

Town of Virgil Zoning Law, Annotated

Adopted February 2007
Last Amended February 2019

Note: This unofficial annotated version has been prepared by the town counsel's office.

Original Zoning Law prepared with assistance from the Cortland County Planning Dept.

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ARTICLE I: ZONING

INTENT, APPLICABILITY AND DEFINITIONS

SECTION 101

Title

These regulations shall constitute and be known as "The Zoning Law of the Town of Virgil", New York, heretofore known as the "Virgil Zoning Law" and may be cited as such.

SECTION 102

Intent

- A) The intent of this law is to encourage appropriate and orderly physical development; promote public health, safety, convenience and general welfare; classify, designate and regulate the location and use of buildings, structures and land for agricultural, residential, commercial, industrial or other uses in appropriate places; and, for said purpose, to divide into districts of such number, shape and area as may be deemed best suited to carry out these regulations and provide for their enforcement.

This zoning law is one of the key mechanisms for implementing the Comprehensive Plan's vision of guiding development in Virgil to provide a balance of developed uses and open space throughout Virgil; to create residential neighborhoods close to but not negatively impacted by recreation, employment and shopping opportunities; and to avoid the negative impacts of uncontrolled access and demands for inefficient expansion of public utilities.

These regulations are in accordance with a well-considered Comprehensive Plan and have been made with reasonable concern for the character of each district and its suitability for particular uses.

- B) All terms used in the present tense include the future tense. All terms in the plural number include the singular number, and all terms in the singular number include the plural number, unless the natural construction of the term indicates otherwise. The term "person" includes a firm, association, organization, partnership, trust, company or individual. The term "shall" is mandatory and directory. The term "may" is permissive. The term "used" includes the terms "designated, intended or arranged to be used."

SECTION 103

General Applicability

- A) Except as herein provided, no building or land in the Town of Virgil shall be used or occupied nor shall any building or part thereof be erected, moved, or altered unless in conformity with the regulations

of this Law. Existing buildings, structures, and uses which do not comply with the regulations of this Law shall be allowed to continue subject to the provisions of Article VII of this Law relating to nonconformities.

- B)** The provisions of this Law shall be separable in accordance with the following rules:
 - 1)** If any court of competent jurisdiction shall adjudge any provision of this Law to be invalid, such judgment shall not affect any other provision of this Law.
 - 2)** If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Law to a particular property, building, or structure, such judgment shall not affect the application of the said provision to any other property, building, or structure.

SECTION 104

Applicability to variances, conditional use permits, and pending applications

- A)** The Law shall become effective thirty (30) days from the date of adoption. Except as specified in subsequent amendments to this Law, the effective date shall be February 15, 2007.
- B)** Any variance or conditional use permit which could be lawfully issued under the most recent provisions of this Law shall continue to be valid. Any existing variance or conditional use permit shall be allowed to continue subject to the provision of Article VII relating to nonconformities.
- C)** Any construction or alteration of a building or structure which has not yet obtained a certificate of occupancy but which has commenced construction at least ninety (90) days before the effective date in accordance with a valid building permit shall be allowed to complete construction. If such building or use is not in conformance with the regulations of this Law it shall be subject to the provisions of Article VII relating to nonconformities.
- D)** This law and any amendments thereof shall apply to all applications pending and not yet finally decided on the date of adoption except that in any case where a public hearing has been held, the application shall be decided in accordance with the law in effect on the date of such hearing.

SECTION 105

Definitions

ACCESS: A way or means of approach to provide vehicular or pedestrian entrance or exit to a parcel.

ACCESS CONNECTION, VEHICULAR: Any driveway, private road or other means of providing for the movement of vehicles to or from a public road.

ACCESS MANAGEMENT: The process of locating and designing vehicular access connections to land development to preserve the flow of traffic in terms of safety, capacity and speed.

ACCESSORY USE OR STRUCTURE: A use or structure on the same lot and of a nature customarily incidental and subordinate to the principal use or structure.

AGRI-BUSINESS: Commercial activity characterized by the sale of agricultural products or a business engaged in performing agricultural, animal husbandry, or horticulture services on a fee or contract basis.

AGRICULTURE: The use of land for farming purposes provided that the operation of any accessory uses shall be secondary to that of normal agricultural activities, and provided further that such uses shall not include the commercial feeding of garbage and offal to swine or other animals. (For more information, see Right to Farm Law, Local Law #2 for 1995) (See NYS Department of Agriculture & Markets definition of Agricultural Operation)

AGRI-TOURISM: An agricultural, horticultural, or other such business, where the general public can take part in unique learning opportunities through hands-on experiences, demonstrations, exhibits, and shows to gain a better understanding of a working farm.

ALTERATION: As applied to a building or structure, a change or rearrangement in the structural parts or an enlargement, whether by extending on a side or by increasing in height, or the moving from one (1) location or position to another.

ALTERNATIVE ENERGY SYSTEM: Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy and may be attached to or separate from the principal structure.

ANIMAL HOSPITAL: A business that treats animals and regularly houses them on premises overnight and for extended periods for treatment.

APARTMENT: See "Dwelling, Multi-family".

AQUIFER: Soil or rock below the land surface that is saturated with water. There are layers of impermeable material both above or below it and it is under pressure so that when the aquifer is penetrated by a well, the water will rise above the top of the aquifer.

AVERAGE LOT WIDTH: The average width of a lot between side lot lines.

BACKGROUND NOISE: ambient noise, in the absence of the noise under investigation, measured using time weighting "F" that is equaled or exceeded for 90% of the measurement time interval. Expressed as L_{A90T} , where T refers to the measurement time interval in minutes. Background noise is the "lull" in the ambient noise environment. Intermittent noise events such as from aircraft flying over, dogs barking, mobile farm machinery and the occasional vehicle traveling along a nearby road are all part of the ambient noise environment but would not be considered part of the background noise unless they were present for at least 90% of the time.

Commented [P1]: Added via LL #1 of 2009

BASE NOISE LEVEL: means an $L_{Aeq,10}$ of 26 dB(A) unless otherwise stated.

Commented [P2]: Added via LL#1 of 2009

BASEMENT: A story partly underground and having more than one half (1/2) of its height above the average level of the finished grade at the front of the building.

dB(A): the noise level in decibels, obtained using the "A" weighted network.

Commented [P3]: Added via LL#1 of 2009

BED AND BREAKFAST: An owner-occupied dwelling unit that contains no more than four (4) guest rooms where lodging, with or without meals, is provided for compensation.

BERM: An earthen mound designed to screen undesirable views, and/or decrease noise.

BUFFER: A combination of physical space and vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other, and/or to protect wildlife habitats, wetlands, stream corridors and other significant environmental features.

BUILDING: Any structure which has one or more floors and a roof, and is intended for the shelter, housing or enclosure of people, animals or personal possessions.

BUILDING HEIGHT: The vertical distance measured from the mean level of the ground surrounding the building to the highest point of the structure, excluding chimneys.

BUSINESS SERVICES: Small commercial establishments catering primarily to nearby residential areas providing convenience goods and services including but not limited to grocery stores, drug stores, beauty salons, barber shops, carry out dry cleaning and laundry pickup stations.

CAMPGROUND: A parcel of land used or intended to be used by two (2) or more tents, travel trailers or other recreational vehicles on a transitory or seasonal basis and conducted as a business or as part of a public use or private club.

CAMPING TRAILER: Any vehicle used or arranged for temporary living or sleeping purposes, mounted on wheels and drawn by a power driven vehicle, or such type vehicle having its wheels removed. This definition is intended to include self-contained recreational vehicles.

CARPORT: A roofed structure with no more than two walls used for the storage of one or more automobiles.

CELLAR: A story partly underground and having more than one half (1/2) of its clear height below the average level of the finished grade at the front of the building.

CERTIFICATE OF OCCUPANCY: A certificate issued by the Code Enforcement Officer signifying that a parcel of land is being used in a lawful manner with respect to the provisions of this Law.

CLUB, PRIVATE: A nonprofit social organization whose premises are restricted to its members and their guests.

CLUSTER DEVELOPMENT: A development of residential lots, each containing less area than the minimum lot area required for the district within which such development occurs, but maintaining the density limitation imposed by said minimum lot area through the provision of open space as a part of the subdivision plan.

CODE ENFORCEMENT OFFICER: The official designated to administer and enforce this Law.

COMPREHENSIVE PLAN: The materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports, and other descriptive material that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of Virgil.

CONSUMPTIVE USE: The loss of water from a ground-water or surface water source through a manmade conveyance system (including such water that is purveyed through a public water supply system) due to transpiration by vegetation, incorporation into products during their manufacture, evaporation, diversion from the WATERSHED OR RECHARGE AREA, or any other process by which the water withdrawn is not returned to the WATERSHED OR RECHARGE AREA undiminished in quantity.

CORNER CLEARANCE: The distance from an intersection of two or more roads to the nearest access connection.

CROSS ACCESS: The layout of circulation patterns and recording of a permanent enforceable right of access to allow travel between two or more contiguous parcels without traveling on a public road.

DAY CARE CENTER: A place providing or designed to provide day care for people on a regularly-scheduled basis for more than three (3) but less than twenty-four (24) hours per day. (For more information see Section 390 of the NYS Social Services Law.)

DECK: A single or multi-level, floored, roofless structure, which is designed as an accessory use to a dwelling. Railings shall be limited to forty two (42) inches high.

DRIVE-IN FACILITY: A use which by design of physical facilities or by service or packaging procedures permits customers to receive a service or obtain a product from within a motor vehicle.

DRIVEWAY: Any entrance or exit used by vehicular traffic to or from land to an abutting road.

DRIVEWAY, SHARED: A driveway in common ownership or subject to a permanent enforceable right of access by those traveling to or from a use on another parcel.

DWELLING: Any building or portion thereof designed or used exclusively as a residence.

SINGLE FAMILY: A detached residential dwelling designed for and occupied by one family only.

TWO FAMILY: A detached residential building containing two dwelling units designed for occupancy by not more than two families.

MULTIPLE FAMILY: A residential building designed for or occupied by three or more families with the number of families in residence not exceeding

DWELLING UNIT: One room or rooms connected together constituting a separate, independent housekeeping establishment physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities, designed for occupancy by one family.

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.

Commented [P4]: Added via LL#1 of 2009

EVENT CENTER: A building, structure, or location with the primary purpose of hosting events such as weddings.

EXPIRATION DATES: A permit approval may be renewed once if an acceptable application for renewal is submitted sufficiently prior to the expiration date. A renewal application involving no changes to the original plans should be submitted at least 30 days prior to the expiration of the permit or approval. An application involving any changes to the approved plans may be treated as a new application and may require a detailed environmental review, and should be submitted well in advance of the expiration date.

Commented [P5]: Added vis LL1 of 2014

EXTENDED CARE MEDICAL FACILITIES: Any facility which provides medical treatment as well as overnight care and which operates twenty four hours a day, seven days a week.

EXTRANEOUS NOISE: noise from animals, excessive wind effects, insects, birds, aircraft or unusual traffic conditions or any other infrequently occurring component of the ambient noise.

Commented [P6]: Added via LL#1 of 2009

FAMILY: One or more persons related to each other by blood, marriage or adoption (or not more than three individuals who are not related), living together as a single housekeeping unit.

FARM LABOR CAMP: Housing facilities, building or buildings in which farm employees and their families are housed.

FLOOR AREA, GROSS: The sum of the total horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business. Said areas shall be measured between the inside face of exterior walls or from the center line of walls separating two (2) uses. Said areas shall not include garage or accessory building space.

FUEL STATION: A site from which motor fuel is sold and which may include a convenience store, restaurant, and/or a car wash as a secondary use.

FUNCTIONAL AREA (INTERSECTION): The area adjacent to the intersection of two or more roads that encompasses required vehicle queuing areas and the decision and maneuvering area for vehicles using the intersection.

FUNCTIONAL CLASSIFICATION: A system used to group public roads into classes according to their purpose in moving vehicles and providing access to abutting properties.

GARAGE: An accessory building not operated for gain and used in conjunction with a principal building which provides for the storage of motor vehicles and/or other household items.

HAZARDOUS MATERIAL: Any substance found listed in either 40 CFR 216, 40 CFR 302, 6 NYCRR 371, or 6 NYCRR 597, alone in combination, including but not limited to petroleum products, organic chemical solvents, heavy metal sludges, acids with a pH less than or equal to two (2) alkalis with a pH greater than or equal to twelve point five (12.5), radioactive substances, pathological or infectious wastes or any material exhibiting the characteristics of ignitability, corrosivity, reactivity or EP toxicity.

HOME OCCUPATION: An accessory business use conducted entirely within a dwelling by the residents thereof and not occupying more than 30% of the gross floor area of the principal building and which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such use. In connection therewith, there is not involved the keeping of a stock-in-trade or on-premises sales of goods, or more than one student in the performing arts within any common period of time.

HOTEL/MOTEL: A building or group of buildings, whether detached or in connected units, containing transient and/or permanent lodging facilities for the general public and which may contain accessory facilities such as restaurants, meeting rooms, retail business activities and related activities primarily to accommodate the occupants, but open to the general public.

IMPERVIOUS SURFACE: The horizontal area of ground covered by a surface through which water cannot infiltrate such as, but not limited to, driveways or parking areas.

IMPULSIVE NOISE: noise containing impulse components as part of its characteristics, comprising a single pressure peak, or sequence of such

peaks, or a single burst with multiple pressure peaks, whose amplitude decays with time, or a sequence of such bursts.

Commented [P7]: Added via LL#1 of 2009

JUNKYARD: A place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, or where automobile wrecking takes place, but not including pawnshops and establishments for the sale, purchase or storage of used furniture, household equipment and clothing. All operations take place in enclosed buildings unless a conditional permit for outside storage or operations is obtained.

KENNEL: A lot or parcel of land where four (4) or more adult dogs are kept, whether by owners of the dogs or by persons providing facilities and care, whether or not for compensation, but not including a small animal hospital, clinic or pet shop. An adult dog is one of either sex, altered or unaltered, that has reached the age of six (6) months.

LETTER OF CREDIT: A security which may be accepted as a guaranty of a requirement that certain improvements be made before the Code Enforcement Officer issues a Certificate of Occupancy, including escrow agreements and other similar collateral and surety agreements acceptable in form and amount to the Attorney for the Town and the Town Engineer and approved by the Town Board.

LIVESTOCK: Any animal not typically considered an indoor household pet.

LOT: A parcel of land located along a public street, road or highway; occupied or capable of being occupied exclusively by one principal building and any accessory buildings having as a minimum, such area, dimensions and other requirements as specified by this Zoning Law.

CORNER LOT: A parcel of land fronting on two intersecting streets with two required front yards and two required side yards.

LOT AREA: An area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public street right of way shall not be included in calculating "lot area."

LOT COVERAGE: The percentage of the lot area covered by buildings, structures, parking areas, driveways, and walkways.

LOT DEPTH: The average horizontal distance from the street line of the lot to its rear lot line measured in the general direction of the side lines of the lot.

LOT FRONTAGE: The front of the lot shall be construed to be the portion along the public highway.

LOT LINE: Any boundary line of a lot.

LOT WIDTH: The width of the lot between side lot lines at the front building line as prescribed by the front yard regulations.

LOW FREQUENCY NOISE: a noise with perceptible and definite content in the audible frequency range below 250 Hz.

Commented [P8]: Added via LL#1 of 2009

MAJOR SOLAR COLLECTION SYSTEM (Solar Farm): 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 in order to sell electricity to or receive a credit from a public utility entity, but also may be for on-site use. Solar farm facilities consist of one or more freestanding ground- or roof-mounted solar collector devices, solar-related equipment and other accessory structures and buildings, including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

Commented [P9]: Added via LL1 of 2017

MANUFACTURED HOME, DOUBLE UNIT: A manufactured home consisting of two (2) or more sections, combined at the site, with a width of no less than twenty (20) feet, while still retaining their individual chassis for possible future movement and complying with Appendix E of the Residential Code of New York State and Federal HUD standards, excluding however, travel trailers, motorized homes, pickup coaches and camping trailers. This definition does not include modular manufactured homes as defined by the Residential Code of New York State.

MANUFACTURED HOME, SINGLE UNIT: A structure, transportable in one (1) or more sections which, in the traveling mode, is eight (8) to nineteen (19) body feet or more in width and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein and complies with Appendix E of the Residential Code of New York State and Federal HUD standards, excluding however, travel trailers, motorized homes, pickup coaches and camping trailers. This definition does not include modular manufactured homes as defined by the Residential Code of New York State.

MANUFACTURED HOME PARK: A parcel of land where two (2) or more manufactured homes are parked or which is planned and improved for the placement of manufactured homes by the public.

MEDIAN: A physical barrier such as a grass or landscaped island, not intended to be a driving surface, within the road right-of-way that separates traffic by direction of travel.

MINING: A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or top soil for sale, as an industrial or commercial operation, but does not include the process of grading a lot preparatory to the construction of a building which has an approved building permit.

MINOR OR ACCESSORY SOLAR COLLECTION SYSTEM: A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for 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, with the total surface area of all solar collectors on the lot not to exceed 3,000 square feet.

Any system which is located at a farm and which is designed to produce an amount of energy similar to what is consumed at that farm shall be a minor system, regardless of the total surface area of the collectors.

Commented [P10]: Added via LL1#1 of 2017

MODULAR HOMES: A factory manufactured home which incorporates structures or components designed for residential occupancy, constructed by a method or system of construction whereby the structure or component is wholly or in substantial part manufactured in a manufacturing facility and is intended for permanent installation on a foundation at a building site. Such home shall be constructed and installed in accordance with the requirements of the Residential Code of New York State. This definition does not include manufactured homes, double unit as defined by the Residential Code of New York State.

MOTOR VEHICLE REPAIR: Engine repair, body work, frame straightening, painting, upholstery, steam cleaning, electrical work, tune-ups and all other vehicle repair services.

MOTOR VEHICLE SALES AREA: Any building, land area or other premises used for the display or sale of new or used automobiles, motorcycles, trucks, trailers, or boats, but not including any repair work other than warranty and other repair service conducted as an accessory use on such premises.

MOTOR VEHICLE WASH: Any building or premises, or portion thereof, the use of which is devoted to the business of washing motor vehicles for a fee, whether by automated cleaning devices or otherwise.

NOISE: is defined as any loud, discordant or disagreeable sound or sounds. More commonly, in an environmental context, noise is defined

simply as unwanted sound. Wind energy producing activities inherently produce sound levels or sound characteristics that have the potential to create noise. The sound generated by proposed facilities may become noise due to land use surrounding the facility. When lands adjoining a proposed facility contain residential, commercial, institutional or recreational uses that are proximal to the facility, noise is likely to be a matter of concern to residents or users of adjacent lands.

Commented [P11]: Added via LL#1 of 2009

NON-CONFORMING ACCESS: An access connection existing prior to the date of adoption of these regulations which in its design or location does not conform with the requirements of this Law.

NON-CONFORMING BUILDING: A building which in its design or location upon a lot does not conform to the regulations of this Law for the district in which it is located.

NON-CONFORMING LOT: A lot existing at the time of enactment of this law or any amendment thereto, which does not conform to the area regulations of the district or zone in which it is situated.

NON-CONFORMING USE: Any use of any building, structure or land lawfully existing at the date of adoption of this Law or any amendment thereto which does not conform to the use regulations of the district in which it is situated.

OUTDOOR COMMERCIAL RECREATION FACILITY: Any uses which provide recreational and/or sports activities partially or wholly outside of an enclosed building.

OUTPATIENT HEALTH CENTER: A business establishment providing primarily health services such as emergency care, laboratory facilities, or minor surgery to ambulatory patients rather than diagnostic treatment typical of a doctors' office.

PARKING SPACE: Space available for the off-street parking of one motor vehicle and having an area of not less than 200 (10 X 20) square feet exclusive of passageways and driveways.

PARTICIPANT: Any landowner who has signed a contract with wind developers.

Commented [P12]: Added via LL#1 of 2009

PEAK HOUR TRIP (PHT) GENERATION: A weighted average vehicle trip generation rate during the hour of highest volume of traffic entering and exiting the site or the highest volume of the adjacent road.

PROFESSIONAL OFFICE: The office or place of business where professional services are offered and does not involve the sale of goods or the keeping of a stock in trade.

PUBLIC UTILITY: Any facility or related equipment, including but not limited to all lines, pipes, transformers, poles, etc., performing an essential public service and subject to special governmental regulation. Non-essential components of public utility operations such as general storage and maintenance facilities are excluded from this definition.

RECHARGE AREA: An area of land where rainwater infiltrates the ground to reach an aquifer.

RECREATION AREA/FACILITY: Land or structures designed to be used for recreation by all age groups or any single age group regardless of whether a user fee is charged.

RESIDENCE: Means any dwelling suitable for habitation existing in the Town of Virgil on the date an application 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.

Commented [P13]: Added via LL#1 of 2009

RESTAURANT/TAVERN: Any establishment at which food and beverage is prepared and/or sold for consumption.

RIGHT OF WAY: Land set aside for use as a street, alley, or other means of travel.

ROAD: A public or private thoroughfare which affords the principal means of access to abutting property.

