groundwater from which supply water is extracted.

(h) Return water practices shall not cause erosion, harm to the environment or flooding at the surface or other nuisance conditions on neighboring properties.

(i) Geothermal systems shall not encroach on public drainage, utility roadway or trail easements of any nature.

(j) The use of open loop systems within identified wellhead protection areas is prohibited.

(4) For DX systems, the following apply:

(a) DX system contractors shall demonstrate that they have successfully completed a DX system installers training course and are certified by an applicable equipment and material manufacturer to install DX systems.

(b) Piping and tubing shall be of a material equivalent to or better than Type Air Conditioning Refrigeration (ACR) piping, tubing and associated fittings in accordance with the appropriate ASTM standard and ASME standard.

(c) Below-grade joints shall be purged with inert gas and brazed in accordance with American Welding Society (AWS) standards. Piping tubing and fittings shall be installed in accordance with CSA standards.

(d) DX system contractors shall perform joining of all refrigerant connections per CSA standards.

(e) All underground Type ACR piping and tubing shall have a cathodic protection system which shall be designed and installed in accordance with the appropriate CSA standards and local site-specific conditions.

(f) For vertical DX boreholes that are drilled into saturated aquifer materials (below the water table), the borehole annulus shall be filled and sealed through its entire depth with a geothermal grout from the bottom of the borehole to the top using the tremie method of grouting per CSA standards.

(g) Horizontal DX GHXs and vertical DX boreholes lying above the water table shall be backfilled and compacted as specified in Subsection B(1)(a) of this Section. Due consideration shall be given to settling of the excavated area.

C. As-built drawing. Upon completion of construction, a scaled as-built drawing must be provided showing the locations of buried wells, closed loops, DX boreholes and horizontal connector piping, triangulated from two points on the property such as a building corner or other permanent structure. Offsets must also be shown from the nearest property line, and on-site septic systems and private water wells.

D. Setbacks.

(1) All horizontal closed-loop systems shall be no more than 20 feet deep.

(2) Unless otherwise specified, geothermal energy systems shall be located a minimum distance of 25 feet from any property line.

(3) Aboveground equipment associated with geothermal pumps shall not be installed in the front yard of any lot or the side yard of a corner lot adjacent to a public right-of-way and shall meet all required setbacks for the applicable zoning district.

(4) All geothermal energy systems shall be located a minimum distance of:

(a) Ten feet from any water, sewage or utility line.

(b) Ten feet from any building foundation.

(c) Twenty-five feet from any potential source of contamination, such as underground fuel tanks, except a supply well in an open loop system shall be a minimum of 50 feet from such potential source of contamination.

(d) Fifty feet from any storm water recharge structure.

(e) Seventy five feet from any sewage disposal structure, such as a septic tank or cesspool or leaching field, except a supply well in an open loop system shall be a minimum of one hundred feet from such sewage disposal structure.

(f) One Hundred Feet from potable water wells

(5) All setbacks or separation distances shall be verified by a qualified water supply engineer or hydrogeologist in order to protect against thermal impacts, water level drawdowns and groundwater impacts or structures.

Section 1403.3. Decommissioning.

A. If the geothermal system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall

remove the abandoned system at his/her expense in accordance with the below after obtaining a demolition permit.

B. Closed loop piping systems shall be decommissioned by flushing and filling the piping with potable water and capping off the ends. If the heat transfer fluid contains regulated materials (e.g., antifreeze, biocides or corrosion inhibitors), the heat transfer fluid shall be contained and disposed of in accordance with applicable regulations.

C. Open loop wells shall be decommissioned per NYSDEC requirements.

D. The heat pump and any external mechanical equipment shall be removed.

E. Pipes or coils below the land surface shall be filled with grout to displace the heat transfer fluid. The heat transfer fluid shall be captured and disposed of in accordance with applicable regulations. The top of the pipe, coil or boring shall be uncovered and grouted.

F. Water body geothermal systems shall be completely removed from the bottom of the body of water.

Section 1404. Solar energy production systems.

A. Definitions.

APPLICANT: Any individual, corporation, municipal corporation, municipal corporation-private entity cooperation, estate, trust-partnership, joint-stock company, association of two or more persons, limited liability company or other entity submitting an application to the Town of Sanford for a special permit for an SEPF, and its successors and assignees.

APPLICATION: The form approved by the Board, together with all necessary and appropriate documentation that an applicant submits in order to receive a special permit for an SEPF.

BOARD: The Planning Board of the Town of Sanford.