ROADS, ARTERIAL: Those portions of the Virgil transportation system under State or Federal jurisdiction. An arterial road typically moves larger volumes of traffic over greater distances compared to other road types. Access is a secondary function of such road. Arterial roads include the following:

- i) *US Route 11*
- ii) *NYS Route 13*
- iii) *NYS Route 215*
- iv) *NYS Route 392*

ROAD, COLLECTOR: Those portions of the Virgil transportation system providing important links between arterial roads or serving large residential or non-residential developments. Collector roads balance the desirability of the free flow of traffic and access needs. Collector roads currently include the following:

- i) *Babcock Hollow Road*
- ii) *Daisy Hollow Road*

- iii) *Gee Hill Road*
- iv) *Owego Hill Road*
- v) *Page Green Road*
- vi) *Parker Street*
- vii) *South Cortland-Virgil Road*
- viii) *Webb Road*
- ix) *West Meetinghouse Road*
- x) *West State Road*

ROADS, LOCAL: The primary function of such roads is to move traffic within and between subdivisions as well as to provide access to individual lots.

ROADSIDE STAND: A permanent or temporary structure for the sale of agricultural products produced on the premises.

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.

Commented [P14]: Added via LL#1 of 2009

SIGN: Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out of doors or on the exterior of any building or indoors as a window sign, displaying an advertisement, announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause when such is placed in view of the general public.

"A" FRAME/SANDWICH SIGN: A portable sign with two (2) or more steeply angled sides.

ARCHITECTURAL FEATURE: A prominent or significant part or element of a building, structure or site.

BANNER: Any sign of lightweight fabric or similar material that is mounted to a pole or a building.

BILLBOARD: A surface whereon advertising matter is set in view conspicuously and which advertising does not apply to premises or any uses of premises wherein it is displayed or posted.

BUILDING DIRECTORY SIGN: A sign listing the tenants or occupants of a building or group of buildings and that may indicate their respective professions or business activities.

BUILDING FRONTAGE: The width of a building facing a street or public parking lot.

DIRECTIONAL SIGN: Any sign limited to directional messages, principally for pedestrian or vehicular traffic, such as one way, entrance and exit.

FLAG: Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision or other entity.

FREE-STANDING SIGN: A sign supported by one (1) or more upright poles, columns or braces placed in or on the ground and not attached to any building or structure.

ILLUMINATED (DIRECTLY) SIGN: A sign designed to give forth artificial light from within the sign.

ILLUMINATED (INDIRECTLY) SIGN: A sign illuminated with a light so shielded that no direct rays are visible elsewhere on the lot.

PORTABLE SIGN: A sign, whether on its own trailer, wheels or otherwise designed to be mobile and not structurally attached to the ground, a building, a structure or another sign.

PROJECTING SIGN: Any sign other than a wall sign that is attached to and projects from the wall or face of a building or structure.

ROOF SIGN: A sign that is mounted upon the roof of a building.

SIGN, AREA: The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the area shall be defined by projected, enclosed, four sided (straight sides) geometric shape which most closely outlines said sign.

TENANT IDENTIFICATION SIGN: A sign designed or intended to identify a tenant, occupant or establishment.

WALL SIGN: A sign attached to and erected parallel to the face of a building and supported throughout its length by such building.

WINDOW SIGN: A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material or located inside within four (4) feet of the window.

WINDOW SIGN, TEMPORARY: A window sign not permanently affixed that does not identify the tenant, occupant or establishment and is limited to a maximum use of one hundred twenty (120) days.

SITE: The parcel(s) of land where the Wind Energy Facility is to be placed. The Site could be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has a Wind Energy Facility or has entered an agreement for said Facility or a setback agreement shall not be considered an off-site, non-participating property.

Commented [P15]: Added via LL#1 of 2009

SITE PLAN: A layout plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, essential dimensions and bearings and any other information deemed necessary by the Planning Board.

SMALL SERVICE CONTACTOR: A construction or service contractor employing fewer than four (4) people not owners or residents of the property engaged in construction, plumbing, heating, electrical, landscaping, refrigeration, or similar trades or occupations.

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 not more than 100 kW and which is intended to primarily generate on-site power or reduce on-site consumption of utility power.

Commented [P16]: Added via LL#1 of 2009

SOUND PRESSURE LEVEL: Means the level which is equaled or exceeded a stated percentage of time. An L90 - 30 dBA indicates that in any hour of the day, 30 dBA can be equaled or exceeded no more than 10% of the time, or for 6 minutes. The measurement of the sound pressure level shall be done according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11), or other procedure as specified by the Town Board.

Commented [P17]: Added via LL#1 of 2009

STREET LINE: The edge of the road right-of-way.

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

SWIMMING POOL: Any body of water, or receptacle for water, having a capability of a depth of eighteen (18) inches or more at any point, used or intended to be used for swimming, bathing, or wading and installed or constructed either above or below ground.

TELECOMMUNICATION FACILITY: Any commercial equipment used in connection with the provision of two-way wireless communication services, including cellular telephone services, personal communication

services and private radio communication services regulated by the Federal Communications Commission in accordance with the Telecommunication Act of 1996 and other laws. A telecommunication facility may include monopole, guyed or latticework tower(s), as well as antenna(s), switching stations, principal and accessory telecommunication equipment and supporting mast, wires, structures and buildings.

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

TOXIC SUBSTANCE: Any compound or material which is or may be harmful to human health, as defined by § 4801, Subdivision 2, of the New York State Public Health Law.

WATERSHED: A region or area contributing storm water ultimately to a particular watercourse or body of water.

WIND ENERGY CONVERSION SYSTEM ("WECS"): A machine that converts the kinetic energy in the wind into a usable form (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 ZONE: Those areas of the Town of Virgil which the Town Board has determined are appropriate for the development of wind energy conversion systems (WECS) and related infrastructure, electrical lines and substations, access roads and accessory structures.

WIND POWER FACILITIES: All necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, tower, electrical components, foundation, transformer, and electrical cabling from the tower to the substation(s).

YARD, FRONT: The required open space within and extending the full width of the lot from the street line to the part of the principal building which is nearest to such front line which shall be unoccupied other than by an approved driveway.

YARD, REAR: The required open space extended across the entire width of the lot, between the principal building and the rear line of the lot, and

Commented [P18]: Added by LL#1 of 2006

unoccupied except for accessory buildings which can be within five (5) feet of the lot line.

YARD, SIDE: The required open space between the principal building and the side line of the lot extending through from the front yard to the rear yard into which space there shall be no extension of building parts.

ARTICLE II: ADMINISTRATION
ENFORCEMENT, PERMITS, AND APPLICATIONS

SECTION 201 Enforcement

It shall be the duty of the Code Enforcement Officer to keep a record of all applications for permits and a record of all permits issued noting special conditions relating thereto. Such records shall be filed in the Town Hall and shall be available for use by Town Assessor and the Town Clerk. The Code Enforcement Officer shall issue no permit for the use of any property not in conformity with the requirements of this Law and all other regulations of the Town of Virgil.

SECTION 202 Duties of Code Enforcement Officer

- A)** If in the course of work, the Code Enforcement Officer determines that any plans, buildings or premises are in violation of the provisions of this Law, he/she shall order the responsible party in writing to remedy such conditions. Said written order shall specify the nature of the violation found to exist, the remedy ordered and the time permitted for such action, the penalties and remedies which may be invoked, and the violator's right of appeal, all as provided for by this Law.
- B)** On the serving of notice by the Code Enforcement Officer to the owner of any property in violation of any of the provisions of this Law, the certificate of occupancy for such building or use shall be held null and void. A new certificate of occupancy shall be required for any further use of such building or premises.
- C)** The Code Enforcement Officer shall maintain a permanent record of all matters considered and all action taken. Such records shall form a part of the records of the office and shall be available for use by all Town officials and available for inspection by the public.

SECTION 203 Certificates and Permits

The certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this Law. A building permit or conditional use permit shall be a prerequisite to the erection or alteration of a building, structure or use thereof, but only if the alteration increases the dimensions or changes the uses or exit facilities thereof.

- A) BUILDING PERMIT:**
The Code Enforcement Officer is hereby empowered to issue a building permit for any plans regarding the construction or alteration of any building or part of any building, or the change in the use of any

land or building or part thereof, where it has been determined that such plans are not in violation of the provisions of this Law.

B) CONDITIONAL USE PERMIT:

Upon written direction of the Planning Board, the Code Enforcement Officer is hereby empowered to issue any conditional use permit provided for by this Law. Conditional permit uses are those uses having some special impact or uniqueness which requires a careful review of their location, design, configuration, and special impact to determine, against fixed standards, the desirability of permitting their establishment on any given site. They are uses which may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the local impact and effect.

C) CERTIFICATE OF OCCUPANCY:

The Code Enforcement Officer is hereby empowered to issue a certificate of occupancy which shall certify that all provisions of this Law have been complied with in respect to the location and use of the building, structure or premises in question.

SECTION 204

Application Procedure

- A)** Procedures for a building permit. All applications for a building permit shall be made to the Code Enforcement Officer in the detail specified in Section 203 of this Article. Where the proposed use is a permitted agricultural operation or a single or two family residential use in a residential district, the Code Enforcement Officer shall carefully consider the application for compliance with this Law and either issue or deny a building permit. When the application is for any other use in any district, a preliminary site plan application, in accordance with Article XIII shall serve as the Building Permit Application, and the Planning Board shall be responsible for reviewing compliance with this Law and directing the Code Enforcement Officer to approve with conditions or deny an application.

Building permits shall be issued in duplicate and one (1) copy shall be posted conspicuously on the premises while any alterations are being completed.

- B)** Procedures for appeal. Should an applicant choose to appeal a decision by the Code Enforcement Officer to deny issuance of a building permit, an application for an appeal shall be filled out, submitted along with supporting documents to the Code Enforcement

office for referral to the Zoning Board of Appeals for action. Where applicable under § 239 m and § 239 n of the General Municipal Law, the application shall also be submitted to the County Planning Board.

- C) Procedures for conditional use permit. All applications for conditional use permits shall be made to the Code Enforcement office. The Code Enforcement Officer, after determining that an application is in proper form, shall transmit the application and all supporting documents to the Planning Board for action thereon. Where applicable under § 239 m and § 239 n of the General Municipal Law, the application shall also be submitted to the County Planning Board.
- D) Procedures for a certificate of occupancy. Following the completion of the construction, reconstruction or alteration of any building, or where a change in the use of a structure is proposed, the applicant shall transmit by registered mail or deliver in person to the Code Enforcement Officer a letter stating that such construction has been completed or that a new use has been proposed. Within seven (7) days of the receipt of this letter, the Code Enforcement Officer shall make all necessary inspections of the completed structure or proposed use to determine the conformance with this Law. A certificate of occupancy shall be issued only if the Code Enforcement Officer finds that the construction or proposed use complies with all the requirements and provisions of this Law.

SECTION 205

Application Details

A) APPLICATION FOR A BUILDING PERMIT (Site Plan Review Not Required)

Each application for a building permit shall be made on forms available from the Code Enforcement office. The materials to be submitted with the application shall clearly show the conditions on the site at the time of the application, the features of the site which are to be incorporated into the proposed use or building and the appearance and function of the proposed use or building. At a minimum, the application shall include the following information and plans for both before and after conditions.

- 1) The location, use, design, dimensions, setbacks, and height of each use and building.
- 2) Location of any easements, water supply and sewage disposal facilities.

B) APPLICATION FOR A CONDITIONAL USE PERMIT

Each application for a conditional use permit shall be made on forms available from the Code Enforcement office and shall contain at least the following information:

- 1) The applicant's name and address and interest in the subject property.
- 2) The owner's name and address, if different than the applicant, and the owner's signed consent to the filing of the application.
- 3) The street address or legal description of the subject property.
- 4) An application for site plan approval, as required by Article XIII of this Law.
- 5) An agricultural data statement if the proposed use is located on or within five hundred (500) feet of a farm operation in a county agricultural district.
- 6) Any additional information which may be required to demonstrate compliance with any additional standards imposed on the conditional permit use by the particular provision of this Law authorizing the conditional use.

SECTION 206

Application Fees

Each application for a permit provided for by this Article shall be accompanied by a fee, payable in cash or other form of security, approved by the Town Attorney in accordance with the schedule adopted by resolution of the Town Board.

SECTION 207

Public Hearing

The Zoning Board of Appeals shall conduct a public hearing on applications for variances or appeals as referred to it by the Code Enforcement Officer Section 267-a. The Planning Board shall conduct a public hearing on applications referred to it for conditional use permit and may conduct a public hearing on applications referred to it for site plan review. Public notice of all such hearings shall be printed in a newspaper of general circulation at least five (5) days prior to the date of the hearing.

SECTION 208

Board Action on Permit Applications

Within sixty-two (62) days from the date of such public hearing, and following a report back by the County Planning Board when applicable, the Planning Board or Zoning Board of Appeals shall by resolution either approve, approve with conditions, or disapprove the application so heard. In approving the application, the Board may impose reasonable conditions and restrictions directly related and incidental to the proposed action.

- A) If an application is approved by the Planning Board or Zoning Board of Appeals, the Code Enforcement Officer shall be furnished with a copy of the approving resolution of the Board, and shall issue the permit applied for in accordance with the conditions imposed by the Board.
- B) If any application is disapproved by the Planning Board Zoning Board of Appeals, the reasons for such denial shall be set forth in the Board's resolution, and a copy of such resolution shall be transmitted to the Code Enforcement Officer. The Code Enforcement Officer shall deny the application accordingly by providing the applicant with a copy of the Board's reasons for disapproval.
- C) The Code Enforcement Officer shall maintain a record of all approved and denied applications. Such permanent record shall be available to the Town Clerk, the Town Assessor, and, where applicable, the County Planning Board.

SECTION 209

Revocation and Expiration of Permits

- A) The Code Enforcement Officer may revoke any permit at any time if it appears that the application is in any material respect false or misleading or that work being completed differs materially from that proposed in the application.
- B) Any permit not exercised within one (1) calendar year from its date of issuance shall become null and void.

ARTICLE III: BOARDS AND COMMISSIONS
ZONING BOARD OF APPEALS AND COUNTY PLANNING BOARD

SECTION 301 Zoning Board of Appeals (ZBA)

The official zoning map is hereby amended to include revised aquifer protection district areas, as set forth on the map prepared by the Cortland County Planning Department, said map bearing the same date as the adoption of this local law.

SECTION 302 Appointment of Zoning Board of Appeals

Pursuant to Section 267 of Town Law, there shall be a Zoning Board of Appeals (ZBA) consisting of five (5) members holding staggered five (5) year terms appointed by the Town Board. The Town Board may also appoint alternate members, pursuant to Section 267 of Town Law, for the purpose of substituting for a zoning board of appeals member when such member is unable to participate because of a conflict of interest on an application or matter before the board

SECTION 303 Chairperson, Rules, Expenses, and Decisions

- A) The ZBA shall elect a chairperson from its own members.

- B) The ZBA may adopt rules or by-laws for its operation.

- C) The Town Board shall provide an appropriation to the ZBA to cover necessary expenses including the means for the ZBA to maintain a written record of its meetings and public hearings.

- D) All decisions shall be by a majority vote of the membership except in those cases of a County Planning Board disapproval recommendation. In such cases a majority of the membership plus one vote shall be required for any decision.

SECTION 304 Functions of the Zoning Board of Appeals

- A) Interpretation. Upon appeal from a decision by the Code Enforcement Officer, the Zoning Board of Appeals (ZBA) shall decide any question involving interpretation of any provision of this Law.

- B) Appeals for Variances. Upon denial of a building permit by the Code Enforcement Officer, the Zoning Board of Appeals (ZBA) shall hear requests for variances as more fully described in this Article.

SECTION 305 Applications for Variances through the Zoning Board of Appeals

All requests for variances shall be made to the Zoning Board of Appeals (ZBA) by the Code Enforcement Officer.

SECTION 306

Granting Area Variances

- A)** Area variances may be granted where setback, frontage, lot size, density or yard requirements of this Law cannot be reasonably met. In order to grant an area variance, the Zoning Board of Appeals must weigh the benefit of granting the variance to the applicant against the detriment to the health, safety, and welfare of the community or neighborhood.
- B)** In making its determination the Zoning Board of Appeals shall also consider:
- 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;
 - 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;
 - 3) Whether the requested area variance is substantial;
 - 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district; and
 - 5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- C)** Area Variance Procedures: Area variances shall be granted by the procedure established in Section 308.

SECTION 307

Granting Use Variances

- A)** A use variance may be granted by the Zoning Board of Appeals only after the findings of the Zoning Board of Appeals establish that unnecessary hardships exist.
- In determining whether or not unnecessary hardship exists, the Zoning Board of Appeal's findings must establish that each of the following criteria is satisfied.
- 1) The land in question cannot realize a reasonable return if used only for a permitted use in the zoning district. A potential for increased profit by allowing a prohibited use is not to be

considered.

- 2) The use to be authorized by the variance must not have the potential to substantially alter the essential character of the neighborhood.
- 3) The use to be authorized by the variance must not be contradictory or run counter to the spirit and intent of the Zoning District or Zoning Law itself.

B) Use Variance Procedure: Use variances shall be granted only by the procedure established in Section 308.

SECTION 308

Procedures for Granting a Variance

- A) All applications for variances shall be in writing on forms established by the Town. They are available from the Code Enforcement Officer or the Town Clerk.
- B) Every application shall refer to the specific section or sections of the law involved and shall state in detail why the applicant believes the variance should be granted.
- C) Upon receipt of the completed application the ZBA shall:
 - 1) Schedule a public hearing.
 - 2) Advertise in the official newspaper of the Town a notice of the public hearing as described in Section 309.
 - 3) Refer the application to the County Planning Board as required by General Municipal Law Section 239.
 - 4) Determine whether or not the State Environmental Quality Review Act needs to be followed and if so make certain the proper papers are submitted and reviewed.
- D) Within forty-five (45) days of the public hearing, the ZBA shall render a decision. If the matter was referred to the County Planning Board, a copy of the ZBA's findings and decision must be returned to the County Planning Board within 7 days following the decision date.

SECTION 309

Notice of Public Hearing

The Board shall fix a reasonable time for the hearing of appeals not to exceed forty-five (45) days from date of ZBA receipt, or sixty (60) days where cases are referred to the County Planning Board, and shall give

due notice of the time set for the hearing to the applicant. Public notice shall be by the publication of an advertisement in the official newspaper of the town pursuant to law, and shall briefly describe the nature of the appeal and the time and place of the hearing.

SECTION 310

Meeting of the Board

- A)** The Zoning Board of Appeals shall hold meetings as necessary.
- B)** The presence of three (3) members shall constitute a quorum for the conduct of business before the Board.
- C)** A concurring vote of the majority of the Board shall be necessary to act on the application for any variance or to decide upon any other matter brought before the Board.
- D)** All votes of the Zoning Board of Appeals shall be taken by roll call.
- E)** In accordance with General Municipal Law, Section 809, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on such matter.
- F)** The Zoning Board of Appeals may request and obtain any advice or opinion on the law relating to any matter before the Board from the Town Attorney and may require the Town Attorney to attend its meetings.
- G)** The Zoning Board of Appeals may require the Code Enforcement Officer to attend its meetings and to present any facts relating to any matter before the Board.
- H)** All meetings of the Zoning Board of Appeals shall be open to the public.
- I)** The Zoning Board of Appeals shall keep minutes of all its meetings.
- J)** The Zoning Board of Appeals shall keep a factual record of all its proceedings including the reading of the case, public hearing, deliberation, voting and decisions of the Board. These factual records shall be taken by stenographic and/or tape recorder means and shall be accurate but not necessarily a verbatim transcript. The records may be kept in narrative form.

SECTION 311

Minimum Requirements for Zoning Board of Appeals Members

A) TRAINING

Each Board member is required to complete three (3) hours of training

per calendar year for a total of fifteen (15) hours of training during each five (5) year term. At the discretion of the Town Board, failure to comply with this requirement may be grounds for removal from the Board.

B) ATTENDANCE

Each Board member shall be required to attend seventy-five (75) percent of the scheduled meetings in each calendar year. At the discretion of the Town Board, failure to attend the required number of meetings may be grounds for removal from the Board. In addition, failure to attend three (3) consecutive meetings may be grounds for removal from the Board.

SECTION 312 Planning Board

SECTION 313 Appointment of a Planning Board

The Town Board authorizes the appointment of a five (5) member Planning Board as more fully described in Town Law Section 271. Terms of Planning Board Members shall be staggered as the law requires. The Town Board may also appoint alternate members, pursuant to Section 271 of Town Law, for the purpose of substituting for a planning board member when such member is unable to participate because of a conflict of interest on an application or matter before the board.

SECTION 314 Chairperson, Rules, Expenses, and Decisions

- A)** The Planning Board shall elect a chairperson from its own members.
- B)** The Planning Board may adopt rules or by-laws for its operation.
- C)** The Town Board shall provide an appropriation to the Planning Board to cover necessary expenses including the means for the Planning Board to maintain a written record of its meetings and public hearings.
- D)** All decisions shall be by a majority vote of the membership except in those cases of a County Planning Board disapproval recommendation. In such cases a majority of the membership plus one vote shall be required for any decision.

SECTION 315 Functions of the Planning Board

- A)** Prepare, modify or update a comprehensive development and land use plan for the Town. This plan may also be referred to as the Town Comprehensive Plan.

- B) Review and prepare comments for the Town Board on all proposed zoning amendments after referral to the County Planning Board.
- C) Conduct Site Plan Reviews as authorized by Town Law 274a and prescribed in Article XIII of this Law.
- D) Review and grant or deny conditional permits as authorized by ARTICLE XIV.
- E) Render assistance to the Zoning Board of Appeals on its request.
- F) Research and report on any matter referred to it by the Town Board.
- G) Review and act on subdivision applications.

SECTION 316 Minimum Requirements for Planning Board Members

A) TRAINING

Each Board member is required to complete three (3) hours of training per calendar year for a total of fifteen (15) hours of training during each five (5) year term. At the discretion of the Town Board, failure to comply with this requirement may be grounds for removal from the Board.

B) ATTENDANCE

Each Board member shall be required to attend seventy-five (75) percent of the scheduled meetings in each calendar year. At the discretion of the Town Board, failure to attend the required number of meetings may be grounds for removal from the board. In addition, failure to attend three (3) consecutive meetings may be grounds for removal from the Board.

SECTION 317 Required Referrals to the County Planning Board

The Zoning Enabling Law requires that any of the following local zoning actions must be referred to the County Planning Board prior to action by the local Board. The Town must submit any proposal for an aquifer protection district special permit, conditional permit, variance, site plan approval or change in zoning law text or map which would affect real property lying within a distance of 500 feet from the boundary of:

- i) any county
- ii) any town
- iii) any village
- iv) any existing or proposed county or state park
- v) any right-of-way of any county or state road or parkway
- vi) any stream or canal owned by the county

- vii) any existing or proposed county or state owned land on which a public building or institution is situated
- viii) any existing farm operation within an agricultural district, as defined by Article Twenty-Five-AA of the Agricultural and Markets Law

Any such proposal must be referred to the County Planning Board, who shall have 30 days from date of receipt to take action on the matter. By mutual agreement of the county and the municipality, such 30 day period may be extended for good cause.

SECTION 318 Effect of County Planning Board

- A) If the County Planning Board recommends in favor, the local Board's decision is governed by a majority vote.
- B) If the County Planning Board recommends disapproval or approval subject to stated conditions or modifications, the local board may override the county opinion only by a majority plus one vote.

SECTION 319 Report on Final Local Action

Where required referral is made to the County, the local Board must send a copy of its decision and reasons for such decision to the County Planning Board within 7 days after the local decision is reached.

SECTION 320 County Planning Board Representatives

The Town Board may nominate either a member of its Planning Board or some other resident to serve on the County Planning Board when vacancies occur. Appointments to the County Planning Board are made by the County Legislature.

ARTICLE IV: VIOLATIONS

SECTION 401 Enforcement

It shall be the duty of the Code Enforcement Officer and any duly authorized assistants to enforce the provisions of this Law or of any determination of the Zoning Board of Appeals and/or the Planning Board.

SECTION 402 Penalties for Offence

The violation of any of the provisions of this Law is an offense and shall subject the person violating the same to a fine not exceeding five hundred dollars (\$500) or to imprisonment not exceeding fifteen (15) days, or both.

SECTION 403 Continued Violation

Each week's continued violation shall be considered a separate and distinct offense.

SECTION 404 Severability

Nothing contained in this Law shall preclude the municipality or its agents from seeking such other relief as may be lawful in order to compel adherence to the terms of this Law and otherwise enforce the same.

ARTICLE V: ZONING DISTRICTS & REGULATIONS

DISTRICTS AND BOUNDARIES OVERVIEW

SECTION 501 Districts Established

Virgil is hereby divided into the following types of districts, which shall be differentiated according to use and area and hereafter used and developed for the purposes designated:

NR - Neighborhood Residential District

ARC - Agricultural Residential Conservation District

C - Commercial District

LI - Light Industrial

PUD - Planned Unit Development Overlay District

AP - Aquifer Protection Overlay District

WP - Wellhead Protection Overlay District

WE - Wind Energy Overlay District

Commented [P19]: Added via LL#1 of 2009

SECTION 502 Official Zoning Map

The above districts shall be located, bounded and described as shown on the Zoning Map of Virgil, which has been designated the Official Map of the Town, now on file in the Town Clerk's Office and, together with the boundaries and the designations therein, is made part of this Law.

SECTION 503 Interpretation of District Boundaries

Unless otherwise indicated on the Zoning Map, the district boundary lines are intended generally to follow the center lines of roads, the center lines of railroad rights-of-way, existing lot lines, the mean water level of streams and other waterways, all as shown on the Zoning Map.

SECTION 504 Determination of Location of Boundaries

In case of uncertainty as to the true location of a district boundary line in a particular instance, the Code Enforcement Officer shall request the Zoning Board of Appeals to render a determination.

SECTION 505 Non-Permitted Uses

Any use not specifically listed as a permitted use or a use requiring a conditional permit within a particular zoning district shall not be permitted within such zoning district.

ARTICLE V (A): ZONING DISTRICT REGULATIONS

ZONING REGULATIONS BY DISTRICT TYPE

SECTION 510 Neighborhood Residential District

SECTION 511 Intent

The purpose of the NR Neighborhood Residential district is to accommodate a variety of residential development at a density of one (1) dwelling unit/acre in land areas where public water and sanitary sewer services are available, and at a lower density where the extension of such utilities is anticipated but not yet in place. A primary goal of this district is to efficiently utilize existing municipal services, while providing convenient access to employment, retail, service, institutional, and recreational centers. This shall be achieved by integrating residential neighborhoods, open spaces, scenic vistas, and natural features in order to maintain community character and identity. ~~Incentive zoning or density bonuses may be granted in accordance with Section 628, on the condition that specific physical, environmental, and cultural amenities would benefit the community.~~

Commented [P20]: Deleted via LL1 of 2014

SECTION 512 Permitted Use

- A) Single family dwelling.
- B) Two family dwelling.

SECTION 513 Permitted Uses Subject to Site Plan Approval

Day care facility located in a private dwelling and regulated by Section 390 of the Social Services Law of the State of New York.

SECTION 514 Accessory Uses

- A) Noncommercial gardening and horticulture use (including greenhouse up to 120 sq. ft.).
- B) Tool house, shed, or similar building for storage of domestic supplies, non-commercial or recreational equipment (up to 120 sq. ft.).
- C) Garage or car port for licensed and operable passenger cars and trucks.
- D) Parking in accordance with Article IX.
- E) Signage in accordance with Article X.

SECTION 515 Uses permitted with a Conditional Use Permit from the Planning Board

- A) Home occupation
- B) Public utility
- C) Public use, such as places of worship, park or school
- D) Bed and breakfast
- E) Keeping of livestock on less than 5 acres.

SECTION 516 Minimum Driveway Spacing

The minimum distance between driveways whether on the same parcel or adjacent parcel shall be as specified in the access management standards of Article XV.

SECTION 520 ARC – Agricultural Residential Conservation District

SECTION 521 Intent

The purpose of the ARC Agricultural Residential Conservation District is to maintain and provide land area within the Town for residential development at a density of .33 dwelling units/acre where public water and/or sewers are not available, in order to preserve agricultural operations as well as rural open spaces which define the character of Virgil. This district is created to encourage the preservation of open space and natural features while accommodating the coexistence of residential, agricultural and other land based operations.

SECTION 522 Permitted Uses

- A) Single family dwelling
- B) Two family dwelling
- C) Agricultural or farming operation
- D) Manufactured Homes, double unit

SECTION 523 Permitted Uses Subject to Site Plan Approval

- A) Day care facility located in a private dwelling and regulated by Section 390 of the Social Services Law of the State of New York.

- B) Roadside stand for the sale of produce primarily grown on the premises subject to the requirements of Section 622 and the site plan review requirements of Article XIII.

SECTION 524

Accessory Uses

- A) Non-commercial gardening and horticultural, including greenhouse.
- B) Tool house, shed, and similar building for storage of domestic supplies and non-commercial recreational equipment.
- C) Garage or car port for licensed and operable passenger cars and trucks.
- D) Parking in accordance with Article IX.
- E) Signage in accordance with Article X.

SECTION 525

Uses permitted with a Conditional Use Permit from the Planning Board

- A) Public use, such as a place of worship, park or school.
- B) Public utility.
- C) Campground.
- D) Mining operation.
- E) Bed and breakfast.
- F) Keeping of livestock on lots of less than 5 acres.
- G) Kennel/animal boarding.
- H) ~~Manufactured homes, double unit.~~
- I) Manufactured homes, single unit as accessory for the employed help of an agricultural use.
- J) Home occupation.
- K) Event Center
- L) Small Service Contractor

Commented [P21]: Deleted by LL1 of 2014

Commented [P22]: Added by LL#3 of 2018, numbering scheme is off (H was deleted)

SECTION 526 Minimum Driveway Spacing

The minimum distance between driveways whether on the same parcel or adjacent parcel shall be as specified in the access management standards of Article XV.

SECTION 530 Commercial District

SECTION 531 Intent

The intent of the Commercial District is to provide conveniently located areas of moderately intense commercial uses located in free standing buildings, multi-tenant buildings and neighborhood shopping centers. Commercial Districts are expected to accommodate a range of local and nationally known businesses with local or regional clientele. Suitable locations are generally easily accessible from major roads.

Parcel/building conditions including building type and size, lot size, adjacent uses, and availability of parking may vary widely within the district. Such conditions may limit the development/redevelopment options for a particular site. Uses in the Commercial District should provide an appealing pedestrian environment including linkages to other uses while accommodating motor vehicles.

SECTION 532 Permitted Uses Subject to Site Plan Review

- A)** Professional offices.
- B)** Business Services.
- C)** Retail sales.
- D)** Indoor commercial facilities occupying less than forty thousand (40,000) square feet of building area in a completely enclosed building.
- E)** Day care centers as defined by section 390 of the Social Services Law of the State of New York.
- F)** Mixed use structures combining permitted commercial use(s) on the first floor or street side of a building and residential use on the upper floor(s) or to the rear of the building.
- G)** Only agricultural or farming operations in lawful existence as of the date of adoption of these regulations shall be allowed to continue and shall be considered a permitted or conforming uses subject to the

regulations of the Agricultural Residential Conservation District.

H) Public use such as a place of worship, a park, or a school.

SECTION 533

Accessory Uses

A) Signs in accordance with Article X.

B) Parking in accordance with Article IX.

C) Garage or other accessory building necessary to store materials, vehicles, or equipment related to the lawful principal use of the property.

SECTION 534

Uses Permitted with a Conditional Permit from the Planning Board

A) Bed and Breakfast.

B) Restaurant/Tavern.

C) Residential care facility.

D) Outdoor commercial recreation facility.

E) Accessory outdoor sales or storage of goods, materials, or equipment.

F) Movie Theater.

G) Public utility.

H) Drive-in facility for uses permitted in this District.

I) Hotel/motel.

J) Outpatient health center.

K) Motor vehicle service station or sales, repair, or washing establishment.

L) Fuel station.

M) Warehouse and distribution facilities, provided that adequate areas for fleet parking shall be provided.

N) Funeral home.

SECTION 540 Light Industrial District

SECTION 541 Intent

The intent of the Light Industrial District is to identify and set aside areas of Virgil which are most appropriate for light industrial related uses. Accommodation of new light industrial uses is intended to maintain a balanced tax base and provide employment opportunities for local residents. Suitable locations for industrial uses are easily accessible from state highways and are appropriately buffered from residential and commercial uses.

SECTION 542 Permitted Uses Subject to Site Plan Review

- A) Research and development facilities.
- B) Service industries of the type that provide service to other industries rather than the needs of the retail customers.
- C) Equipment rental or mini storage establishments involving no outdoor storage of materials or equipment.
- D) Production, processing and assembly operations provided that such uses are conducted entirely within an enclosed building.
- E) Only agricultural or farming operation in lawful existence as of the date of adoption of these regulations shall be allowed to continue and shall be considered as permitted or conforming uses subject to the regulations of the Agricultural Residential Conservation District.
- F) Warehouses and distribution facilities limited to wholesale trade, provided that adequate areas for fleet parking shall be provided.

SECTION 543 Accessory Uses

- A) Signs in accordance with Article X.
- B) Parking in accordance with Article IX.
- C) Garage or other accessory buildings which are necessary to store materials, vehicles, or equipment related to the lawful principal use of the property.
- D) Accessory use providing food, recreation, or day care services to employees of a lawful principal use.

SECTION 544 **Uses permitted with a Conditional Use Permit from the Planning Board**

- A) Day care center.
- B) Public utility.
- C) Hotel/motel.
- D) Restaurant/tavern.
- E) Motor vehicle sales or repair facility.
- F) Private landing strip or heliport. Such facilities must conform to all Federal Aviation Administration regulations and standards.
- G) Outdoor storage of goods, materials, or equipment.

SECTION 550 **Planned Unit Development**

SECTION 551 **Purpose**

It is the intent of this section to permit the establishment of mixed use developments entitled "Planned Unit Development" (PUD) to provide the opportunity to develop a project comprised of a mixture of land uses and densities. A PUD is an overlay zoning district, which while required to meet the overall density of the underlying zoning district, allows for more flexibility in design and use than would be permitted in the underlying zoning district. With the creation of a PUD, the following objectives shall also be sought:

- A) Creation of a more desirable community environment than would be possible through strict application of zoning regulations found elsewhere in this Law.
- B) Preservation and enhancement of community natural resources such as water bodies, wetlands, forests, significant topographic and geologic features and other outstanding areas of scenic and ecological value.
- C) Efficient use of a site to facilitate adequate and economical construction and maintenance of streets and drainage facilities, water supply and sewage systems.
- D) Innovation and variety in the type and design of residential development, providing a wide choice of living environments,

occupancy tenure and housing cost.

- E) Open space allocation and maintenance by public or private initiative as an integral part of residential development.

SECTION 552

Development Guidelines & Standards

A) DENSITY

The overall density of development within a PUD shall not exceed the maximum density requirements of the underlying zoning district.

B) WATER AND SEWER FACILITIES

All uses within a PUD shall be connected to public water and sewer services.

C) COMMON OPEN SPACE

Not less than 30% of the gross area of a PUD district shall be devoted to common open space. Such land is to be used for recreational purposes and/or preserved in its natural state.

D) PLANNED UNIT DEVELOPMENT STANDARDS

The standards for Planned Unit Development are to provide the Planning Board with a means to evaluate applications for these districts consistent with the provisions and general intent of the Zoning Law for the Town of Virgil. In addition, these standards are intended to provide the necessary latitude for the developer to make creative and efficient use of his/her property.

E) PERMITTED USES

- 1) One-family dwelling, two-family dwelling.
- 2) Multiple-family dwelling.
- 3) Institutional facilities and activities such as churches, schools, day care centers, and government facilities.
- 4) Hotel/Motel.
- 5) Recreational facilities (indoor or outdoor).
- 6) Essential Services.
- 7) Retail Stores.
- 8) Restaurants.
- 9) Business offices.
- 10) Accessory uses.
- 11) Parking lots.

F) SPECIFICATIONS

- 1) Minimum yards required: front yards, rear yards, and side yards for residential uses shall be designed so that no principal building is closer than twenty (20) feet to the edge of

any road right-of-way or any other principal building, and no building is closer than thirty (30) feet to any property line of the overall development or 60 feet to any center line of any road, whichever is greater.

- 2) Maximum height of structures: no building shall be erected to a height in excess of thirty-five (35) feet.
- 3) Two off-street parking spaces per dwelling unit.

G) SIGNS AND DISPLAYS

One (1) sign announcing the residential development is permitted; not to exceed twelve (12) square feet in area. One sign per business is permitted, not to exceed six (6) square feet. No sign shall be located closer than thirty-five (35) feet to any lot line or from the street line.

**H) OFF-STREET PARKING AND LOADING REQUIREMENTS
(NON-RESIDENTIAL)**

- 1) For every building hereafter erected, altered, extended, or changed in use, there shall be provided off-street parking spaces according to the design criteria set forth below.
 - i) A required parking space shall be at least ten (10) feet wide by twenty (20) feet long and shall be reached by an access driveway at least twenty-four (24) feet clear in width.
 - ii) Any parking lot or parking area shall be effectively divided by planted divider strips or curbing fixed in place so as to effectively divide each parking area from other driveways and parking areas for the purpose of insuring safety of vehicles moving within the entire parking area and to control speed.
 - iii) No parking shall be permitted within the required front yard or within twenty-five (25) feet of any property line.
 - iv) Ingress and egress to parking areas shall be no closer to one another than one hundred fifty (150) feet along public roads. Access to individual uses and parking areas shall be from a service road, when possible.

SECTION 553

Procedures for Application for PUD

PUD applications are reviewed by the Town Planning Board. The Planning Board reviews and makes recommendations on all aspects of a

PUD development to the Town Board who makes the final determination on this proposed zoning map amendment.

Application for PUD is a type of conditional permit requiring two (2) stages of review. A PUD applicant shall first file a preliminary master plan demonstrating a comprehensive land use plan for the entire PUD tract. Upon approval of this plan, the applicant may then submit conditional permit and site plan review application for definitive plans of each portion or phase of development of the PUD tract. Prior to application for PUD, the owner/applicant may, and is encouraged to, arrange for an informal review of the PUD plan by the Planning Board.

SECTION 554 PUD Preliminary Master Plan Contents

Any application for PUD preliminary master plan approval shall be accompanied by the following supportive information:

- A)** A neighborhood context map, at a scale not less than one inch (1" equals one hundred feet (100')), providing a graphic description of the neighborhood in which the tract lies, including roads, utilities and other public facilities, existing buildings and structures. There shall also be a statement and/or plan as to the general impact of the proposed PUD upon the area, indicating how the PUD relates to surrounding properties and what measures will be taken to create appropriate transitions and access from the subject property to abutting public properties or other neighboring tracts (if applicable).

- B)** A conceptual site plan drawn to a scale of not less than one inch (1" equaling fifty feet (50')), or series of drawings at the same scale, and any necessary supporting information showing:
 - 1)** The approximate boundary lines of existing and proposed lots within and immediately adjacent to the PUD, with approximate areas and dimensions. With respect to residential areas, the proposed density, lot configuration, circulation and a typical plot plan shall be included in the application.

 - 2)** An analysis of the natural features of the site, including existing and/or adjacent natural waterways, wetlands, floodplains, the general topography of the land indicating slopes over 10%, and other features requested or required by the Town of Virgil Zoning Law.

 - 3)** Existing/proposed buildings and other significant structures, building groupings, parking areas, and other significant

physical features of the site.

- 4) Major circulation patterns surrounding and serving the site, the existing and proposed lines of streets (including the street width), rights-of-way, easements and any public areas within or next to the PUD.
 - 5) Major landscaping elements, features and open space.
 - 6) A generalized drainage plan for the site, indicating drainage ways, flows, points of outfall, and indicating impacts of development on affected drainage basins. The plan shall include contour information at not less than two-foot (2') contour intervals and document anticipated quantities of run off in relation to existing run off characteristics. General statements concerning storm water management techniques shall also be submitted with the application.
 - 7) The plan shall clearly show PUD boundaries, north arrow, date, scale, legend, the title "Preliminary Master Plan: Planned Unit Development" followed by the formal project name, and the name(s) of applicant(s), engineer(s), designer(s) and/or agent(s).
- C) Analysis of compliance with regulations as to dwelling units per square feet of lot area, height, building coverage and parking requirements.
- D) Names of all property owners within five hundred (500) feet of the PUD boundary.
- E) Explanation of provisions for the landscaping and maintenance of all open space and drainage areas.
- F) A traffic analysis and recommendations prepared by a registered professional engineer qualified to conduct such studies, including current traffic counts for streets surrounding the project, analysis of the existing capacity of those streets, projections of the amount of traffic that will be generated by the proposed development, and the ability of the thoroughfare system to absorb the increased traffic without decreasing the level of service below an acceptable level - said level to be determined by the appropriate highway department (Town, County or NYS DOT).

- G) A utilities analysis and recommendations prepared by a registered professional engineer qualified to conduct such studies. Said analysis shall contain an inventory of existing utilities including, but not limited to, sanitary sewers, electrical lines, gas lines/mains, water mains, lighting, curb and gutter, etc. Said inventory shall illustrate utility locations, sizes, diameters, carrying capacity and present load on the system. The engineer's report shall state if the current system is capable of adequately serving the proposed development. If the current utility system is found to be inadequate for the proposed development, the report shall confirm the deficiencies and make recommendation(s) as to the infrastructure improvements necessary to properly service the proposed development and maintain the existing service. The report shall also present a formal plan for infrastructure improvements, documenting timing, funding mechanisms and coordination with the Town.
- H) All applicable information required for conditional permit and site plan review (See Articles XIII and XIV of this Law). This information may be submitted at a preliminary level, in consideration that PUD approval is a preliminary approval.
- I) Any other supportive information the applicant feels may be beneficial to the Town of Virgil in the evaluation of the request.
- J) The Planning Board may reduce the level of information required at the preliminary master plan review state, provided more detailed supportive documentation is provided at final level conditional permit and site plan review of the PUD or phases thereof.

SECTION 555

PUD Final Level Application

Application(s) for final level approval of the PUD (or a phase of the PUD) shall be submitted as application(s) for conditional permit and site plan review and conform to the requirements of Articles XIII and XIV of this Law containing all information, plans and materials specified therein, and any applicable additional requirements of this Article.

In addition, in making application for final approval of the PUD (or phase thereof), an applicant shall supply full documentation as to how the final level plan complies with the approved PUD preliminary master plan. When final PUD approval is applied for in phases or stages of development, the applicant shall keep and submit with each final application a running total or status report of PUD compliance with the approved preliminary master plan, including, but not limited to, residential density and number of units, PUD ground coverage, required landscaped area and usable open space. The applicant shall provide full

documentation and a comparison of approved master plan development data, existing PUD development data to date, final approved development data to date, and the currently proposed development data.

SECTION 556 Town Review of PUD Application

The Planning Board shall review and determine whether a PUD application is complete and place special emphasis in its review as to PUD compliance with provisions of this Article, including compliance with the purpose and general requirements/features of a PUD. The Town shall also determine whether the proposal is consistent with the most suitable development of the Town, and conduct a review in accordance with the requirements for conditional permit and site plan review as set forth in Articles XIII and XIV of this Law. The PUD shall comply with all requirements of this Law unless a deviation from these strict requirements is authorized in this Article. The Town may suggest modifications and changes to any PUD plan, consistent with the general and specific objectives and guidelines of this Law.