NON-PARTICIPANT: A parcel of land which is not subject to any lease or other contract for SEPF development by Applicant.

RIGHT OF WAY: A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

SOLAR ENERGY PRODUCTION FACILITY (SEPF): Shall mean any mechanism designed for the purpose of converting solar energy into electrical energy and all equipment related thereto. A SEPF may be:

1. Commercial - A SEPF that primarily produces energy for off-site sale or consumption, or any SEPF that has a capacity of 200 kilowatts or more.
2. Non-Commercial - A SEPF that is incidental and subordinate to another use on the same parcel and which primarily produces energy for on-site consumption; provided, however, that if such parcel uses the SEPF for net-metering with a utility company, such SEPF may be considered non-commercial unless net revenue is produced.

SPECIAL PERMIT: The official document or permit by which an Applicant is allowed to construct and use a SEPF as granted or issued by the town.

Section 1404.1. Permitted locations.

A. A Commercial SEPF shall be constructed pursuant to a special permit from the Board, so long as the SEPF meets the criteria set forth in § 1404.3, subject to obtaining all other necessary approvals including site plan review. A Non-Commercial SEPF shall be constructed pursuant to a building permit only and without the necessity of site plan review or special permits, so long as the SEPF meets the criteria set forth in § 1404.2; provided, however, that a Non-Commercial SEPF shall require a special permit from the Board if such facility is located in the areas listed in Subsection B below.

B. Areas of potential sensitivity:

- (1) One-hundred-year flood hazard zones considered a V or AE Zone on the FEMA Flood Maps.
- (2) Historic and/or culturally significant resources, in an historic district, or historic district transition zone.
- (3) Within a tidal or freshwater wetlands.
- (4) Adjacent to, or within, the control zone of any airport, subject to approval by the Federal Aviation Administration.
- (5) Within the Oquaga Lake Protection Overlay District.

C. Nothing herein shall supersede or limit any other code section contained within this chapter that may pertain to SEPFs, including but not limited to, site plan review.

Section 1404.2. Non-Commercial SEPFs as Accessory Uses.

A. A Non-Commercial SEPF may be permitted as a customary accessory use in all zoning districts, subject to Town Code and Uniform Code requirements applicable to accessory uses, to the extent not inconsistent with this Article, and subject to the following:

- (1) A Non-Commercial SEPF as an accessory use shall be limited to one or more roof-, wall- and/or ground-mounted solar collector devices and solar-related equipment.
- (2) Solar carports shall be permitted over existing and proposed parking facilities. For the purposes of this Article, solar carports shall not be considered a structure as defined by the Town Code.
- (3) Roof-Mounted SEPFs: SEPFs mounted on a roof shall not exceed the maximum height restrictions of the zoning district within which they are located. Panels facing the front yard must be mounted at an angle that is no greater than 20 degrees greater than the angle of the roof's surface with a maximum distance of 24 inches between the roof and the highest edge of the system.
- (4) Ground-Mounted SEPFs: SEPFs mounted on the ground shall adhere to the height and setback requirements of the underlying zoning district. Systems are limited to 20% lot coverage. All such systems installed in residential districts shall be installed in the side or rear yards.
- (5) Installations shall be compliant with all NYS requirements, including but not limited to, those set forth in Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code.

Section 1404.3. Commercial SEPFs; Special Permit Required.

A. A Commercial SEPF may be permitted where indicated in the Town's Schedule of Regulations. All applicants for a special permit for a Commercial SEPF shall, in addition to the other requirements in the Town Code, comply with the procedures set forth in this Section 1404. The Board is the officially designated agency or body of the community that is authorized to review, analyze, evaluate, and make decisions with respect to granting or denying special permits for SEPFs and facilities (except where the application is subject entirely to Article 10 of the Public Service Law).

B. An application for a special permit for a Commercial SEPF shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The Applicant shall provide proof that the landowner, if different than the Applicant, consents to the filing of the Application or the Applicant shall provide a copy of the agreement between the Applicant and the landowner authorizing the Applicant to use the landowner's property as proposed in the application. At the discretion of the Board, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.

C. Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the Board.

D. Completed applications for siting SEPFs shall be submitted to the Town Clerk at least ten (10) days prior to the regular meeting of the Board. The applicant shall attend any Board meeting where it wishes the application to be considered.

E. The decision of the Board on the application shall be filed in the office of the Town Clerk and a copy thereof mailed to the applicant.

F. Upon a majority vote of the Board, the Board may hold a public hearing on the Commercial SEPF application if one is not otherwise required.