PUD review shall be consistent with all procedural provisions of Articles XIII and XIV with respect to conditional permit and site plan review, including procedures for public hearings, conduct of review, findings, determinations and actions.

SECTION 557 Approval of PUD Preliminary Master Plan

The approval of a PUD preliminary master plan by the Town, with or without conditions, is deemed an approval of a certain PUD master plan with specific limits shown on the plan and its supporting documentation for residential density, general type of uses, building coverage, generalized open space plans, and infrastructure systems, all of which shall be adhered to.

PUD preliminary master plan approval shall not be construed as final authorization of development. By its nature, this PUD approval shall be considered as a preliminary approval and recognition that the plan is in general accordance with the provisions of this Law. A PUD preliminary master plan approval shall lapse two (2) years from the granting thereof, unless a completed final PUD special permit and site plan review application has been properly filed with, and subsequently approved by, the Town within said two (2) year period.

As a part of PUD preliminary master plan approval, the applicant or developer consents to conditional permit and site plan review for all subsequent development proposals within the PUD. As final site plans become more definitive for the PUD as a whole, or in stages, these shall be submitted to the Town for conditional permit and site plan review. The Town shall review these definitive plans for compliance to the approved

PUD master plan and to any applicable provisions of this Law, and act on those plans in accordance with standard conditional permit and site plan review procedure.

SECTION 558 Effect of Zoning Changes on Approved PUD Plans

In general, it is intended that amendments of this Law subsequent to approval of a PUD plan shall apply to the PUD consistent with the provisions of Articles XIII and XIV for conditional permits and site plan review. However, due to the long-term, comprehensive nature of PUD planning and design – and the Town’s desire to promote such -- the owner, developer or other responsible agent for the PUD may seek waiver of any new zoning regulation through the conditional permit and site plan review process before the Town. In granting any waiver, the Town shall follow the provisions of Articles XIII and XIV of this Law and be fully satisfied that the PUD is in full compliance with the intent of the Law and being developed in a manner at or exceeding the level of compliance effective at the time of PUD preliminary master plan approval.

SECTION 559 Amendments to PUD Plans

A) Minor Amendments:

A minor amendment to a PUD shall be defined as a change which does not propose any new general type of use beyond those approved initially, does not increase the building ground coverage or residential density of PUD, does not decrease any specified area regulations or enumerated parking ratios, nor substantially change access, circulation, or infrastructure on or adjacent to the site.

The Planning Board shall be authorized to approve such minor amendments to a PUD upon written application and explanation of the change(s) by the owner (or its agent) of the property. No further public hearings shall be required.

B) Major Amendments:

Any other change to a PUD shall be considered a major amendment and be processed through the normal PUD conditional permit and site plan review procedure, requiring public hearings before the Town and full review of compliance with the requirements of this Law. Only the Town shall have the authority to make a major amendment to the PUD plan.

SECTION 560 Aquifer Protection District

SECTION 561 Purpose

The purpose of the Aquifer Protection District is, in the interest of public health, safety and general welfare, to preserve the quality and quantity of the Town's groundwater resources in order to ensure a safe and healthy drinking water supply. This is to be accomplished by regulating land uses which might contribute to the contamination of any aquifers identified as necessary for the present and future water supply of the Town of Virgil.

SECTION 562 Scope

The Aquifer Protection District shall be considered as overlying other zoning districts. Any uses permitted in the portions of the districts so overlaid shall be permitted subject to all the provisions of this district. In any cases where conflicts arise between these supplemental regulations and any other existing regulations, the more restrictive shall apply.

Nothing herein shall regulate farm management practices which are consistent with generally accepted principles of farming.

SECTION 563 Establishment and Delineation of an Aquifer Protection District

A) For the purposes of this district, there are hereby established within the Town of Virgil certain aquifer protection areas which consist of any aquifer, the land above such aquifers and the aquifer's most significant recharge areas as follows:

1) Area I: 60-Day Capture Zone to Municipal Supply Well

Area I consists of outwash sand and gravel deposits within the Town of Virgil that are part of a regional glacial-aquifer system that occupies major valleys. Groundwater within Area I will flow to, and reach, the municipal supply wells for the Greek Peak area. Area I represents the 60-Day capture zone, meaning that it takes groundwater 60 days or less to reach the municipal supply well.

2) Area II: 5-Year Capture Zone to Municipal Supply Well

Area II consists of outwash sand and gravel deposits within the Town of Virgil that are part of a regional glacial-aquifer system that occupies major valleys. Groundwater within Area II will flow to, and reach, the municipal supply wells for the Greek Peak area. It takes groundwater five years or less to reach the municipal supply well.

3) Area III: General Aquifer Area

The general aquifer area consists of outwash sand and gravel deposits elsewhere within the Town of Virgil. Area III serves as a source of groundwater for numerous water private water supplies, and non-municipal public drinking water supplies.

4) Area IV: Contributing Recharge Area

This zone includes uplands that serve as a source of recharge to a municipal public water supply well.

5) Area V: Tributary Watershed Area

The tributary watershed area shall include uplands that may contribute runoff overland and/or through surface streams for groundwater recharge Area III. Area V also serves as a source of groundwater for numerous private water supplies, and non-municipal drinking water supplies.

6) The boundaries are Area I through Area V reflect the best hydrogeologic information available as of the date of the map. All boundaries were developed using information and analysis of the United States Geological Survey, as documented in: information available as of the date of the map. All boundaries were developed using information and analysis of the United States Geological Survey, as documented in: Miller, T.S. Hydrology and Simulation of Ground-Water Flow in a Glacial Aquifer System in the West Bank Tioughnioga River Valley, Cortland and Onondaga Counties, New York (in review).

SECTION 563

Designation of a Critical Environmental Area

Aquifer Protection District Areas I & II are hereby designated as a Critical Environmental Area Pursuant to Section 617.14 (g) (12) (State Environmental Quality Review Act) of the regulations of the Department of Environmental Conservation.

SECTION 564

Permitted Uses

All uses currently permitted in the underlying zoning district by the Town of Virgil Zoning Law and Map are permitted in the Aquifer Protection District subject to the provisions of this Article.

SECTION 565

Non-Conforming Uses

A non-conforming use within the Aquifer Protection District may be continued subject to Section 700 of this zoning law.

SECTION 566

Prohibited Uses and Activities

The following uses and activities are prohibited:

- A) The discharge, land application or disposal of any hazardous material, toxic substance or radioactive material.
- B) The manufacturing or processing of any hazardous material or toxic substances in Areas I and II.
- C) Petroleum storage facilities or vehicular servicing area in Area I.
- D) Petroleum storage facilities with a total tank capacity in excess of 40,000 gallons in Areas II, III, IV, and V.
- E) The open storage of pesticides, herbicides or fungicides.
- F) The open storage of coal or chloride salts.
- G) The dumping or dispersing of snow or ice collected offsite from roadways or parking areas into or within 50 feet linear distance of any watercourse, or onto land located in Areas I and II.
- H) Any form of underground injection of drilling fluids, hazardous materials, or toxic substances, for the purpose of disposal.
- I) Gas exploration and drilling in Areas I, II and III on the surface, but not below ground.
- J) Solid waste disposal facilities and junkyards in Areas I, II, III and IV.
- K) Onsite wastewater treatment systems in Area I.
- L) The disposal of toxic substances of hazardous materials by means of discharge to an onsite wastewater treatment system in all areas.
- M) The mining of sod, loam, sand gravel, aggregate, quarried stone or like material in Areas I and II except when incidental to, or in connection with, the construction or maintenance of a building.
- N) Subsurface discharge from floor drains in all areas.

SECTION 567

Restricted Uses and Activities

- A) Petroleum storage facilities installed above or below ground require secondary containment (dual walled for underground facilities) and are subject to compliance with those standards described in Articles XIX, XX and XXI of the Sanitary Code of the Cortland County Health Department and New York State Petroleum Bulk Storage Regulations (6NYCRR Parts 612, 613 and 614).

- B)** Underground home heating oil tanks installed after the enactment date of this chapter shall be dual walled, and are subject to compliance with those standards described in Articles XIX, XX and XXI of the Sanitary Code of the Cortland County Health Department and New York State Petroleum Bulk Storage Regulations (6NYCRR Parts 612, 613 and 614).
- C)** Storage of toxic substances or hazardous materials (including pesticides, herbicides, and fungicides) are subject to compliance with New York State Chemical Bulk Storage Regulations (6NYCRR Parts 595, 596, 597, 598 and 599).
- D)** Vehicular servicing at a commercial or industrial facility, including but not limited to automotive repair stations, body shops and rustproofing operations where permitted, are subject to the following requirements, in addition to those found in Section 624.
- 1) Floor drains must be connected to a holding tank.
 - 2) Wastes collected in a holding tank must be disposed of through a licensed waste hauler.
 - 3) Waste degreasing solvents must be stored in drums or a holding tank and disposed of through a licensed waste hauler.
 - 4) Waste oil not intended for re-use must be stored in tanks or drums for disposal by a licensed waste hauler.
 - 5) Storage facilities for tanks and/or drums require dikes and coated concrete floors to retain accidental spills or leaks and a permanent roof to protect tanks or drums and to prevent precipitation from entering dikes. Drums shall be sealed. Tanks and drums must be located to prevent leakage to drains.
 - 6) Large drip pans should be kept beneath drums which have spigots and are stored in a horizontal position on racks.
 - 7) Potentially contaminated scrap, including but not limited to scrap parts, batteries and used filters, shall be stored in proper containers to prevent environmental release of contaminants.

8) Unregistered non-farm vehicles stored outside shall be drained of fluids or otherwise protected.

E) Application of pesticides, herbicides, fungicides or chemical fertilizers shall be performed in accordance with the recommendations and label of the manufacturer. Property owners who enlist the services of a commercial pesticide, fungicide or herbicide applicator shall ensure that the applicator is certified and licensed by the New York State Department of Environmental Conservation.

SECTION 568

Special Permits Required

A special permit shall be required from the Town of Virgil Planning Board for any of the following uses:

- A) The manufacturing, processing, or commercial storage of any hazardous material or toxic substance.
- B) A development, other than residential, which increases impervious surface by more than 10,000 sq. ft.
- C) Any subdivision which results in the creation of more than five (5) lots.
- D) A use that anticipates an average daily water withdrawal exceeding 10,000 gallons per day (gpd).

SECTION 569

Application

Applicants for a special permit to develop in the Aquifer Protection District shall submit the following:

- A) The name, address, and telephone number of the applicant
- B) If the applicant is a corporation, the name address and telephone number of all the corporate officers and directors.
- C) A map and report showing the location of the premises for which the permit is sought, and plans prepared by a licensed professional engineer or architect showing all features of the system necessary for the satisfactory conveyance, storage, distribution, use and disposal of sanitary wastes, storm water wastes, process wastes, toxic substances, and hazardous materials, solids wastes, and incidental wastes within the property boundaries of the business or commercial establishment.
- D) A copy of any spill prevention and control plan or storm water pollution prevention plan (SWPPP) for the site.

E) Toxic Substances information

- 1) When the use of toxic substances or hazardous materials averages an amount equal to or in excess of fifty-five (55) liquid gallons per month or five hundred (500) pounds dry weight per month, the applicant must provide for any design features, operating plans and any other protection measures as the Town Board deems appropriate and sufficient to prevent and/or monitor groundwater contamination in the event of a leak or spill of these substances.
- 2) When toxic substances or hazardous materials are used but the use averages less than fifty-five (55) liquid gallons per month or five hundred (500) pounds dry weight per month and when the project is determined to have a potential detrimental impact to groundwater quality, the Town Board may require the applicant to provide for any and all design features, operating plans and/or such other protection measures as per C above.
- 3) When storage of toxic substances or hazardous materials at any one time is equal to or exceeds a total of one hundred eighty five (185) liquid gallons or a total of one thousand seven hundred (1,700) pounds dry weight, the applicant must provide for any and all design features, operating plans and such other additional protection measures as the Planning Board may require to prevent and/or monitor groundwater contamination especially in the event of a potential leak or spill of these substances.
- 4) When storage of toxic substances or hazardous materials at any one (1) time is less than a total of one hundred eighty five (185) liquid gallons or a total of one thousand seven hundred (1,700) pounds dry weight, the Planning Board may require the applicant to provide for any and all design features, operating plans and such other additional protection measures as per C above.

F) Water use information:

When the average daily water use is greater than 10,000 gallons per day, the applicant must, at a minimum, provide the following information:

- 1) Applicant must provide information on the expected average annual water use, expected maximum daily water use, and describe any seasonal variations in expected water use.
 - 2) Applicant must describe the nature of the water source (e.g., groundwater, surface water, spring, other), and whether the source is a public or private supply. Applicant must describe any proposed onsite water supply facilities if a new private supply will be developed.
 - 3) Applicant must describe the nature of the water use (e.g., onsite drinking water, manufacturing process, wholesale, etc.). If water is used in a manufacturing process, the nature of the use must be described (e.g., cooling water).
 - 4) Applicant must state the maximum gallon per day of consumptive water use and total annual consumptive water use, if any.
 - 5) Applicant must describe how wastewater will be disposed (e.g., public sanitary sewer, onsite wastewater system, etc.)
 - 6) The Planning Board may require that the applicant provide an assessment of potential impacts of the proposed water use on the quantity of water available for other existing water uses (e.g., neighboring wells) or water resources (e.g., streams, wetlands, aquifers).
- G)** Such other information as the Planning Board shall request in order to have all facts before them prior to making a decision.
- H)** Copies of any permits and applications to any other governmental agencies.
- I)** A list of all toxic substances or hazardous materials used or stored on the premises together with sufficient detail to apprise the Planning Board of the method of storage and the amount of toxic substances or hazardous materials on the premises.
- J)** The method of disposal of toxic substances or hazardous materials.

SECTION 570

Procedures: Hearing

- A) The Planning Board shall refer an application for such special permit to the County Planning Board for comments and recommendations in accordance with General Municipal Law section 239.
- B) Where appropriate and not inconsistent with this Article, the Planning Board shall follow administrative procedures, including application fees and general and specific requirements, set forth in Article XIV of this Law.
- C) A public hearing shall be held to granting such special permit. Notice of the public hearing shall be published in the official Town newspaper not more than ten (10) days and not less than five (5) days before the date of such public hearing.

SECTION 571

Issuance

- A) The Planning Board may grant the special permit, deny the special permit or grant the special permit with stated conditions.
- B) All special permits shall include a requirement that the applicant use the best available means to prevent the contamination of the groundwater and the aquifers of the Town of Virgil. This shall be a continuing requirement.
- C) The Planning Board may impose a condition that the permittee obtain an environmental liability insurance policy in a reasonable amount.

SECTION 572

Change in Use of Ownership

- A) Where a special permit has been issued, a change in either use or ownership requires an application for a new special permit.
- B) In the event that a change in ownership does not result in any change in use, the special permit shall be automatically granted and be considered an agreement between the Planning Board and the new owner that the provisions of this Article shall be adhered to.

SECTION 590

Zoning Schedules

- A) Tables 1 and 2 show the Use Schedules for residential/agricultural and commercial/industrial districts respectively.
- B) Tables 3 and 4 show the Development Standards Schedules for residential/agricultural and commercial/industrial districts respectively.

Table 1: Use Schedule in Residential and Agricultural Districts

USE	NR: Neighborhood Residential District	ARC: Agricultural Residential Conservation District
Single-family Dwelling	P	P
Two-family Dwelling	P	P
Manufactured Home, double unit	--	CP
Multi-family Dwelling	--	--
Manufactured Home Park	--	--
Home Occupation in Principal Building	CP	CP
Agricultural Operation (land based)	--	P
Residential Care Facility	--	--
Public Utility	CP	CP
Public Use	CP	CP
Campground	--	CP
Mining Operation	--	CP
Day Care Home	SPR	SPR
Day Care Center	--	--
Bed and Breakfast	CP	CP
Funeral Home	--	--
Kennel/Animal Boarding	--	CP
Roadside Stand	--	SPR
Professional Office, Service Retail, Restaurant, Bar, or Mini Storage	--	--

Key:

- SPR** = Permitted Use Subject to Site Plan Review
- CP** = Requires Conditional Use Permit from Zoning Board of Appeals
- = Not Permitted
- P** = Permitted Use

Table 2: Use Schedule for Commercial and Industrial Districts

Use	Commercial District	Industrial District
Mixed Use (Commercial/Residential)	SPR	--
Multi-family Dwelling	--	--
Professional Office	SPR	--
Business Service	SPR	--
Retail Sales (<40,000 sq.ft.)	SPR	--
Recreation, Indoor (<40,000 sq. ft.)	SPR	--
Bed and Breakfast Inn	CP	--
Day Care Center	SPR	CP
Agricultural Operation (land based)	SPR Continuation	SPR Continuation
Restaurant/Tavern	CP	CP
Funeral Home	CP	--
Residential Care Facility	CP	--
Recreation, Outdoor	CP	--
Accessory Outdoor Facility	CP	CP
Movie Theater	CP	--
Public Utility	CP	CP
Drive-in Facility for uses permitted in District	CP	--
Hotel/Motel	CP	CP
Outpatient Health Center	CP	--
Motor Vehicle Service Station, Sales, Repair, or Washing Establishment	CP	CP
Fuel Station	CP	--
Community Shopping Center	--	--
Public Use	SPR	--
Research and Development Facilities	--	SPR
Service Industries	--	SPR
Equipment Rental or Mini Storage	---	SPR
Production, Processing & Assembly Facilities	--	SPR
Warehousing and Distribution Facilities	--	SPR
Private Landing Strip	--	CP

Key: **P** = Permitted -- = Not Permitted
SPR = Permitted Use Subject to Site Plan Review
CP = Requires Conditional Use Permit from Planning Board

Table 3: Development Standards Schedule for Residential and Agricultural Districts

Commented [P23]: LL #3 of 2018 reduced certain required road frontage

Standards	NR-Neighborhood Residential District		
	With Public Water and Sewer	With Water Only	Without Public Utilities
Dwelling Units/Acre	1.0	.33	.33
Min. Lot Size (acres)	1	3	3
Min. Average Lot Width (feet)	150	250	350
Min. Frontage (feet)	150	250	250 350
Min. Front Setback (feet)	50	50	50
Min. Side Setback (feet)	30 (each)	30 (each)	30 (each)
Min. Rear Setback (feet)	50	50	50
Max. Lot Coverage (%)	25	25	25
Max. Building Height (feet)	35	35	35
ARC – Agriculture Residential Conservation District			
Dwelling Units/Acre	.33		
Min. Lot Size (acres)	3		
Min. Average Lot Width (feet)	350		
Min. Frontage (feet)	250 350		
Min. Front Setback (feet)	50		
Min. Side Setback (feet)	30		
Min. Rear Setback (feet)	50		
Max. Lot Coverage (%)	25		
Max. Building Height (feet)	35		

Table 4: Development Standards Schedule Commercial and Industrial Districts

	Commercial	Industrial
Lot Coverage		
Minimum Open Space (Percent)	25	25
Maximum Buildings Size (sq.ft.)	40,000	40,000
Minimum Front Setback (feet)	50	50
Minimum Side Setback (feet)	15% of lot width	15% of lot width
Minimum Rear Setback (feet)	20% of lot width	20% of lot width
Maximum Height (feet)	35	35
Minimum Frontage (feet)	150	150
Minimum Average Lot Width (feet)	150	150
Minimum Lot Size (acres)	1.0	1.0

ARTICLE VI: REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS

- SECTION 600 Principal Buildings**
No single-family or two-family residential lot shall have erected upon it more than one (1) principal building.
- SECTION 601 Permissible Structures within Minimum Required Side or Rear Setbacks**
A) A detached accessory building with a total floor area of 120 square feet or less and a maximum height of ten (10) may be located no closer than ten (10) feet from a side or rear lot line.

B) Fences six (6) feet or less in height, excluding dog runs, may be located along side or rear lot line.
- SECTION 602 Access to Improved Street**
No permit for the construction of any building shall be approved unless such structure has access from a public road.
- SECTION 603 Clear Vision at Intersection**
Clear vision shall be maintained on corner lots in a triangle formed by the street lines of such lots to a point thirty five (35) feet from the intersection and a line connecting those points. Within that area no fence, wall, hedge, screen planting, bushes or shrubbery shall be permitted higher than two (2) feet above the average finished grade of the lot. Trees shall be permitted within the area only if maintained and trimmed so that no branches or foliage are less than eight (8) feet above the average finished grade of the lot.
- SECTION 604 Widening of Right-of-Way**
Where a building lot has frontage on a street which is proposed for right of way widening, the required front setback shall be measured from such proposed right of way line.
- SECTION 605 Lots in Two Districts**
Where a district boundary line divides a pre-existing lot in single or joint ownership of record at the time such line is adopted, the regulations applying to the major portion of the lot shall apply to the whole lot, and, in the case where a lot is divided exactly in half by the district line, the regulations of the more restrictive district shall apply to the whole lot. However, if the back of such a lot fronts on a residential street, and the effect is to extend a commercial or industrial use onto the residential street, the above provisions shall not apply, and each portion of the lot shall conform to its respective district.

SECTION 606

Bed and Breakfast

- A) A bed-and-breakfast shall not be permitted in a mixed-use dwelling or a mixed-use property.
- B) The parking requirement for a single-family dwelling shall apply and, in addition, one (1) additional parking space for every guestroom shall be provided.
- C) A single non-illuminated stationary sign, not exceeding four (4) square feet, shall be permitted.

SECTION 607

Travel Trailers

No person shall use or occupy any travel trailer (camper), tent trailer, tent, or motor home for living or sleeping quarters within Virgil for more than one hundred eighty (180) days per calendar year, unless such use is carried on within a campground. Units must be legally registered, licensed, and insured for road use. Only one unit is permitted per deeded property. Septic, water, and electrical connections must be to Code and generator use is allowed only during power outages. A permit must be obtained from the Virgil Code Enforcement Officer for such use.

Exceptions:

- 1) Travel trailers permitted under Temporary Uses and Structures. See Section 617.
- 2) Travel trailers owned and housed by permanent residents on their principal residential property.

SECTION 608

Restaurants/Taverns

- A) The following information shall be submitted as part of the application for site plan approval and the special use permit for restaurants/taverns in addition to that information required in other sections of this law.
 - 1) The location and dimensions of all structures including buildings, screened trash areas, fencing, and lighting with the direction and level of illumination.
 - 2) The location and dimensions of all off-street parking areas including ingress and egress and the layout of aisles and spaces.

- 3) Proposed landscaping site plan indicating the sizes and types of plant materials.
- B) Restaurants/taverns shall be a minimum of two hundred (200) feet from other restaurants/taverns and distances shall be computed as follows:
 - 1) For restaurants/taverns on the same side of the street the distances between them shall not be less than two hundred (200) feet between the two closest property lines.
 - 2) For restaurants/taverns on opposite sides of the street the distances between them shall not be less than two hundred (200) feet measured diagonally between the two closest property corners.
 - 3) For four corner intersections, only one restaurant/tavern can be located on each of the two diagonally opposite corners exclusive of the two hundred (200) feet distance requirement.
- C) All restaurants/taverns shall provide suitable storage of trash in areas which are so designed and constructed as to allow no view of the trash storage from the street, to prevent trash and waste materials from blowing away and to permit safe and easy removal of trash and waste.
- D) All restaurants/taverns shall provide ingress, egress and parking as follows:
 - 1) The minimum distance of any driveway to a property line shall be fifteen (15) feet.
 - 2) The minimum distance between driveways on the site shall be one hundred (100) feet.
 - 3) The minimum driveway entrance distance from a street intersection shall be fifty (50) feet.
 - 4) Restaurants/taverns adjacent to or integrated into a shopping center or other commercial facilities shall use the common access with the other business establishments.
- E) Exterior lighting proposed for the site shall be installed and maintained so it will not cast direct light or glare upon adjacent properties or

public right-of-way.

- F) Landscaping and fencing shall be provided to minimize visual unattractiveness and to reduce friction between adjacent and other nearby land uses.

SECTION 609

Home Occupation

- A) Only members of the immediate family occupying such dwelling shall be employed as part of a home occupation.
- B) A home occupation must be conducted within a dwelling which is the bona fide residence of the principal practitioner.
- C) No more than thirty (30) percent of the gross floor area of such residence shall be used for the conduct of a home occupation.
- D) In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting or the emission of sounds, noises, odors or vibrations.
- E) No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
- F) One sign shall be permitted not to exceed four (4) square feet in area.

SECTION 610

Hotels and Motels

- Minimum lot size: Five (5) acres
- Minimum Lot Width: Four (400) hundred feet
- Minimum Front Setback: One (100) hundred feet
- Minimum Side Setback: Fifty (50) feet
- Minimum Rear Setback: Fifty (50) feet

SECTION 611

Kennels

Kennels shall be subject to the following requirements:

- A) Demonstration that the kennel will not create nuisance conditions for adjoining properties due to noise or odor.
- B) Demonstration that all animals will be confined to the property.

- C) Demonstration of adequate methods for sanitation and sewage disposal.
- D) Every kennel and its associated outside dog runs shall be located at least five hundred (500) feet from the nearest dwelling (other than the owner or user of the property) and at least two hundred fifty (250) feet from any lot line.

SECTION 612 Dumping of Waste Material

Dumping, piling or accumulation of refuse, garbage (other than in closed containers which are regularly emptied in a lawful manner), waste materials, scrap or other noxious substances is prohibited.

SECTION 613 Mining

- A) Any mining below the water table is prohibited.
- B) Any mining, including removal of topsoil, shall require site plan review by the Planning Board in accordance with the requirements of Article XIII.
- C) Any grade alteration which involves removal of vegetation, but no built improvements on an area greater than five (5,000) square feet, shall be seeded to provide an effective cover crop within the first season after initiation of the grade change operation.
- D) Only unregulated fill materials such as uncontaminated soil, brick, stone, concrete and organic debris may be used in such fill activities.

SECTION 614 Outdoor Storage of Materials and Equipment

- A) No material of any kind shall be stored outdoors in any zoning district unless:
 - 1) Allowed as part of an approved site plan;
 - 2) Used in the construction or alteration of a structure on the same lot or in the same development and stored for not more than one year or not more than sixty (60) days after completion of construction, whichever is less; or
 - 3) Such outdoor storage is limited to machinery, equipment, or supplies essential to the operation of a farm, storage of any products grown on the premises of a farm or nursery and personal consumables, such as firewood, topsoil, etc., on residential properties.

- B)** No more than one (1) unregistered, unlicensed motor vehicle is allowed to be stored outside on any lot except in accordance with Section 625, motor vehicle fueling, service, sales or repair establishments.
- C)** Any open storage or other storage of boats, motor homes, camping trailers, utility trailers or other similar equipment shall adhere to required minimum front setback standards. (See Table 3, Page 54).
- D)** All enclosed storage shall be within structures which meet the requirements of the New York State Uniform Fire Prevention and Building Code. Storage in uninhabited manufactured homes or tractor trailer bodies is not allowed in any district.
- E)** No outdoor storage in a Light Industrial or Commercial district shall occur within one hundred (100) feet of a residential district.

SECTION 615 Ponds

A pond or any artificial body of water over a depth of two (2) feet must be set back a minimum of one hundred (100) feet from all property lines and existing septic systems. Ponds shall not be built at a higher elevation than any structure within 1,000 ft. of the pond location.

SECTION 616 Fences, Walls, and Other Structural Screening Elements

- A)** A building permit is required prior to installation of any non-agricultural fence.
- B)** The fence posts and other supporting structures of the fence shall face the interior of the area to be fenced.
- C)** The height of all fences shall be measured from the average finished grade of the lot at the base of the fence.
- D)** Fences six (6) or less feet in height are exempt from the setback requirement. Higher fences are allowed only in commercial and industrial districts and must be setback from the property line. In no case shall the height of a fence exceed its setback from an adjacent lot.
- E)** Fences incorporating barbed wire, electric current or similar materials or devices shall be allowed only when necessary for agricultural or public utility operations and, unless part of an agricultural operation, shall be subject to a minimum ten (10) foot setback.

- F) The Planning Board, as part of subdivision or site plan review, may require a fence or other screen to shield adjacent residences or other uses from undesirable views, noise or light.
- G) Fences shall be maintained to provide functional, visual, and structural integrity.
- H) Fences designed to maim or injure prospective intruders are prohibited except as authorized in Subsection "E" above.
- I) All fences shall be in compliance with Section 603 regarding clear vision at intersections.

SECTION 617 Temporary Uses and Structures

Temporary use permits may be issued by the Code Enforcement Officer for a period not exceeding one (1) year for nonconforming uses incident to housing and construction projects, including such structures and uses as the storage of building materials and machinery, the processing of building materials, a real estate office located on the tract being offered for sale, or a temporary dwelling such as a recreational vehicle with appropriate provisions for water supply and sewage disposal used during construction of a dwelling. Such permits are conditioned upon agreement by the owner or operator to remove the structure or structures or use upon expiration of the permit or issuance of any applicable certificate of occupancy. Such permits may be renewed upon application to the Code Enforcement Officer for additional periods not exceeding one (1) year.

SECTION 618 Swimming Pools

Residential swimming pools shall comply with New York State Uniform Fire Prevention and Building Code regulations, Section 720. Pool and deck placement shall comply with structure setback requirements of the applicable zoning district.

SECTION 619 Manufactured Homes, Double Unit & Manufactured Home Parks

- A) All manufactured homes, double unit and preexisting single wide replacements installed and occupied pursuant to this section shall conform to Appendix E of the Residential Code of New York State.
- B) All manufactured homes, double unit and single wide replacements must be skirted prior to the issuance of a certificate of occupancy.
- C) The minimum size of a manufactured home park shall be five (5) acres.

- D) The minimum size of a lot in a manufactured home park shall be eight thousand (8,000) square feet.
- E) Minimum required setbacks.
 - 1) Front: 20 feet (from an interior road).
 - 2) Side: 15 feet.
 - 3) Rear: 30 feet.
- F) No manufactured home or communal recreation area in a manufactured home park shall be located closer to a pre-existing single-family or two-family dwelling than fifty (50) feet.
- G) Every manufactured home park shall provide common recreational open space furnished with suitable equipment at a standard of 100 square feet per dwelling unit with a minimum area of 1,600 square feet per area.
- H) Manufactured home parks shall be served by public water and sewers.

SECTION 620

Porches/Decks

In determining the percentage of building coverage or the size of yards for the purpose of this Law, porches/decks shall be considered a part of the building.

SECTION 621

Campgrounds

- A) Minimum size of a campground shall be five (5) acres.
- B) Campsites shall have a minimum area of two thousand five hundred (2,500) square feet and a minimum width of forty (40) feet.
- C) Roadways in the camp shall have a minimum width of twelve (12) feet for one-way traffic and eighteen (18) feet for two-way traffic.
- D) All roads and parking areas shall be paved or dust-treated.
- E) Suitable covered garbage and recycling receptacles shall be available.
- F) Plans for sewage disposal, water supply, waste disposal, and electrical hookups and the number and location of toilets, sinks, showers, water spigots, and dump stations shall receive approval of the New York State Department of Environmental Conservation and/or the Cortland County Health Department.

- G) Buildings shall be set back at least one hundred (100) feet from any stream.
- H) Natural vegetation shall be retained wherever possible.

SECTION 622

Roadside Stands

- A) If allowed by district regulations, produce, including fresh fruits, vegetables, flowers or other products of the soil, may be sold or offered for sale as an accessory use from a lot where a substantial portion of such produce is grown.
- B) If such sales of produce are from a structure, such structure shall not exceed one thousand two hundred (1,200) square feet in area nor exceed thirteen (13) feet in height.
- C) The Planning Board during site plan review shall ensure that the proposed structure is architecturally compatible with the surrounding neighborhood and that adequate off-street parking is provided.
- D) One (1) sign may be erected on the premises, attached to the stand, not exceeding three (3) feet in height and four (4) feet in length identifying the farm stand.
- E) Nothing herein contained shall be applicable to the sale of livestock.

SECTION 623

Drive-In Facilities

- A) All vehicle stacking areas shall be clearly identified through the use of pavement markings, signs, and/or curbing and landscaping features and shall be designed so they do not interfere with safe pedestrian and vehicle circulation on the site or along the public right-of-way.
- B) The length of stacking areas shall be determined by the maximum length of stacking required to serve vehicles during the facility's peak hour of operation.
- C) All drive-in establishment vehicle stacking areas shall be located a minimum of fifty (50) feet from any lot line adjoining a residential district.
- D) Any speaker system installed as part of a drive-in establishment shall be located a minimum of fifty (50) feet from any property line adjoining a residential district and shall not be routinely audible to human occupants of the adjacent residential property.

SECTION 624 Motor Vehicle Fueling, Service, Sales, or Repair Establishments

- A) In addition to the information required for site plan review as specified in Article XIII, the site plan submitted shall also show the location and number of fuel tanks to be installed, the dimensions and capacity of each storage tank, the depth the tanks will be placed below the ground, the number and location of pumps to be installed and the type of structure and accessory buildings to be constructed.
- B) All fuel pumps shall be located at least fifty (50) feet from any street or property line.
- C) The entire area of the site traveled by motor vehicles shall be paved.
- D) Any repair of motor vehicles shall be performed in a fully enclosed building, and no motor vehicle shall be offered for sale on the site, except in accordance with an approved site plan. No motor vehicle parts or partially dismantled motor vehicles shall be stored outside of an enclosed building.
- E) Any motor vehicle sales establishment may temporarily store up to ten (10) unlicensed motor vehicles if adequate off-street parking spaces are available.
- F) Accessory goods for sale may be displayed outdoors on the pump island and the building island only. The outdoor display of oil cans and/or antifreeze and similar products may be placed on the respective island if provided for in a suitable stand or tank.
- G) No motor vehicle establishment with fuel dispensing equipment shall be located within five hundred (500) feet of any public entrance to a church, school, library, hospital, charitable institution or place of public assembly. Such distance shall be measured in a straight line from said public entrance to the lot line nearest said entrance along the street line.

SECTION 625 Warehouse and Distribution Facilities

A minimum area of seven hundred (700) square feet of storage (or maneuvering) space shall be required for each tractor trailer on site. A minimum of four hundred (400) square feet of storage (or maneuvering) space shall be required for each truck on the site.

SECTION 626 Wind Power Facilities

- A) The minimum setback distance between each production line commercial wind power electricity generation unit (wind turbine tower)

and all surrounding property lines, public road rights-of-way, overhead utility lines, any dwellings, and any other generation units, above-ground transmission facilities, electrical substations, and separate meteorological facilities, shall be equal to not less than 1.5 times the sum of the proposed tower height (hub height) plus the rotor radius.

No experimental homebuilt or prototype wind turbines shall be allowed without documentation by the applicant of their maximum probable blade throw distance in the event of failure and determination by the Planning Board of appropriate setback distances on the basis of that documentation.

- B)** No individual tower facility 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.
- C)** No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.
- D)** Use of nighttime, and overcast daytime condition, stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration may be subject to on-site field testing before the Planning Board as a prerequisite to that Board's approval as it applies to existing residential uses within 1500 feet of each tower for which such strobe lighting is proposed, on property belonging to anyone other than the owner of the property where the tower is located.
- E)** Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 dbA, measured at the nearest neighboring residence at the time of special use permit application.
- F)** No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

- G)** The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
- H)** All power transmission lines from the wind electricity generation facilities to on-site substations shall be underground.
- I)** Prior to issuance of a Building Permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town 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 and transmission facility.
- J)** In addition, the following material shall be submitted to the Planning Board for commercial wind power electricity generation and/or transmission facilities:

 - 1)** Digital elevation model-based project visibility map showing the impact of topography upon visibility of the project from other locations, to a distance radius of three miles from the center of the project. Scale used shall depict 3-mile radius as no smaller than 2.7 inches, and the base map used shall be a published topographic map showing cultural features.
 - 2)** The applicant shall provide color photos taken from locations within a 3 mile radius from the proposed tower location(s), and computer-enhanced to simulate the appearance of the as-built aboveground site facilities as they would appear from these locations.
- K)** Prior to receiving siting approval under this Law, the Applicant, Owner, and/or Operator must formulate a Decommissioning Plan to ensure that the Wind Power Facility is properly decommissioned. The Decommissioning Plan shall include:

 - 1)** Provisions describing the triggering events for decommissioning the Wind Power Facility.
 - 2)** Provisions for the removal of structures, debris and cabling, including those below the soil surface;
 - 3)** Provisions for the restoration of the soil and vegetation;

- 4) An estimate of the decommissioning costs certified by a Professional Engineer;
- 5) Financial Assurance, secured by the Owner or Operator, for the purpose of adequately performing decommissioning, in an amount equal to the Professional Engineer's certified estimate of the decommissioning costs;
- 6) Identification of the procedures for the Town of Virgil access to Financial Assurances;
- 7) A provision that the terms of the Decommissioning Plan shall be binding upon the Owner or Operator and any of their successors, assigns, or heirs; and
- 8) A provision that the Town of Virgil shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.

SECTION 627 — Incentive Zoning

- A) Where an event center is allowed by conditional use permit in the ARC district the minimum lot size shall be 20 acres.
- B) The minimum set back of an event center building from the property line shall be 650 feet.
- C) The hours of operation shall be limited to 8 a.m. to 10 p.m.

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ARTICLE VII: NONCONFORMING USES, BUILDINGS AND LOTS

SECTION 700 Nonconforming Uses, Buildings, and Lots

- A) Except as otherwise provided in this Law, the lawful use of land or buildings existing on the date of the adoption of this Law may be continued although such use or building does not conform to the regulations specified in this Law. However, the following provisions shall apply to all such nonconforming uses, buildings, and lots:
- 1) No nonconforming lot shall be further reduced in size.
 - 2) No nonconforming building or use may be expanded, enlarged, or increased without the granting of a variance by the Zoning Board of Appeals.
- B) In any district, whenever a nonconforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued for a period of one (1) year, such nonconforming use shall not be reestablished, and all future uses shall be in conformity with the provisions of this Law. Such discontinuance of the active and continuous operation of such nonconforming use, or a part or portion thereof, for such period of one (1) year is hereby construed and considered to be an abandonment of such nonconforming use.
- C) A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost fifty (50) percent of the assessed value of the building unless said building is changed to conform to the requirements of this Law.
- D) Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.

SECTION 701 Nonconforming Lots

A lot existing at the time of adoption of this Law which is less than the required area may be used for residential purposes providing setback requirements can be met.

ARTICLE VIII: LANDSCAPING, SCREENING & BUFFER REGULATIONS

SECTION 800

Intent

The following standards are intended to implement the goals and policies of the Comprehensive Plan by assuring an acceptable degree of buffering between land uses, particularly between residential and non-residential uses; providing a balance between developed uses and open space; enhancing the visual and aesthetic appearance of the community; and encouraging preservation of existing natural features. Specifically, these regulations are intended to:

- A)** Provide natural visual screening of parking areas and along property boundaries to protect the existing visual quality of adjacent lands.
- B)** Reduce surface runoff and minimize soil erosion through the natural filtering capability of landscaped areas.
- C)** Provide natural buffers that reduce glare and noise, provide wildlife corridors, and protect wildlife habitats, wetlands, stream corridors and other significant environmental features.
- D)** Enhance the overall visual quality of the community by surrounding developed areas with a variety of plant materials that are consistent and compatible with the existing natural vegetation of the area.

SECTION 801

General Requirements

Existing site vegetation shall be incorporated into landscaping plans to the maximum extent feasible.

SECTION 802

Buffer Area Landscaping

The purpose of buffer area landscaping is to provide protection from noise, headlight glare and visual intrusion or other potential negative impacts when two adjacent uses vary in intensity or character. A landscaped buffer area shall be required along all side and rear yard boundaries of a non-residential use abutting any existing residential use or any lot in a residential district, as well as along rear yard boundaries of major residential subdivisions where a rear yard abuts a road right-of-way. All buffer areas shall be located within the boundaries of the subject parcel and shall comply with at least one of the following standard options, based upon site conditions, scale, and subject to Planning Board approval.

- A)** A fifty (50) foot natural buffer where the existing topography and/or natural vegetation provides adequate screening from adjacent

residential areas or roads.

- B) A twenty (20) foot heavily planted strip consisting of plantings of such type, height, spacing and arrangement which will effectively screen the activity on the lot from the adjacent residential area or roads.
- C) A twenty (20) foot strip with a solid wall, fence, or berm of a location, height, design and materials which will effectively screen the activity on the lot as well as conform with the character of the area.

SECTION 803

Parking Area Landscaping

A landscaped area shall be provided along the perimeter of any parking area except that portion of the parking area which provides access to a street or parking facility on an adjacent lot. Vehicle access ways to adjacent lots shall not exceed twenty-four (24) feet in width and shall not exceed two (2) in number. The perimeter landscaped area shall have a minimum dimension of eight (8) feet, shall be planted with grass, shrubs or other appropriate materials.

SECTION 804

Landscaping Plan

Based on the scale and location of the project, the Planning Board shall determine whether the landscaping plan must be prepared by a licensed landscape architect, landscape designer or other professional. All landscaping plans shall contain the following information:

- A) A title block with the name of the project, the name of the person preparing the plan, a scale, North arrow and date.
- B) All existing significant plant materials on the site.
- C) Existing and proposed structures.
- D) Topographical contours at two (2) foot intervals.
- E) Parking areas.
- F) Access aisles.
- G) Drainage patterns.
- H) Location, size, and description of all landscape materials existing and proposed, and shall identify those existing plant materials that are to be removed.

- I) Other information as may be required by the Planning Board.
- J) Alternative landscaping plans may be submitted, provided that they meet the purpose and intent of these regulations.

ARTICLE IX: OFF-STREET PARKING AND LOADING REGULATIONS

SECTION 900 Intent

The intent of this Article is to prevent or alleviate congestion on public streets and to promote the public safety and welfare by establishing standards for the provision of off-street parking and loading spaces.

SECTION 901 Applicability

- A)** In all districts, the applicant shall provide, at the time of any change of use or when any building or structure is erected, enlarged or increased in capacity, off street parking for motor vehicles in accordance with the requirements of this and other applicable sections of these regulations.
- B)** Loading spaces shall be provided and maintained on the same premises with every building or structure involving the receipt or distribution by vehicles of material or merchandise. No such activity shall use a public right-of-way or parking area for standing, loading and unloading services.
- C)** Bus, taxi, or passenger loading spaces may also be required depending on the use.

SECTION 902 Location of Required Spaces

Parking and loading spaces shall be located in accordance with the following:

- A)** For any residential use off street parking shall be provided on the same lot with the building it serves.
- B)** Access drives to any commercial or industrial district through any residential district shall not be considered to be a permitted use.