Section 1404.4 Special Permit Application Requirements.

A plan for the proposed development of a Commercial SEPF shall be submitted with the application and such plan shall show and include:

A. Name and address of the owner of the parcel where development is proposed, developer and seal of the engineer, architect, or surveyor preparing the plan. Name of project, boundary lines of parcel that project will be located on, a location map showing proposed site's location, date, north arrow, and scale of the plan.

B. Application fee (non-refundable) of \$750

C. Name and address of all owners of record of abutting parcels and those within fifteen hundred (1,500) feet of the property lines of parcel where development is proposed.

D. A map showing all existing lot lines, easements and right of ways, and a sketch plan showing proposed road access including provisions for paving, if any, proposed transmission lines and accessory facilities, and location of all existing and proposed utility systems to the facility.

E. A survey of the parcel.

F. A map showing existing and proposed topography at five-foot contour intervals.

G. A landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features including size and type of plant material and erosion control measures.

H. Completed State Environmental Quality Review Act (SEQRA) Long Environmental Assessment Form (EAF) and Broome County 239 referral form.

I. Photography assessing the visibility from key viewpoints, existing tree lines, and proposed elevations. Pictures shall be digitally enhanced to simulate the appearance of the as-built above ground site facilities as they would appear from distances within a three (3) mile radius of such wind turbines. Pictures from specific locations may be required by the Board and all pictures shall be no smaller than 5" x 7".

J. Documentation of the proposed intent and capacity of energy generation as well as a justification for any clearing required.

K. Preliminary report prepared by SEPF siting agency describing:

(1) Surrounding topography in relation to the capabilities for generation of electricity by the sun,

(2) Required improvements for construction activities, including those within the public's right of way or land controlled by the Town of Sanford,

(3) Proposed mitigation measures for visual impacts and other environmental impacts of each SEPF,

L. Elevation map showing each solar panel's height and design including a cross-section of the structure;

M. A description of the general geographic areas that would be acceptable for solar projects within the Town of Sanford; furthermore, demonstration that the proposed site is the most appropriate site within the immediate area for the location of the SEPF. A copy of all manufacturers' specifications for SEPFs shall be included.

N. Description of the applicant's long range plans which project market demand and long range facility expansion needs within the Town.

O. If the SEPF is a "major electric generating facility" subject to Article 10 of the Public Services Law and its accompanying regulations, all documents and information required to be provided to the Town, as well as any document or information provided to the Public Service Commission or other public agency which is specifically requested by the Town.

P. Report showing quality and storm water run-off calculations for the area being disturbed.

Q. Insurance Certificates meeting the requirements of Section 1404.3(I)(3) below.

R. Plans to prevent the erosion of soil both during and after construction, excessive runoff, and flooding of other properties, as applicable. There should be pre-construction and post-construction drainage calculations for the site completed by a certified engineer. From this the engineer must show how there will be no increase in runoff from the site.

S. 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.

T. Demonstrated compliance with, or inapplicability of, any Town road maintenance or road use local laws, which may include, but shall not be limited to, a proposed road use agreement.

U. If any license, approval, permit, certification, or any type of registration or similar type of endorsement is required from any other agency, the applicant shall notify the Board of such requirement and the Board shall coordinate the review as deemed appropriate. A copy of any such license, approval, permit, certificate or registration shall be provided to the Board prior to approval of any special permit.

V. The Board, upon request in writing by the applicant, may waive specific requirements of this Section when in its opinion such information is not necessary for the Board to take into account when considering an application. Any such waiver will not have the effect of nullifying the spirit and intent of these standards, the Comprehensive Plan, or any other regulations or ordinance, if such exist.

Section 1404.5. Requirements for Commercial SEPFs.

A Commercial SEPF shall comply with the following standards:

A. Minimum lot area. The minimum lot area for a Commercial SEPF shall be 5 acres, or 6 acres for every megawatt of capacity, whichever is more.

B. Maximum lot coverage. The total coverage of a lot with freestanding solar panels cannot exceed sixty-percent (60%) lot coverage. Lot coverage shall be defined as the area measured from the outer edge(s) of the arrays, inverters, batteries, storage cells and all other mechanical equipment used to create, store or transfer solar energy, exclusive of fencing and roadways.

C. Height and setback restrictions. The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed 25 feet in height above the ground at their highest tilted position.

D. Buffer and setback restrictions.

(1) A minimum 30% of the parcel shall be preserved as natural and vegetative open space. Site plans for the property shall be developed that provide for the preservation of natural vegetation in large unbroken blocks that also allow contiguous open spaces to be established when adjacent parcels are developed.

(2) A minimum one hundred (100) foot setback from non-participant residential, agricultural and specially zoned parcels, a minimum seventy-five (75) foot setback from adjacent Town, County and State roads, and a minimum fifty (50) foot setback from all other adjacent properties, shall be maintained.

(3) A buffer of natural and undisturbed vegetation, supplemented with evergreen plantings in accordance with Town standards, as needed, shall be provided around all SEPF equipment to provide screening from such adjacent roads and parcels.

E. Design standards. The applicant shall submit a site plan map and drawing which depict and include the elements found in Section 524.1, as well as the following:

(1) Ground cover under and between the rows of solar panels shall be low-maintenance, drought-resistant, native, non-fertilizer-dependent flora.

(2) Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction. Paths of ingress and egress to the SEPF shall be shown on the plan.

(3) All on-site utility and transmission lines shall, to the extent feasible, be placed underground. If the applicant seeks above-ground utilities or transmission lines, sufficient proof of infeasibility must be provided.

(4) All SEPF shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties as well as adjacent street rights-of-way.

(5) All mechanical equipment of a SEPF, including any structure for batteries or storage cells, shall be completely enclosed by a minimum eight-foot-high anchored mini-mesh chain-link

fence with two-foot tip out and a self-locking gate. Said fence shall contain five-inch-high by sixteen-inch-wide grade-level cutouts every 75 feet to permit small animals to move freely into and out of the site. Landscape screening shall be provided in accordance with the landscaping provisions of this chapter.

(6) The applicant for a SEPF connected to the utility grid shall provide a "proof of concept letter" from the local utility company acknowledging the SEPF will be interconnected to the utility grid in order to sell electricity to the public utility entity.

(7) All debris, materials and/or mulch generated by site clearing or construction shall be removed from the site and disposed of properly.

(8) All lighting shall be depicted and conform to the Town's exterior lighting standards and shall not unreasonably disturb adjacent parcels.

(9) Fire access roads and access for fire apparatus equipment shall be provided, as approved by the Town Fire Marshal.

(10) All stormwater and drainage shall be contained on site in accordance with the Town's standards.

(11) Soil or material removal shall be in accordance with Section 511, Extraction of Quarried Stone, and Section 516, Fences to Excavation.

(12) For any SEPF to be constructed in one of the areas listed in Section 1404.1(B), the site plan and drawings shall account for such sensitive areas and provide mitigation to the extent reasonably necessary as determined by the Board.

(13) The design of an SEPF as required by this Section shall be prepared and sealed by a registered design professional.

F. Signs. A sign not to exceed 2.25 square feet shall be attached to a fence adjacent to the main access gate and shall list the facility name, owner and phone number. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

G. Other Approvals. If any license, approval, permit, certification, or any type of registration or similar type of endorsement is required from any other agency, such additional agency approvals shall be a condition to the Town's issuance of a special permit.

I. Operating Considerations.

(1) Building and Grounds Maintenance – Upon completion of installation the site shall be returned as close as possible to its natural state. Any damaged, spare or unused parts, maintenance equipment, oil and all similar materials shall be removed from the premises within thirty (30) days or kept at a covered, on-site storage facility.

(2) Ownership Changes – If the ownership of a commercial SEPF operating under a special permit changes, subject to the requirements of Section 1405, the special permit shall remain in force and all conditions of the special permit will continue to be obligations of succeeding owners. The Town Clerk shall be notified and the ownership change registered with the Town. All signs required under provisions of this Article shall be changed accordingly.

(3) Modifications – Subject to Section 1405, any and all substantial modifications, additions, or changes to a SEPF authorized to operate under this Article, whether structural or not, shall be made by application to the Board except where modification is required for routine maintenance and repairs which become necessary in the normal course of use of such SEPF or become necessary as a result of natural forces, such as wind or ice. Additionally, any modification resulting in significant modifications to the public health, safety, welfare, environment, of the Town or the visual or sound impacts of the project, must be reviewed and approved by the Board.

J. Certifications.

(1) Post-Installation - A post-installation field report identifying the facilities generation of electricity and impacts upon the environment shall be submitted to the Town within sixty (60) days of when such information becomes available.

(2) National and State Standards – The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation, and maintenance of the proposed SEPF, including applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI), have been met or are being complied with. The applicant shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such SEPF is in compliance with such standards.