SECTION 903 Nonconforming Parking and Loading

No building or lot alterations nor change of use shall be allowed which would increase the degree of nonconformity with the off-street parking and loading regulations of this Article.

SECTION 904 Off-Street Parking and Loading Standards by Usage

The listed parking standards reflect reasonable standards for most uses in most locations. The Town Board, in adopting these standards, is providing guidance to future developers and residents of uses requiring off-street parking and loading. From an environmental and cost perspective, it is always desirable to construct the least number of parking spaces to accommodate a particular use. The following general requirements apply to all off-street parking.

- A)** The Planning Board may request additional information, such as but not limited to expected number of employees, students, expected attendance, or expected deliveries, relevant to judging the adequacy of listed parking and loading standards. Such information may result in application of off-street parking standards higher than those listed.
- B)** For permitted uses not listed in F. below, the required number of off street parking or loading spaces shall be determined by the Planning Board based on similarity to listed uses and information provided by the applicant.
- C)** In all cases, provided off-street parking and loading should be sufficient to prevent on-street parking by users or employees or the loading and unloading of passengers or materials from the public right-of-way in such a manner that is disruptive to traffic.
- D)** In addition to the off-street parking required based on the following standards, one (1) appropriately sized parking space shall be available for each commercial vehicle used in any business conducted on or from the premises.
- E)** Unless otherwise specified, off-street parking standards are based on square feet of all floor area including the area of any accessory buildings.
- F) MINIMUM OFF-STREET PARKING/LOADING SPACE REQUIREMENTS**
 - 1)** Dwelling: 2 per dwelling.
 - 2)** Home Occupation: one client parking space in addition to spaces required for the dwelling.
 - 3)** Hotel/Motel: 1 per sleeping room plus parking spaces as required for any accessory uses.
 - 4)** Manufacturing: 1.5 per 1,000 sq. ft.
 - 5)** Motor vehicle repair, wash or fueling station: 3 per bay/pump and parking for accessory retail uses.
 - 6)** Office, general: 4 per 1,000 sq. ft. (including office portion of manufacturing or warehouse use).

- 7) Office, medical: 6 per 1,000 sq. ft.
- 8) Places of public assembly: 1 per 3 seats or 1 per 100 sq. ft. (auditorium, church, etc.) if no fixed seats.
- 9) Residential care facility: 1 per 3 residents.
- 10) Restaurant/Tavern: 20 per 1,000 sq. ft.
- 11) Retail: 3 per 1,000 sq. ft.
- 12) Service, personal care: 2 per treatment station.
- 13) Service, other: 3 per 1,000 sq. ft.
- 14) Warehouse: 1 per 2,000 sq. ft.
- 15) Other Permitted Uses not listed in these parking/loading requirements: 4 per 1,000 sq. ft. of gross floor area.

SECTION 905

Design Standards for Off Street Parking Spaces

- A) The size of standard perpendicular off street parking spaces shall be a minimum of ten (10) feet wide by twenty (20) feet long.
- B) All parking areas, passageways, and driveways serving commercial or industrial uses shall be illuminated adequately during the hours between sunset and sunrise when the parking area is in operation. Adequate shielding shall be provided by commercial and industrial uses to protect adjacent residential uses from the glare of such illumination and from that of automobile headlights.
- C) Off-street parking areas shall include landscaping in accordance with Article VIII.
- D) Where parking spaces abut sidewalks, landscaped areas, lighting fixtures or fences, appropriate car stops shall be installed to prevent encroachment on or damage to such features.
- E) All off-street parking areas for non-residential uses shall provide a snow storage area independent of required parking and loading areas
- F) All required parking areas shall be independent of required emergency access lanes, loading areas, and drive-in queuing lanes.

- G) Driveway location shall be in accordance with the access management standards of Article XV.
- H) Driveways shall be designed to provide for the safe and efficient movement of traffic between the roadway and the site, to eliminate the potential for stacking of vehicles along the public right-of-way, and to minimize interference with pedestrians and vehicles using the site and the public right-of-way.

SECTION 906

Design Standards for Loading Spaces

- A) Required loading spaces shall be twelve (12) by thirty-five (35) feet, with a fourteen (14) foot height clearance. If tractor trailer deliveries are expected at least one loading space twelve (12) by seventy (70) feet shall be provided.
- B) All required loading areas shall be independent of required emergency access lanes, parking areas, and drive-in queuing lanes.

ARTICLE X: SIGN REGULATIONS

SECTION 1000

Intent

The intent of these provisions is to promote and protect the public health, safety and welfare by providing comprehensive time, place and manner restrictions on signage which shall include controls on size, height, quantity, location, spacing, shape, scale, proportion, lighting, motion, design and appearance.

More specifically, the provisions of this Article are intended to accomplish the following:

- A) Protect and enhance community appearance.
- B) Encourage commercial signs and graphics to be designed so as to be functional and compatible with the aesthetic appearance of the building they are located on and the surrounding neighborhoods.
- C) Reduce the frequency and magnitude of hazards to motorists and pedestrians caused by sign obstructions and distractions.
- D) Preserve and create more attractive business and residential environments.
- E) Conserve the value of buildings and properties and preserve existing neighborhood character.

SECTION 1001

Applicability

Upon the adoption of this Article, all nonconforming signs shall cease and desist at the time when there is any one (1) or more of the following:

- A) A change in ownership.
- B) A change in activity.
- C) Failure to maintain signs.
- D) Destruction or damage of said sign to the extent of fifty one (51) percent of its replacement cost as of the time of the destruction or damage.
- E) Creation of a hazard or disturbance to the health, safety and welfare of the general public as determined by the Code Enforcement Officer.

For the purpose of these regulations, the term "sign" does not include:

- A) Signs erected and maintained pursuant to and in discharge of any governmental function, including state or federal historic markers, or required by any law, ordinance or governmental regulation.
- B) Repainting, cleaning and other normal maintenance and repair of a sign or sign structure unless a structural change is made or if the repair is in violation of the sign regulations.
- C) Memorial tablets or signs, and locally designated historic markers not exceeding two (2) square feet in area.
- D) Flags, emblems or insignias of the United States, the State of New York, town, village, or counties, other countries and states, the United Nations or similar organizations of which this nation is a member.
- E) Signs for the direction or convenience of the public, including signs which identify rest rooms or locations of public telephones or traffic control devices; however, the total area shall not exceed two (2) square feet.

SECTION 1002

General Regulations

The purpose of these general requirements is to promote the visual cohesiveness of the streetscape by encouraging signs to be harmonious with the architecture of each building and the character of the surrounding area.

- A) No sign shall be permitted in any zoning district except in compliance with the provisions of these regulations.
- B) No sign shall be erected, altered, moved or used without first obtaining a sign permit where required, and signs shall be used only for a permitted use, conditionally permitted use or for a nonconforming use which may lawfully continue in accordance with the terms of these regulations.
- C) The Planning Board, as part of site plan or subdivision review, or the Code Enforcement Officer in reviewing sign permits not subject to such review, shall consider the compatibility of the sign's location, color(s), lettering, size, and overall design with on-site and adjacent architecture and community character.
- D) Roof signs are not permitted.
- E) Maintenance of all signs:

- 1) All signs and all components thereof, including supports, braces and anchors, shall be kept in a good state of repair.
- 2) If the message portion of a sign is removed or a business or other activity is no longer operating, it shall be the property owner's responsibility to assure that the abandoned sign is promptly removed or properly covered to the satisfaction of the Code Enforcement Officer.

F) Every principal building or structure shall have street identification numbers at the driveway entrance.

G) Billboards are prohibited in all zoning districts.

H) Signs containing luminous material, sequin studded letters or lettering with fluorescent paint are prohibited.

I) No sign shall be erected or allowed to exist so as to constitute a traffic hazard.

SECTION 1003

Location

Off premises signs are not permitted except as follows:

- A) Signs necessary for the direction, regulation and control of traffic, street name signs, legal notices, warnings at railroad crossings and other official signs which are similarly authorized or erected by a duly constituted governmental body.
- B) Temporary signs directing persons to temporary exhibits, shows or events and sponsored by a nonprofit organization may be erected subject to the requirements in Section 1004.
- C) Political signs shall be permitted to be displayed off premises, provided that permission is granted by the owner of the property on which it is displayed and subject to the requirements in Section 1004.
- D) Signs of civic organizations.

SECTION 1004

Permitted Signs in All Districts

The following signs are permitted in any appropriate district without a permit:

- A) A nameplate, which shall not exceed two (2) square feet in area on each side and must be attached to the building.

- B)** Signs denoting the name and address of the occupants of the premises, which signs shall not exceed two (2) square feet in area on each side.
- C)** Signs advertising the sale, lease or rental of the premises upon which the sign is located, which sign shall not exceed six (6) square feet in area, provided that such sign is erected or displayed not less than five (5) feet from the property line. There shall not be more than one (1) such sign per lot except that on a corner lot two (2) signs, one (1) facing each street, shall be permitted. Such sign shall be removed within twenty four (24) hours after the time of sale, lease or rental.
- D)** Signs customarily incidental to places of worship, libraries, museums, social clubs or societies, which signs or bulletin boards shall not exceed sixteen (16) square feet in area and shall be located on the premises of such institution, provided that such signs or bulletin boards are erected or displayed not closer than ten (10) feet to any property line. There shall not be more than one (1) bulletin board per lot except that on a corner lot two (2) signs, one (1) facing each street, shall be permitted.
- E)** Signs announcing no trespassing; signs indicating the private nature of the road, driveway or premises; and signs controlling the fishing or hunting on the premises, provided that the area of any one (1) side of any such sign shall not exceed two (2) square feet.
- F)** Political signs shall be permitted to be displayed, provided that permission is granted by the owner of the property on which it is displayed. Such sign shall not exceed six (6) square feet in area, shall not be closer than ten (10) feet from any property line and shall not project more than four (4) feet in height above the natural grade on which the sign is located. Political signs may be erected not more than sixty (60) days prior to the election or caucus to which they relate and shall be removed by the owner or occupant of the property not later than seven (7) days thereafter.
- G)** Signs/banners directing persons to temporary exhibits, shows or events and sponsored by a nonprofit organization may be erected subject to the following requirements:
 - 1)** Permission is granted by a property owner, in writing, that a sign may be erected.

- 2) Signs/banners shall not exceed thirty (30) inches in height and forty (40) feet in length.
 - 3) Signs shall not be posted earlier than four (4) weeks before the occurrence of the exhibit, show or event and shall be removed within one (1) week after the exhibit, show or event.
- H) Window signs are permitted in all districts, provided that the following standards are complied with:
- 1) See through lettered window signs may not cover more than eighty (80) percent of the total window area.
 - 2) An opaque sign may not cover more than twenty (20) percent of the total window area.
 - 3) In the case of a door, a window sign may not cover more than ten (10) percent of the window space in which it is located.
- I) One temporary sandwich or "A" frame sign is permitted to identify premises for sale, rent, lease or directional; to identify a promotional sales event; to identify special exhibits, shows or events; or to identify a business conducted on the property in which said sign shall not exceed six (6) square feet on each side to be used during the event/business hours only and not to exceed four (4) feet above the natural grade on which the sign is located. Such signs are subject to the requirements provided in this section. No such sign shall be located in the street right of way. Permanent sandwich or "A" frame signs are prohibited.

SECTION 1005 Permitted Signs in Residential Zoning Districts

A) HOME OCCUPATION SIGN:

One (1) home occupation sign shall be permitted for an approved home occupation. Such sign shall be no larger than four (4) square feet in sign area, shall not be closer than ten (10) feet from any property line; and, if a ground sign, shall not exceed four (4) feet in height above the natural grade on which the sign is located. The sign may contain only the name and/or name of business and/or occupation of the resident. A sign permit is not required.

B) DEVELOPMENT SIGNS:

- 1) Development signs shall be permitted at the main entrances of a development or subdivision provided that such subdivision shall contain at least five (5) subdivision lots. A development sign shall be limited in height to not more than six (6) feet

above the natural grade on which the sign is located and shall be limited to sixteen (16) square feet in area. All development signs shall be freestanding and composed of durable materials and shall be complementary in design to the development or the surrounding area. Development signs shall require a sign permit and be subject to the criteria and standards of this Article and additional standards required by the Planning Board through the subdivision approval process.

- 2) The owner of the property on which the sign is located shall be responsible for maintenance of the sign. A note to this effect shall be shown on the subdivision plan.

C) GARAGE SALE SIGNS:

One (1) non-illuminated sign on the premises, not exceeding four (4) square feet in area, advertising a garage sale shall be no closer than ten (10) feet to any property line and shall project no more than four (4) feet in height above the natural grade on which the sign is located. Such signs shall be erected not more than seventy two (72) hours prior to the garage sale and shall be removed at the conclusion of the garage sale. A sign permit is not required.

D) HOME IMPROVEMENT/CONTRACTOR SIGNS:

Any temporary sign, not to exceed six (6) square feet in area, identifying the name and services of a contractor / engineer/ architect involved in a home improvement/contract or project within or upon the premises. Any such sign shall be placed no closer than ten (10) feet to any property line shall project no more than four (4) feet in height above the natural grade on which the sign is located and shall not limit visibility for safe entrance into a highway or interferes with pedestrian traffic. The sign shall be removed after the completion of the improvement project but not to exceed one (1) year. A sign permit is not required.

E) TOWNHOUSES/CONDOMINIUMS:

One (1) identification sign not to exceed sixteen (16) square feet in area, indicating only the name and street address of the project, shall be permitted for each project. Such sign shall not be closer than ten (10) feet to any property line and shall not project more than six (6) feet in height above the natural grade on which the sign is located.

- F) Businesses shall comply with the business district requirements for signs unless otherwise restricted in this Article.**

SECTION 1006 Permitted Business Identification Signs in Commercial & Industrial Districts

A) WALL SIGNS

- 1) One (1) wall sign not to exceed one (1) square foot for each linear foot of width of the front of the wall of the building, or portion of the building occupied by the business.
- 2) Where a building has frontage on more than one (1) street or public highway, one (1) wall sign is permitted for each street frontage.

B) BUILDING DIRECTORY SIGN FOR A MULTIPLE USE STRUCTURE

One (1) building directory sign indicating the name of the occupants of the building and the suite number designed to direct persons to their proper destination. Signs are to be no larger than sixteen (16) square feet in area on each side, including the nameplates of all the tenants or uses, and shall project not more than six (6) feet in height above the natural grade on which the sign is located. The proposed sign's construction shall complement the architectural style and materials of the building it will serve. The proposed sign shall be subject to Planning Board review through the site plan approval process and shall require a sign permit. In determining the design, location and hours of illumination, the Board shall be guided by other pertinent sections of these regulations.

C) PROJECTING SIGN

- 1) Such sign shall not exceed six (6) square feet in area and shall not project more than two (2) feet from the wall or surface to which it is mounted.
- 2) Such sign shall be at least eight (8) feet to the bottom of the sign above the ground level immediately below and shall not in any way interfere with normal pedestrian or vehicular traffic.
- 3) There shall be no more than one (1) projecting sign for each business or public entrance.
- 4) The supporting structure shall not be included in calculation of the sign area.

D) On premises free-standing business sign:

- 1) Such sign shall be no larger than twenty (20) square feet in area and shall not project more than ten (10) feet in height above the natural grade on which the sign is located. The

proposed sign's construction shall complement the architectural style and materials of the building it will serve. The proposed sign shall be subject to Planning Board review through the site plan approval process and shall require a sign permit. In determining the design, location and hours of illumination, the Board shall be guided by other pertinent sections of these regulations.

- 2) Only one (1) such sign shall be permitted on each property. In the case of a lot occupied or intended to be occupied by multiple business enterprises (i.e., a neighborhood or community shopping center or plaza), one (1) freestanding sign indicating the name of the development and the individual businesses shall be permitted.
- 3) Such a sign may be double faced.
- 4) All freestanding signs shall be located at least ten (10) feet from any property line. Where property abuts a public right of way, the freestanding sign shall be setback at least (10) feet from the right of way.
- 5) The location of the sign is such so as not to interfere with visibility for vehicular/pedestrian traffic entering or leaving the lot or traveling on any street.

E) DIRECTIONAL SIGNS

Such sign(s) shall not exceed two (2) square feet in area. Such signs may indicate the entrance and exit to the property and location of parking. Such signs shall not project more than four (4) feet in height above the natural grade on which the sign is located and shall be no closer than five (5) feet to any property line.

F) TEMPORARY ADVERTISING SIGN OR PROMOTIONAL BANNER

- 1) Only one (1) such sign shall be displayed by any business at one time.
- 2) Such signs shall be erected not more than seventy two (72) hours prior to the event and shall be removed at the conclusion of the event.
- 3) No sign permit shall be required.

SECTION 1007

Application for Permit; Fees; Issuance

A) APPLICATION FOR A SIGN PERMIT

Application for the permit shall be made in writing to the Code Enforcement Office upon forms prescribed and provided by the Code Enforcement Officer and shall contain the following information:

- 1) The name, address and telephone number of the applicant.
- 2) Location of buildings, structures or land to which, or upon which, the sign is to be erected.
- 3) A detailed drawing or blueprint showing a description of the construction details of the sign and showing the colors, lettering and/or pictorial matter composing the sign; position of lighting and other extraneous devices; and a location plan showing the position of the sign on any building or land and its position in relation to nearby buildings, structures or existing signs and to any private or public street or highway.
- 4) Written consent of the owner of the building, structure or land to which or upon which the sign is to be erected in the event that the applicant is not the owner thereof.
- 5) A copy of any required or necessary electrical permit issued for said sign or a copy of the application thereof.

B) FEES

- 1) The fees to be paid to Virgil for the erection of each sign and for each of the conforming signs now erected are listed on the schedule in the Town Clerk's office.
- 2) The Code Enforcement Office shall issue a permit number for each sign which shall be permanently attached to or displayed on each sign, billboard or structure so that it may readily be ascertained that a permit has been issued for each use.

C) ISSUANCE OF PERMIT

It shall be the duty of the Code Enforcement Officer, upon the filing of any application for a sign permit to examine such plans, specifications and other plans submitted with the application and, if necessary, the building or premises upon which it is proposed to erect the sign or other advertising structure. If it shall appear that the proposed sign is in compliance with all the requirements of this Article and other laws and ordinances of the Town of Virgil, the Code Enforcement Officer shall then, within ten (10) days, issue a permit for the erection of the

proposed sign. If the sign authorized under such permit has not been completed within six (6) months from the date of issuance of such permit, the permit shall become null and void, but may be renewed within ten (10) days from the expiration thereof for good cause, upon payment of an additional fee in accordance with the schedule available at the Town Clerk's office. If it shall appear that the proposed sign is not in compliance with this Article or other laws and ordinances of the Town of Virgil, the Code Enforcement Officer shall deny the sign permit within ten (10) days of its receipt.

ARTICLE XI: TELECOMMUNICATION FACILITIES

SECTION 1100 Purpose

The purpose of these regulations is to promote the health, safety and the general welfare of the residents of the Town; to provide standards for the safe provision of telecommunications consistent with applicable Federal and State regulations; to minimize the total number of telecommunication towers in the Town by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures; and to minimize adverse visual effects from telecommunication towers by requiring careful siting, visual impact assessment and appropriate landscaping.

SECTION 1101 Site Plan Review and Conditional Permit

No telecommunication facility shall be erected in any district of the Town unless and until the person or entity seeking to erect the same shall have obtained a conditional permit after site plan review from the Planning Board in accordance with this Article and other provisions of the Zoning Law of the Town of Virgil governing the issuance of special permits and site plan reviews which are not inconsistent with this Article. If there are inconsistent provisions, the provisions contained in this Article shall control.

SECTION 1102 General Criteria

No site plan review shall be approved and special permit granted by the Planning Board unless it finds that such telecommunications facility:

- A) is necessary to meet current or reasonably expected demands for service;
- B) conforms with all federal and state laws and all applicable rules or regulations promulgated by the Federal communications Commission (hereinafter the "FCC"), the Federal Aviation Administration (hereinafter the "FAA"), or any other federal agencies having jurisdiction;
- C) is sited, designed and constructed in a manner which minimized (i) visual impact to the extent practical and (ii) adverse impacts upon migratory birds and other wildlife;
- D) complies with all other requirements of this Zoning Law, unless expressly superseded herein;

- E) is the most appropriate site among those available within the allowed areas for the location of a telecommunication facility; and
- F) when including the construction of a tower, such tower is designed to accommodate future shared use by at least two (2) other telecommunication service providers. In addition, the tower owner, telecommunication's provider and the real property owner all agree to permit future co-location for additional providers.

SECTION 1103 Co-Location

The shared use of existing telecommunications facilities or other structures shall be preferred to the construction of new facilities. Any site plan approval and special permit granted shall include proof that reasonable efforts have been made to co-locate within in existing telecommunications facility or upon an existing structure. The site plan review application shall contain an evaluation of opportunities for shared use as an alternative to a new facility.

The applicant must demonstrate that the proposed telecommunications facility cannot be accommodated on existing telecommunications facility sited due to one (1) or more of the following reasons:

- A) the planned equipment would exceed the structural capacity of existing and approved telecommunications facilities or other structures, considering existing and reasonably anticipated future use for those facilities or structures;
- B) the planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;
- C) existing or approved telecommunications facilities or other structures do not have space and cannot be modified to provide space on which proposed equipment can be placed so it can function effectively and reasonably; or
- D) the property owner of the existing telecommunications facility or other structure refuses to allow such co-location.