(3) Insurance / Liability – Prior to the commencement of construction of the SEPF, the Applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of public liability insurance, of a level to be determined by the Board in consultation with the Town’s insurer, to cover damage or injury which might result from the failure of an SEPF or any other part(s) of the generation or transmission facility. The public liability insurance policy shall specifically include the Town and its officers, boards, employees, committee members, attorneys, agents, and consultants as additional named insureds (using endorsement # CG2026), with coverage of at least \$1,000,000 per occurrence / \$2,000,000 aggregate (\$2,000,000 and \$5,000,000, respectively, for an SEPF subject to Article 10 of the Public Service Law).

(4) Continuing Obligations – All requirements detailed in Section 1402.5(H) shall remain in force for the life of the special permit.

Section 1404.4. Abandonment.

A. All applications for a SEPF shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the SEPF. Prior to issuance of a building permit, the owner or operator of the facility or structure shall post a performance bond or other suitable financial guarantee in a face amount of not less than 110% of the estimated cost of complete decommissioning and removal to ensure proper, safe removal of the facility and related structures in accordance with the decommissioning plan described below. The form of the guarantee must be reviewed and approved by the Town Attorney, and the guarantee must remain in effect until the system is fully removed and final inspection is completed by the Code Enforcement Officer. Prior to removal of a SEPF, a demolition permit for removal activities shall be obtained from the Town of Sanford.

(1) The applicant shall submit a decommissioning plan that ensures that the site will be restored to a useful, nonhazardous condition, which plan shall be implemented without delay if: (1) the Applicant ceases operation of the SEPF for a period of 18 months, (2) begins but does not complete construction of the project within 18 months after receiving final special permit approval, or (3) the special permit for the SEPF expires or is not renewed. The plan shall include but not limited to the following:

(a) Removal of aboveground and belowground equipment, structures and foundations.

(b) Restoration of the surface grade and soil after removal of equipment.

(c) Revegetation of restored soil areas with native seed mixes, excluding any invasive species.

(d) The plan shall include a reasonable timeframe for the completion of site restoration work.

(2) In the event that construction of the SEPF has been started but is not completed and functioning within 18 months of the issuance of the final site plan approval, the Town may notify the applicant, operator and/or the owner to complete construction and installation of the facility within 90 days. If the applicant, owner and/or operator fails to perform, the Town may notify the applicant, owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of such notification by the Town.

(3) Upon cessation of activity of a fully constructed SEPF for a period of 18 months, the Town may notify the applicant, owner and/or operator of the facility to implement the decommissioning plan. Within 120 days of notice being served, the applicant, owner and/or

operator can either restore operation equal to 50% of approved capacity, or implement the decommissioning plan which must then be fully complete within 12 months of the beginning of its implementation.

(4) Upon revocation, termination or non-renewal of the special permit for a SEPF, the applicant, owner and/or operator must fully complete the decommissioning plan.

(5) If the applicant, owner and/or operator fails to fully implement the decommissioning plan within the 12 month time period (or 180 days, in the case of (A)(2) above) and restore the site as required, the Town may, at its own expense, provide for the restoration of the site in accordance with the decommissioning plan and may, in accordance with the law, recover all expenses incurred for such activities from the bond or guarantee and from the defaulted applicant, owner and/or operator. Any cost incurred by the Town which has not been fully paid by the applicant, owner and/or operator 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.

Section 1405. Farm waste energy system.

A. Definition.

FARM WASTE ENERGY SYSTEM - Any device or combination of devices or components which convert waste from farming operations into electrical or heat energy.

B. Location. A farm waste energy system is only permitted at a farm operation located within a NYS certified agricultural district and subject to the issuance of a special permit from the Planning Board.

C. Use classification. A farm waste energy system shall be classified as an accessory use to a farm operation. A farm waste energy system shall not be permitted as a principal use.

D. Registered design professional. The design of a farm waste energy system shall be prepared and sealed by a registered design professional.

E. Exemption(s): The design of a farm waste energy system that has obtained approval from the NYSDEC (e.g., solid waste and air pollution control permits) shall not be required to be prepared and sealed by a registered design professional unless required otherwise by such state department. A copy of applicable NYSDEC approval shall be submitted for the Town to permit such exemption.

F. Setbacks. A farm waste energy system shall be:

- (1) Located a minimum of one hundred (100) feet from a road right-of-way;
- (2) Located a minimum of one-hundred (100) feet from a residential or non-agricultural structure, well, watercourse or water body.