SECTION 1104 Dimensional Standards

- A) A fall zone around any tower constructed as part of a telecommunications facility must have a radius at least equal to twice the height of the tower and any attached antennas. The entire fall zone may not include public roads and must be located on property either owned or leased by the applicant or for which the applicant has obtained an easement, and may not, except as set forth below,

contain any structure other than those associated with the telecommunications facility. If the facility is attached to an existing structure, relief may be granted by specific permission of the Planning Board on a case-by-case basis if it is determined by this requirement will not endanger the life, health, welfare or property of any person. In granting any such waiver, the Planning Board may impose any conditions reasonably necessary to protect the public or other property from potential injury.

- B) All telecommunications facilities shall comply with the setback, frontage, minimum lot size, and yard standards of the underlying zoning district as specified in the Zoning Law and the fall zone requirements of this section. To the extent there is a conflict, the more restrictive provision shall govern. The size of the leased or owned lot shall be, at a minimum, sufficiently large to include the entire fall zone. All lots leased or owned for the purpose of construction of a tower as part of telecommunications facility shall conform, at a minimum, to the lot size requirements of the underlying zoning district or the size of lot necessary to encompass the entire fall zone, whichever requirement results in a larger lot.
- C) Notwithstanding provisions to the contrary in any other article of the Zoning Law, the front, side and rear yard requirements of the underlying zoning district in which a telecommunications facility is erected shall apply not only to a tower, but also to all tower parts including guy wires and anchors, and to any accessory buildings.

SECTION 1105 Lighting and Marking

- A) Towers shall not be artificially lighted and marked beyond the requirements of the FAA, FCC or other governmental authority regulating telecommunications facilities.
- B) Notwithstanding the preceding paragraph, an applicant may be compelled to add FAA – style lighting and marking, if in the judgment of the Planning Board, such a requirement would be of direct benefit to public safety and would not unduly adversely affect residents of any surrounding property.

SECTION 1106 Appearance and Buffering

- A) The use of any portion of a telecommunications facility for signs, for promotional or advertising purposes, including but not limited to company names, phone numbers, banners, streamers and balloons is prohibited.

- B) The facility shall have the least practical visual effect on the environment as determined by the Planning Board. Any tower that is not subject to FAA marking as set forth above shall otherwise:
 - 1) have galvanized finish, or shall be painted gray above the surrounding tree line and gray or green below the tree line, as deemed appropriate by the Planning Board, and/or
 - 2) be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the facility to perform its designed function.
- C) Accessory structures shall maximize the use of building materials; colors and textures designed to blend in with the natural surroundings.
- D) Each application for a proposed facility shall be accompanied by a State Environmental Quality Review ("SEQR").
- E) The Planning Board may require additional information, such as line-of-sight drawings, detailed elevation maps, visual simulations, before and after renderings, and alternate tower designs to more clearly identify adverse impacts for the purpose of their mitigation.
- F) Equipment or vehicles not used in direct support, renovations, additions or repair of any telecommunications facility shall not be stored or parked on the facility site.

SECTION 1107

Access and Parking

- A) Access ways shall make maximum use of existing public or private roads to the extent practicable. New access ways constructed solely for telecommunications facilities must be at least twenty-five (25) feet wide, and closely follow natural contours to assure minimal visual disturbance and reduce solid erosion potential. Said access way may not be paved. However, the access way must have at least a gravel surface. Further, suitable erosion control measures, both temporary and permanent, shall be provided to prevent the removal of soil from such access road.
- B) Parking areas shall be sufficient to accommodate the usual number of service vehicles expected on the premises at any one time. Space off of public highways shall be provided to accommodate the greatest number of service vehicles expected on the premises, at any one time. All parking shall be off road.

- C) Driveways or parking areas shall provide adequate interior turnaround, such that service vehicles will not have to back out onto a public thoroughfare.

SECTION 1108 Security

- A) Towers, anchor points of guyed towers, and accessory structures shall each be surrounded by fencing at least (8) feet in height, the top of which may, at the discretion of the Planning Board in deference to the character of the neighborhood, be comprised of three strands of barbed wire to discourage unauthorized access to the site. The Planning Board may waive the requirement of fencing if, in its discretion, it determines that other forms of security are adequate, or that, by reason of location or occupancy, security will not significantly be comprised by the omission, or reduction in size, of the otherwise required fencing.
- B) Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.
- C) There shall be no permanent climbing pegs within fifteen (15) feet of the ground of any tower.
- D) A locked gate at the junction of the access way and a public thoroughfare shall be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.

SECTION 1109 Engineering and Maintenance

- A) Site plans for all telecommunications facilities must bear the seal of a professional engineer licensed in the State of New York. Every facility shall be built, operated and maintained to acceptable industry standards, including but not limited to the most recent, applicable standards of the Institute of Electric and Electronic Engineers ("IEEE") and the American National Standards Institute ("ANSI").
- B) Every facility shall be inspected at least every fifth year for structural integrity by a New York State licensed engineer. The inspection cost shall be paid by the applicant, its successors, assignee, grantee or transferee. A copy of the inspection report shall be submitted to the Zoning and Building Code Enforcement Officer of the Town. Any unsafe condition revealed by such report shall be corrected within ten (10) days of notification of same to the record landowner on which the facility is constructed. The time period for correction may, on application of the landowner or owner of the facility, be extended by

the Planning Board if it is impracticable to complete the correction within said ten days and there is no imminent danger to life, limb or other person's property. If the unsafe condition is not corrected within the applicable time period, or if the required inspection is not provided to the Town, the special permit for the facility may, after a hearing by the Planning Board on at least ten (10) days prior notice to the landowner of record given by certified mail, return receipt requested, or other equally effective manner of providing notice, be revoked by such Board. Revocation may occur only if the Board finds either (a) that the required inspection has not been provided or (b) that there is an unsafe condition which poses a risk of bodily injury or significant property damage. Upon such revocation, the facility shall be immediately dismantled and the bond mentioned in Section 1110 of this Article may be used by the Town to dismantle and remove the facility if the property owner or telecommunication facility operator does not complete the dismantling.

- C) A safety analysis by a qualified professional must accompany any special permit or site plan application, renewal thereof, or modification, for the purpose of certifying to the general public that electromagnetic radiation exposure does not exceed standards set by the FCC.
- D) The Town, at the expense of the applicant, may employ its own consulting assistance to examine the application and related documentation and make recommendations as to whether the criteria for granting the special permit have been met, including whether the applicant's conclusions regarding co-location, safety analysis, visual analysis, and structural inspection, are valid and supported by generally accepted and reliable engineering and technical data and standards.

SECTION 1110 Removal

- A) At the time of submittal of the application for a special permit for a telecommunications facility, the applicant shall submit an agreement to remove at his/her/its sole expense within ninety (90) days, all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower(s) dedicated solely for use within a telecommunications facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve (12) consecutive months. Upon removal of said facility, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.

- B) At the time of obtaining a building permit, the applicant must provide a financial security bond for removal of the telecommunications facility and property restoration, with the Town of Virgil as the obligee, in an amount approved by the Planning Board, but not less than twenty five thousand dollars (\$25,000.00).
- C) At times of modification of the special permit, the Town Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the telecommunications facility and property restoration.

SECTION 1111 Application

The application for a special permit for the construction of a telecommunications facility shall include, in addition to the other requirements set forth in this Section or elsewhere in this Article or the Zoning Law:

- A) A completed project application form in such detail and containing such information as the Town Planning Board may require.
- B) Complete application for SEQR. The application should be accompanied by a full environmental assessment form for the planning board's use in performing a SEQR review.
- C) Site plan in accordance with the requirements for site plans generally, and in accordance with this section including, without limitation.
 - 1) The exact location including geographic coordinates of the proposed telecommunications facility including any towers, guy wires and anchors, if applicable;
 - 2) The maximum height of the proposed facility, including all appurtenances;
 - 3) A detail of tower type, if any, including engineering drawings from the tower manufacturer (monopole, guyed, freestanding, or other). It should be noted that the mono-pole is the preferred style of tower type by the Town;
 - 4) The location, type and intensity of any lighting on the tower.
 - 5) Property boundaries and names of all adjacent landowners;
 - 6) Proof of the landowner's consent to the erection of the facility and agreement to abide by the Zoning Law if the applicant is

not the landowner;

- 7) The location of all other structures on the property and all structures on any adjacent property within one hundred (100) feet on the property lines, together with the distance of these structures from any proposed tower;
 - 8) The location, nature and extent of any proposed fencing, landscaping and screening; and
 - 9) The location and nature of any proposed utility easement and access roads or drives.
- D) Agreement that the applicant will negotiate in good faith with any subsequent applicant seeking to co-locate a telecommunications facility on the initial applicant's structures. This agreement shall commit the initial applicant and landowner and their respective successors in interest to:
- 1) Respond in a timely, comprehensive manner to a request for information from a potential shared-use applicant;
 - 2) Negotiate in good faith for shared use by third parties;
 - 3) Allowed shared use if an applicant agrees in writing to pay reasonable charges for same; and
 - 4) Make no more than a reasonable charge for shared use, based upon generally accepted accounting principles. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land cost, site design, construction and maintenance, financing, return on equity, and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference or causing uses on the site to emit electromagnetic radiation in excess of levels permitted by the FCC.
- E) Execute an agreement for removal of the facility as stated in this Article.
- F) Provide copies of all documents submitted to the FCC or any other governmental agency having jurisdiction.

- G) Pay any applicable application or other fees, including any deposits required by the Town for the application and the costs of any consultants retained by the Town as provided in this section to assist in reviewing the application.

SECTION 1112 Application Fee

The application fee for the construction of a telecommunication facility shall be \$500.00, and the application fee for any co-location shall be \$250.00. The Town may seek professional review of any application and the bill for said professional review shall be incurred by the applicant.

SECTION 1113 Maintenance

All items which comprise the telecommunication facility and the surrounding real property shall be kept in good order, repair and condition. It shall be the affirmative duty of the applicant, its successors, assignee, grantee or transferee and the land owner to make all repairs and maintenance necessary to make the telecommunication facility and surrounding real property safe, secure and visually compliant with this Article and the Planning Board's conditions and terms of approval.

SECTION 1114 Exempted Telecommunication Facilities

The following telecommunication facilities are exempted from this article:

- A) Fire, police and other emergency dispatch telecommunication facilities.
- B) Non-business television or radio reception, private citizen band, amateur radio, and other similar communication systems utilizing a tower and antenna, which do not exceed 50 feet above the ground, if originating from the ground, or which do not exceed 25 feet above the average roof line, if originating on the roof. "Non-business" shall mean a use for which money, property or something of value is not charged, earned or received by the owner, operator, lessee or person(s) in control of the telecommunication facility.
- C) Communication systems utilizing a tower and antenna which are on the roof of an agricultural, non-residential building in the Town, which do not exceed fifty (50) feet above the average roof line.

SECTION 1115 Time Limits

Once an application is approved by the Planning Board under this Article, the applicant shall obtain a building permit within six (6) months of the approval and the project shall be completed within six (6) months of the issuance of the building permit.

SECTION 1116 Miscellaneous

- A)** Any special permit or site plan approval granted hereunder shall be valid only for the dimensions and number of structures for the telecommunication facility contained in the original application as so approved. Any subsequent changes or modifications shall require a new application following the procedures set forth in this Article and elsewhere in the Zoning Law.

- B)** In considering the application, the Planning Board, if the application is granted, may impose such reasonable conditions as the Board may deem necessary to minimize any adverse impacts of the facility or its construction, or to assure continued compliance with this Article and the Zoning Law.

SECTION 1117 Districts Where Allowed

Telecommunication facilities are allowed in all zoning districts of the Town pursuant to the requirements of this Article and other provisions of the Zoning Law.

ARTICLE XII: RESIDENTIAL CLUSTER DEVELOPMENTS

SECTION 1200 Cluster Developments

A) INTENT

The purpose of this development approach is to promote neighborhood residential development which offers variety in lot size, configuration, topography, and affordability. This development alternative shall result in design and development which promotes the most appropriate use of the land, facilitates the adequate and economical provision of streets and utilities and preserves the natural and scenic qualities of open land.

B) AUTHORITY

Authorization is hereby granted to the Planning Board, pursuant to § 278 of the Town Law to vary the zoning requirements as to lot size, lot width and setback requirements in connection with a proposed subdivision plat, subject to the standards and procedures contained herein. Such variations shall result in cluster developments. The Planning Board is further authorized to require the use of the cluster development concept.

C) APPLICABILITY

This authorization shall be applicable to residential zoning districts NR and ARC, within Virgil and shall be used only when the Planning Board determines that its use will benefit the community.

D) PERMITTED USE

The permitted uses within a cluster development shall be the same as those otherwise permitted in the zoning district in which it is located.

E) DEVELOPMENT STANDARDS AND CONTROLS

Except as specified herein, all development standards and controls normally applicable to other residential subdivisions and uses shall be applicable to a cluster development.

- 1) The maximum permitted density within a cluster development shall not exceed the number of units that would be achieved within a conventional subdivision on the same parcel. A cluster subdivision shall include a minimum of six (6) lots.
- 2) The principal and accessory buildings on private lots and the structures of neighborhood recreation open spaces are encouraged to convey a particular architectural style through the use of similar building components, materials, roof pitches,

landscaping and/or other construction techniques.

- 3) The maximum permitted height of any structure or dwelling shall not exceed thirty-five (35) feet except that chimneys attached to such structures may extend five (5) feet above the highest point of the building.
- 4) Common open space totaling at least twenty-five (25) percent of the total development site shall be provided in perpetuity. At least ten (10) percent of the total land area within the cluster development shall consist of common open space which does not lie within the minimum required front, rear and side yards, as specified.
- 5) A homeowners' association or similar mechanism, for the long-term ownership and maintenance of common open space shall be provided, subject to approval of the Planning Board. Provisions satisfactory to the Municipal Attorney shall also be made for the long-term ownership and maintenance of roadways, drainage ways and other improvement features within the cluster development.
- 6) Intersection spacing in a cluster development shall be in accordance with the access management standards of Article XV.

ARTICLE XIII: SITE PLAN REVIEW

SECTION 1300 Intent

The purpose of site plan review is to implement the recommendations of the Comprehensive Plan. Specifically, site plan review is intended to determine compliance with the objectives of this Law where inappropriate development may cause a conflict between uses in the same or adjoining zoning district by creating conditions which could adversely affect the public health, safety, or general welfare.

SECTION 1301 Applicability

Prior to the issuance of a building permit, conditional use permit, variance, or other discretionary approval required from the Planning Board or Zoning Board of Appeals for construction, alteration or change of use in any district, except for a single family or two family dwelling and related accessory uses, or a non-intensive agricultural operation permitted by right, the Code Enforcement Officer shall require the preparation of a site plan. The Code Enforcement Officer shall refer the site plan to the Planning Board for its review and approval in accordance with the standards and procedures set forth in this Article.

SECTION 1302 Sketch Plan Conference

- A)** Applicants are encouraged to meet with the Code Enforcement Officer and then the Planning Board to review the first basic site design concept and determine the information to be required on the preliminary site plan. The purpose of the sketch plan conference is to discuss with the applicant the project's conformity with the Virgil Comprehensive Plan, and to advise the applicant of other issues or concerns. The sketch plan conference provides an opportunity to indicate whether the proposal and its major features is acceptable or whether it should be modified before expenditures for more detailed plans are made.
- B)** Required data. Information to be included on the sketch plan is as follows:
- 1)** An area map showing the parcel under consideration for site plan review and all parcels, structures, subdivisions, streets, driveways, easements and permanent open space within two hundred (200) feet of the boundaries thereof.
 - 2)** A map of site topography at no more than five (5) foot contour intervals. If general site grades exceed five (5) percent or if portions of the site have susceptibility to erosion, flooding or ponding, a soils overlay and topographic map showing contour intervals of not more than two (2) feet of elevation should also

be provided.

- 3) General identification of all existing natural features and utilities on the site and in the area.
- 4) The location of all existing and proposed structures on the site and designated uses for each.
- 5) Identification of existing zoning classification(s) of the property and all adjacent properties and any restrictions on land use of the site.

SECTION 1303 Preliminary Site Plan Application

A) An application for preliminary site plan review shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist as determined necessary by the Code Enforcement Officer at the sketch plan conference. All site plan information and building designs shall be prepared by a licensed architect or engineer.

B) PRELIMINARY SITE PLAN CHECKLIST

- 1) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
- 2) North arrow, graphic scale and date.
- 3) Boundaries of the property, plotted to scale.
- 4) The location of existing property lines, easements, structures, streets, driveways, and natural features within two hundred (200) feet of the proposed site.
- 5) Grading and drainage plan, showing existing and proposed contours. The drainage plan shall also clearly explain the methodology used to project storm water quantities and the resultant peak flow conditions.
- 6) Location, proposed use, hours of operation and height of all buildings. Summary of the amount of square footage devoted to each use requiring off-street parking or loading.
- 7) Number, location, design and construction materials of all parking and loading areas, showing access. Location of reserved parking areas as required by the off-street parking

regulations of Article IX.

- 8) Provision for pedestrian access.
- 9) Size, type, location, and screening of all facilities used for recycling and disposal of solid waste.
- 10) Location, dimensions and vehicle capacity of drive-in facilities and related queuing lanes.
- 11) Building elevation(s) showing building massing, window and door spacing and treatments, and other architectural features; and indication of building materials suitable to evaluate architectural compatibility.
- 12) Location, purpose, and holder of all proposed easements or dedications for utilities, recreation, conservation or other purposes.
- 13) Location, size, screening and type of material for any proposed outdoor storage.
- 14) Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
- 15) Description of the type and quantity of sewage expected, the method of sewage disposal, and the location, design and construction materials of such facilities.
- 16) Description of the type and quantity of water supply needed, the method of securing water supply, and the location, design and construction materials of such facilities.
- 17) Location of fire and other emergency zones, including the location of fire hydrants.
- 18) Location, design and construction material of all energy distribution facilities, including electrical, gas, wind power, solar energy and other public utility facilities such as cable or phone service.

- 19) Location, size, design, and construction materials of all proposed signs.
- 20) Location of proposed buffer areas, including existing vegetative cover.
- 21) Location, type, height, brightness and control of outdoor lighting facilities.
- 22) Identification of permanent open space or other amenity provided in conjunction with cluster ~~or incentive~~ zoning provisions.
- 23) A table summarizing each building footprint, total size in square feet and number of stories; the number of dwelling units and the amount of square feet devoted to each use type; size in square feet or acres of access, parking and circulation areas and the number of loading, queuing and parking spaces; size in square feet of landscaped and natural open space; and size in square feet of all signs.
- 24) A landscaping plan and planting schedule in accordance with Article VIII.
- 25) Other elements integral to the proposed development as considered necessary by the Planning Board, to include showing railroads or any other type of transportation facilities not specified.
- 26) All forms and information pursuant to New York State Environmental Quality Review Act (SEQR).
- 27) An agricultural data statement if the proposed use is located on or within five hundred (500) feet of a farm operation in a county agricultural district.

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C) REQUIRED FEE

The fee will be established by the Town Board and paid when the application is made.

SECTION 1304

Planning Board review of Preliminary Site Plan

The Planning Board's review of a preliminary site plan shall include but is not limited to, the following:

A) General considerations as to:

- 1) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls for parking, loading, and drive-in facilities. Conformance with access management standards including, but not limited to, driveway spacing and provision of shared driveways and cross access easements.**
- 2) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.**
- 3) Location, arrangement, appearance and sufficiency of off street parking and loading.**
- 4) Location, arrangement, size, design and general architectural and site compatibility of buildings, lighting, signs and landscaping.**
- 5) Adequacy of storm water calculation methodology and storm water and drainage facilities to eliminate off-site run-off and maintain water quality.**
- 6) Adequacy of water supply and sewage disposal facilities.**
- 7) Size, location, arrangement and use of required open space and adequacy of such open space to preserve scenic views and other natural features, to provide wildlife corridors and habitats, to provide suitable screening and buffering and to provide required recreation areas.**
- 8) Suitability of proposed hours of operation.**
- 9) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other similar nuisances.**
- 10) Adequacy of community services including fire, ambulance and police protection and on-site provisions for emergency services including fire lanes and other emergency zones, fire hydrants and water pressure.**
- 11) Adequacy and unobtrusiveness of public utility distribution facilities including those for gas, electricity, cable television**

and phone service. In general, all such utility distribution facilities shall be required to be located underground.

12) Making provision for, so far as conditions may permit, the accommodation of solar energy systems, equipment and access to sunlight.

13) Conformance with the Town of Virgil Comprehensive Plan and other planning studies.

14) Conformance with density, lot size, height, yard, lot coverage and all other requirements of district regulations.

B) Applicant and/or duly authorized representative shall attend the meeting of the Planning Board.

C) CONSULTANT REVIEW

The Planning Board may consult with the Code Enforcement Officer, Fire Commissioners, and other appropriate local and county officials/ departments or designated private consultants, in addition to representatives of federal and state agencies, including but not limited to the County Soil & Water Conservation District, the State Department of Transportation and the State Department of Environmental Conservation.

D) PUBLIC HEARING

The Planning Board may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within sixty-two (62) days of the receipt of the application for preliminary site plan review and shall be advertised in a newspaper of general circulation in Virgil at least five (5) days before the public hearing.

SECTION 1305

Planning Board Action on Preliminary Site Plan

A) Within sixty-two (62) days after public hearing or within sixty-two (62) days after the application was filed if no hearing was held, the Planning Board shall act on the application for preliminary site plan review. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved or approved with modifications.