G. Location of Lines. All exterior electrical and/or plumbing or pumping lines must be buried underground.

Section 1406. Additional Requirements for Special Permits

The following provisions apply to all special permits required by any of the sections contained in this Article.

A. Decision on and Renewal of Special Permits.

(1) The Board reserves the right to approve the application, deny the application, or grant the application with certain stated conditions. All action upon the application shall be by written decision based upon substantial evidence submitted to the Board.

(2) Retention and Reimbursement of Expert Assistance

(a) The Board may hire, at applicant's expense, any consultant and/or expert necessary to assist the Board in reviewing and evaluating the application and any requests for re-certification and to complete any periodic inspections for structural and operational integrity which are deemed reasonably necessary by the Board.

(b) An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Board in connection with review of any application. The Board, by resolution, shall set the initial deposit. These funds shall accompany the filing of an application and the Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall invoice the Town now less than monthly for its services in reviewing the application and performing its duties. If at any time during the review process the escrow account has a balance of less than \$2,500.00, applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of at least \$2,500.00. Such additional escrow funds must be deposited with the Town before any further action or consideration is taken on the application. In the event the amount held in escrow by the Town is more than the amount of the actual cost of the Town's experts/consultants at the conclusion of the review process, the difference shall be promptly refunded to the applicant.

(c) The total amount of fund set forth in Section 1406 may vary by the scope and complexity of the project, the completeness of the application and other information as may be needed by the Board or its consultant/expert to complete the review process.

B. Extent and Parameters of Special Permits; Recertification.

(1) At any time between 12 months and six months prior to the five-year (or in the case of a permit for a meteorological tower, three-year) anniversary date after the effective date of the special permit and all subsequent fifth anniversaries of the effective date of the original special permit, the holder of the permit shall submit a signed written request to the Board for recertification. In the written request, the holder of such special permit shall include the following:

(a) The name of the holder of the special permit.

(b) If applicable, the name or number of the special permit.

(c) The date of issuance of the original special permit.

(d) Whether any of the structures have been moved, relocated, rebuilt or otherwise modified since the issuance of the original special permit and, if so, in what manner.

(e) That the project is still in compliance with the special permit and in compliance with all applicable codes, rules, laws and regulations, including without limitation, this Article, as it may be amended from time to time.

(f) Where a decommissioning plan was required for issuance of the special permit, an updated decommissioning plan, including an updated estimate for the cost of decommissioning, which accounts for new technologies, industry practices and methods, and any change to costs and expenses. Any bond or financial guarantee may be adjusted at the Board's reasonable discretion based on the updated estimate.

(2) If, after such review, the Board determines that the permitted activity is in compliance with the special permit and all applicable codes, rules, laws and regulations, then the Board shall issue a recertification special permit, which may include any new provisions or conditions that are mutually agreed upon or required by applicable statutes, laws, local laws, ordinances, codes, rules and regulations. If, after such review, the Board determines that the permitted activity is not in compliance with the special permit and all applicable codes, rules, laws and regulations, then the Board may refuse to issue a recertification special permit, and in such event, such previously

permitted activity and facilities shall not be used after the date that the applicant receives written notification of such decision by the Board. Any such decision shall be in writing and supported by substantial evidence contained in a written record.

(3) If the holder of a special permit does not submit a request for recertification of such special permit within the time frame noted in Section 1406(B), then such special permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary (or third anniversary, in the case of a Met Tower) of the original special permit or a subsequent fifth anniversary (or third anniversary, in the case of a Met Tower), unless the holder of the special permit adequately demonstrates to the Board that extenuating circumstances prevented a timely recertification request. If the Board agrees that legitimate extenuating circumstances were present, the Board may permit the holder to submit a late recertification request or application for a new special permit.

(4) Any special permit granted hereunder shall be:

- (a) non-exclusive;
- (b) not assigned, transferred or conveyed without the express prior written consent of the Board, and such consent shall not be unreasonably withheld or delayed upon the Town's receipt of proof of the ability of the transferee or successor to meet all the requirements of this Local Law; and
- (c) subject to revocation, termination, canceled or modified following a hearing upon due prior written notice to the applicant for a violation of the conditions and provisions of the special permit or for a material violation of this Local Law, such remedies being in addition to any and all other legal or equitable remedies available to the Town.

Section 1406. Severability.

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

Section 2. Separability

The provisions of this local law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this local law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the local law or part thereof is held inapplicable, had been specifically exempt therefrom.

Section 3. Repealer

All Ordinances, Local Laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 4. Effective Date

This local law shall take effective immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.