B) The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan and conformance with said modifications shall be considered a condition

of approval. If the preliminary site plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

SECTION 1306 Final Site Plan Review Procedure

- A)** After receiving approval, with or without 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 time 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 a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review. The Planning Board may also require a new public hearing. The final site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliance shall be clearly indicated by the applicant on the appropriate submission.

- B)** The following additional information shall accompany an application for final site plan review.
 - 1)** Record of application for and approval status of all necessary permits from local, state and county officials.
 - 2)** Construction details and final material specification for all required improvements.
 - 3)** An estimated project construction schedule.
 - 4)** A legal description of all areas proposed for municipal dedication.
 - 5)** A conservation easement or other recordable instrument executed by the owner for any permanent open spaces created and whether such open space is the result of site plan review, clustering ~~or incentive~~ zoning provisions.

- C)** If no building permit is issued within one (1) calendar year from the date of final site plan approval, the final site plan approval shall become null and void.

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SECTION 1307 Referral to County Planning Board, If Applicable
Prior to taking action on the final site development plan, the Planning Board shall, if applicable, refer the plan to the County Planning Board for advisory review and a report in accordance with § 239-m of General Municipal Law.

SECTION 1308 Planning Board Action on Final Site Plan

- A)** Within sixty-two (62) days of receipt of the application for final site plan review, the Planning Board shall notify in writing its decision to the Code Enforcement Officer.
- B)** Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due and letter of credit, if required, the Planning Board shall endorse its approval on a copy of the final site plan. A copy of the approved final site plan shall be filed with the Code Enforcement Officer and may be provided to the applicant.
- C)** Upon disapproval of a final site plan, the Planning Board shall so inform the Code Enforcement Officer who shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval.

SECTION 1309 Reimbursable Costs
Costs incurred by the Planning Board for consultation fees or other extraordinary expense in connection with the review of a proposed site plan or inspection of required improvements shall be charged to the applicant. Estimated review fees shall be deposited into an escrow account when making application for preliminary site plan review. Estimated inspection fees shall be deposited into an escrow account prior to Planning Board endorsement of final site plan approval.

SECTION 1310 Letter of Credit
No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or an irrevocable letter of credit has been posted for improvements not yet completed. The letter of credit shall be approved as to form by the Attorney for the Town and as to amount by the Engineer for the Town. The member of the Planning Board designated to sign site plans shall not sign until a letter of credit, if required, has been received by the Code Enforcement Officer and approved by the Town Board.

SECTION 1311 Inspection of Improvements
The Code Enforcement Officer shall be responsible for the overall inspection of site improvements. The applicant shall be responsible for

advance notice for inspection coordination with officials and agencies, as appropriate. The Code Enforcement Officer may retain the services of a qualified private consultant to assist with inspection of site improvements.

ARTICLE XIV: CONDITIONAL PERMITS

SECTION 1400 Purpose

It is the intent of this Law to use Conditional Permits to control the impact of certain uses upon areas where they will be incompatible unless conditioned in a manner suitable to a particular location. Conditional permits bring needed flexibility and individuality to the controls of zoning regulations.

SECTION 1401 Administration

Pursuant to Town Law Section 274b, the Planning Board will administer the review of Conditional Permits.

SECTION 1402 Procedure

- A)** All applications for conditional permits shall be filed with the Code Enforcement Officer who shall refer the completed conditional permit application to the Planning Board.
- B)** At its next regular or special meeting, the Planning Board shall designate a public hearing date within a reasonable period of time, not to exceed forty-five (45) days from the date application was made or sixty (60) days in cases when the application must be referred to the County Planning Board in accordance with General Municipal Law, Section 239m.
- C)** The Planning Board shall send a notice of the public hearing to the applicant and publish a notice of the public hearing in the official newspaper.
- D)** The notice of the public hearing shall be sent and published at least five (5) calendar days prior to the date of the public hearing as well as sufficient information so as to identify the property involved and the nature of the proposed action.
- E)** The Planning Board shall make a factual record of all its proceedings involving the granting of a conditional permit. The decision of the Planning Board shall contain the reasons for its decision.
- F)** The Planning Board shall render its decision, either approving with conditions or denying, within forty-five (45) days after the hearing, unless an extension is mutually agreed upon.
- G)** Each application for a conditional permit shall be accompanied by a proposed plan showing the information required for site plan review.

- H)** Each conditional permit application must also receive site plan approval before the conditional permit may be granted.

All applications for conditional permits shall be filed with the Code Enforcement Officer who shall refer the completed conditional permit application to the Planning Board.

SECTION 1403

Findings

- A)** In order to grant approval for a Conditional Permit, the applicant must prove that the structure and/or use:
- 1) Is appropriate for the particular lot and area and will not conflict with allowed uses.
 - 2) Is in compliance with all other applicable sections of this Zoning Law.
 - 3) Is physically and visually compatible with the general neighborhood.
 - 4) Provides a suitable transition when located between differing uses or Districts or provides a visual buffer by landscaped green areas or fencing.
 - 5) Has adequate space and plans for off-street parking.
 - 6) Has future expansion or revision capabilities without need for variances.
 - 7) Provides for safe handling of vehicular traffic to and from the site without causing congestion. No new vehicular entrances shall be permitted within fifty feet of an existing intersection.
 - 8) Provides for safe passage of pedestrians.
 - 9) Does not lead to depreciation of neighboring properties by reason of, but not limited to noise, traffic, dust, fumes, smoke, odor, fire, glare, flashing lights or sewage disposal.
- B)** There are also additional requirements governing certain uses which must be met prior to the approval of a conditional permit (See Article VI).

ARTICLE XV: ACCESS MANAGEMENT

SECTION 1500 Intent

The purpose of these access management standards is to provide safe and efficient travel along public roads. Implementation of these access management standards is intended to promote full, reasonable development consistent with the social, environmental and economic objectives of the Comprehensive Plan; to reduce confusion, congestion and accidents; and to minimize unreasonable or unnecessary public costs that might otherwise result from development.

These standards are also intended to guide development of a road network with sufficient linkages between uses. The standards will contribute to the long-term accommodation of growth and development while providing safe and convenient access to properties and preserving the visual character of area roads.

SECTION 1501 Applicability

These access management standards shall apply to all uses in all zoning districts.

SECTION 1502 General Requirements

- A)** Access and circulation shown on subdivision and site plans developed under these regulations shall also conform to the requirements of other federal, state, and local regulations. This includes but is not limited to transportation standards for intersection spacing, signal warrants and, if applicable, the Town of Virgil Subdivision Regulations and other portions of this Law especially the zoning district regulations of Article V, the off-street parking and loading regulations of Article IX and the site plan review regulations of Article XIII.
- B)** Deviations from the standards outlined in this Article for developments generating more than 150 peak hour trips must be based on documentation from a qualified traffic engineer that an alternative access arrangement provides equal or greater safety and mobility and comparable or lower adverse environmental impacts. All such deviations must be in accordance with the procedures and requirements for obtaining an area variance as specified in this Law. The Planning Board has discretion for approving –deviations from the standards for uses generating less than 150 peak hour trips and reserves the right to require professional justification, at the applicant's expense, of deviations from standards for projects generating less than 150 peak hour trips.
- C)** Parcels created after the effective date of these regulations do not have the right of individual access to existing abutting public roads.

The number of planned access connections is to be the minimum necessary to provide safe and reasonable access. This may be less than the number of access connections which would be allowed based solely on minimum property width requirements.

- D) New public or private roads, shared driveways or cross access may be necessary to meet the requirements of these regulations. If access is to be provided by means other than direct access to a public street, a permanent recorded easement, which runs with the land, shall be executed. In addition, operating and maintenance agreements for all such facilities shall be recorded with the deed.
- E) Parcels with frontage on more than one road may be limited to one access connection to the lowest class of road serving the proposed development.
- F) Unless otherwise specified, all distances shall be measured from driveway centerline to driveway centerline along the edge of the road right-of-way. Where road intersection modifications are planned, all distances shall be from the proposed centerline along the edge of the proposed right-of-way.

SECTION 1503 Access to Subdivided Lands and Phased, Full Build-Out and Multi-Owner Development Plans

A) ACCESS CONCEPT PLAN

Prior to subdivision or site plan approval or approval of a zoning permit for any new or modified access or intersection, the applicant must provide a concept plan. The concept plan shall show the location of buildings, parking and circulation including connections to pre-existing roads and alignments of any new roads necessary to accommodate full build-out as allowed by current zoning for all lands under single ownership as of the date of adoption of these regulations. The Concept Plan shall address the following principles:

- 1) Access to individual residential driveways within a subdivision should be obtained from an existing or proposed road.
- 2) Internal roads in a proposed subdivision should be coordinated with existing, proposed and planned roads and driveways outside the subdivision and should consider providing cross access connections to abutting developed or undeveloped properties.
- 3) When the concept plan for access to lands planned jointly or under common ownership, as of the date of adoption of these

regulations, shows development of a local road as part of eventual full build-out, the Planning Board may allow temporary access directly to a public road while requiring that parcel layout be designed to provide future access only from the proposed local road. Furthermore, the Planning Board may establish square footage or peak hour trip generation thresholds which govern when construction of the local road must take place.

SECTION 1504 Sight Distances and Sight Distance Preservation

A) SIGHT DISTANCE REQUIREMENTS

Driveways and intersecting roadways shall be located and designed in profile and grading to provide the following minimum sight distance measured in each direction.

Minimum Sight Distance Table	
Posted Speed (miles per hour)	Required Sight Distance (feet)
25	250
30	300
35	350
40	400
45	450
50	500
55	550

B) SIGHT DISTANCE PRESERVATION

- 1) No parking, fence, wall, sign, or other structure, or bush, tree or other vegetation which would impede the view of a driver entering the roadway shall be allowed within the sight distance triangle.
- 2) Trees, bushes, shrubbery and other vegetation in the sight distance triangle shall be maintained by the property owner so as to preserve sight distance for drivers entering the road. In the event that the property owner fails in such maintenance the Town may trim, prune, clip or otherwise clear such vegetation and may bill the owner for the costs of such actions. (See Section 603).
- 3) The sight distance triangle shall be measured from a point three and one half (3.5) feet above the ground and ten (10) feet from the curb line or edge of shoulder for an intersecting driveway and three and one half feet (3.5) above the ground and twenty (20) from the curb line for an intersecting road.

SECTION 1505 Driveway Spacing Standards

- A) The minimum recommended spacing between driveways to abutting properties on the same side of the road shall be 50% of lot width.
- B) Access connections on opposite sides of the road not separated by a restrictive median shall be aligned or offset so as to eliminate left-turn overlap conflicts between vehicles traveling in the opposite direction.
- C) Access connections to developments on opposite sides of the road with peak hour trip generation of 150 or more are required to be aligned to enable installation of a traffic signal to serve both developments.
- D) The Planning Board may raise or lower the required driveway spacing standard based on the volume of site generated traffic, the impact of site generated traffic on the operation of the adjacent road, or posted or operational speeds in the vicinity of the proposed site.
- E) The Planning Board may allow more than one driveway or a dual driveway system and reduce the required driveway spacing if the applicant can demonstrate that the driveway configuration improves traffic safety and operations on the road system.
- F) The Planning Board, as part of site plan review, will evaluate how proposed driveway location impacts opportunities to develop abutting properties. At a minimum, such evaluation shall identify any sight distance and alignment/offset constraints and indicate whether compliance with the recommended spacing standards is practicable for abutting properties based on the applicant's proposed driveway location.

SECTION 1506 Street and Signal Spacing

Intersection spacing standards shall be applied, as development occurs, to preserve desirable location and alignment of roads to serve future growth and provide an efficient overall transportation system.

The following represents recommended cross road standards.

Street Type	Minimum Intersection Spacing (feet)
Arterial	1,320 feet
Collector	880 feet
Local	440 feet

SECTION 1507 Required Mitigation of Traffic Impacts

- A) Any proposed development projected to generate more than 150 trips during any weekday or weekend peak hour may be required to

mitigate the traffic impacts of such new development. Required mitigation shall be recommended by a qualified traffic engineer, at the developer's expense, based on the assumptions and analyses included in a traffic study completed in accordance with the procedures of the State Environmental Quality Review Act (SEQRA).

- B)** Required mitigation may include but shall not be limited to the installation of signals, turning lanes or medians, the use of shared driveways, cross access, or the construction of local roads and/or other traffic demand management strategies.
- C)** Phased mitigation may be allowed where phased development is proposed.

ARTICLE XVI: WIND ENERGY CONVERSION SYSTEMS

Commented [P28]: Full Article Added via LL # 1 of 2009

SECTION 1600 Permits Required

- A) No Wind Energy Facility shall be constructed, reconstructed, modified, or operated in the Town of Virgil, except in compliance with this Local Law.
- B) No WECS shall be constructed, reconstructed, modified, or operated in the Town of Virgil, except in a Wind Overlay Zone, pursuant to a Special Use Permit approved pursuant to this Local Law.
- C) No Special Permit shall be issued for construction, reconstruction, modification or operation of a WECS in the Town of Virgil, unless and until a Wind Overlay District has been created by act of the Town Board.
- D) No Special Permit shall be issued for construction, reconstruction, modification or operation of a WECS in the Town of Virgil, 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 Virgil.
- E) No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated in the Town of Virgil, except pursuant to a Special Use Permit issued pursuant to this Local Law.
- F) No Small Wind Energy Conversion System shall be constructed, reconstructed, modified, or operated in the Town of Virgil, except pursuant to a Special Use Permit issued pursuant to this Local Law.
- G) Exemptions:
No permit or other approval shall be required under this Local Law for WECS which are consistent with generally accepted principles of farming and which are located within a state recognized agricultural district.
- H) Transfer:
No transfer of any Wind Energy Facility or Special Use 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.
- I) Notwithstanding the requirements of this Section, replacement in kind or modification of a Wind Energy Facility may occur without Town Board approval when there will be:
 - 1) No increase in Total Height of the WECS;

- 2) No change in the location of the WECS;
- 3) No additional lighting or change in facility color;
- 4) No increase in noise produced by the WECS.

SECTION 1600.1 Applicability:

- A) The requirements of this Section shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this Local Law.
- B) Wind Energy Facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this Local Law, shall not be required to meet the requirements of this Local Law; provided, however, that:
 - 1) Any such preexisting Wind Energy Facility which does not provide energy for a continuous period of twelve (12) months shall meet the requirements of this Local Law prior to recommencing production of energy.
 - 2) No modification or alteration to an existing Wind Energy Facility shall be allowed without full compliance with this Local Law.
 - 3) 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 Use Permit for said Wind Energy Facility is obtained.
- C) Wind Energy Facilities may be either principal or accessory uses. A different existing use or 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.

SECTION 1601 Creation of Wind Overlay Zones

- A) Wind Overlay Zones shall be created by the Town Board to delineate those areas in the Town of Virgil that are appropriate for the development of wind energy conversion systems (WECS) and related infrastructure, electrical lines, transmission lines and substations, access roads and accessory structures.
- B) The Town Board shall refer development of Wind Overlay Districts to the Town Planning Board. The Town Planning Board shall hold public meetings after public notice at which the Planning Board shall consider the landscape and topography of the town, current land uses

and future development patterns natural resources, unique or sensitive environments, the local existence of wildlife and plant species, viewsheds, zoning districts, residents' opinions, and other pertinent information.

- C) After considering these and any other information presented at public hearing, the Town Planning Board shall determine those areas which are not considered appropriate for development of wind energy conversion systems (WECS) and related infrastructure, electrical lines, transmission lines and substations, access roads and accessory structures. Any other areas of the Town of Virgil may be designated by the Town Planning Board to be potential Wind Overlay Zones.
- D) The Town Planning Board shall report its findings and make recommendations to the Town Board.
- E) The Town Board shall hold a public hearing after public notice as required, and shall consider the recommendations of the Town Planning Board and all other comments, reviews and statements pertaining thereto. After considering these and any other information presented at public hearing, the Town Board shall determine which areas of the Town of Virgil shall be determined to be Wind Overlay Zones.
- F) If approved, the Town Board will direct the Town Clerk to modify the Official Map to reflect the creation of the Wind Overlay Zones.
- G) Once a Wind Overlay Zone has been created, new WECSs or accessory structures or facilities may be added in that zone by grant of a Special Use Permit by the Town Planning Board pursuant to the requirements of this Article.
- H) Construction, reconstruction, modification or operation of Small Wind Energy Conversion Systems (Small WECS) or Wind Measurement Towers, as defined in this Local Law shall not be limited to Wind Overlay Zones, as long as these other projects comply with all other regulations contained herein.

SECTION 1601.1 Applications for Wind Energy Conversion Systems

An application for Special Use Permit for individual WECS shall include the following:

- A) 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.

- B)** 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:
 - 1)** confirming that the property owner is familiar with the proposed applications, including actual ambient and predicted noise levels, and
 - 2)** authorizing the submission of the application.
- C)** Address, or other property identification, of each proposed tower location, including Tax Map section, block and lot number, latitude and longitude coordinates.
- D)** A description of the project, including the number and maximum rated power output capacity of each WECS.
- E)** For each WECS proposed, a plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:
 - 1)** Property lines and physical dimensions of the Site;
 - 2)** Location, approximate dimensions and types of existing structures and uses on site, public roads, and adjoining properties within fifteen hundred (1500) feet of the Site.
 - 3)** Location and ground elevation of each proposed WECS.
 - 4)** Location of all above ground utility lines on the site, and all related transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.
 - 5)** Location and size of structures above within 2 V_i times the height of the tower of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.
 - 6)** The zoning designation of the subject and adjacent properties as set forth in Town Zoning Law.
 - 7)** Boundaries of the Wind Overlay Zone, to demonstrate that each proposed WECS is located within said overlay zones.

- 8) To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower location equal to:
 - i) Perimeter equal to two and a half times the tower height,
 - ii) Five Hundred foot perimeter.
 - 9) Location of the nearest residential structure on the site and the distance from the proposed WECS.
 - 10) Location of the nearest off-site, non-participating property line, and the distance from the proposed WECS.
 - 11) All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.
 - 12) 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.
- F) Landscaping Plan depicting vegetation describing the area to be cleared of vegetation and areas where vegetation shall be added identified by species and size of specimens at installation, and their locations.
- G) 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. However, 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.
- H) Decommissioning Plan: The applicant shall submit a decommissioning plan, which shall include:
- 1) the anticipated life of the WECS; (b) the estimated decommissioning costs in current dollars; (c) how said estimate was determined; (d) the method of ensuring that funds will be available for decommissioning and restoration; (e) the method, such by annual re-estimate by a licensed engineer, approved by the Town Board, that the decommissioning cost will be kept current; and, (f) the manner in which the WECS will be decommissioned and the Site

restored, which shall include removal of all roads, structures and debris to a depth of 3 feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner.

- I) Complaint Resolution:**

The application will include a complaint resolution process to address complaints from any resident or property owner. The process shall as a condition precedent to arbitration use an independent mediator to attempt to resolve the complaint, and include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint through mediation. The process will be subject to the rules of the American Arbitration Association. In the event the matter is not resolved in mediation, it shall be subject to binding arbitration under the rules of the American Arbitration Association. All fees and charges for the Arbitration shall be paid by the applicant unless there is a finding by the Arbitrators for absolute no-fault on the part of the applicant. In the event of a ruling in favor of the complaining party, the arbitrators' award may include attorneys' fees and other costs.
- J) An application shall include information relating to the construction/installation of the wind energy conversion facility as follows: (a) A construction schedule describing commencement and completion dates and hours of construction; and (b) A description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.**
- K) Completed Part 1 of the Full EAF,**
- L) Applications for Wind Energy Permits for Wind Measurement Towers subject to this Local Law may be jointly submitted with the WECS.**
- M) 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.**
- N) In accordance with the requirements of SEQRA, the Town Board may issue a positive declaration of environmental significance,**

O) 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. Otherwise, the following studies shall be submitted with the application:

- 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 and describe measures that shall be taken to eliminate or mitigate the problems.
- 2) Visual Impact: Applications shall include a visual impact study of each proposed WECS as installed, which may 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.
- 3) Fire Protection: A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed Zone.
- 4) Noise Analysis: A unique characteristic of wind farms is that the noise level from each wind turbine generator (WECS) increases as the wind speed at the site increases. As an offset, the background noise may increase under these conditions and can mask the WECS noise. Comparison with a base noise level alone will therefore not be sufficient to indicate the potential impact of a wind farm: a farm could comply with a base level at lower wind speeds but exceed it when the wind speed rises, or the opposite, depending upon site specific conditions. To prevent adverse impacts from the increased noise of WECS under all wind conditions, the varying noise level must also be compared to the corresponding background noise at the relevant receiver,

- 5) A noise analysis by an independent acoustical consultant, acceptable to the Town of Virgil, documenting the noise levels associated with the proposed WECS is required. 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 Town Board may modify this requirement). This study will be subject to a peer review by an acoustical consultant selected by the Town of Virgil, reporting to the Town of Virgil and paid for by the applicant.
- 6) Property Value Analysis: A property value analysis shall be prepared by a licensed appraiser approved by the Town in accordance with industry standards, regarding the potential impact of values of properties that neighbor WECS Sites, and will include a fair market appraisal of each non-participating property and/or residence within a one (1) mile radius of the WECS.
- 7) Electromagnetic Interference: An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems and other wireless communication.
- 8) Transportation Impacts: An analysis of impacts on local transportation shall be prepared, regarding impacts anticipated during construction, reconstruction, modification or operation of 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.
- 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 WECS.
- 10) Cultural Resources: An analysis of impacts on cultural resources shall be prepared, regarding impacts anticipated during construction, reconstruction, modification or operation of WECS.
- 11) Wildlife Impacts: An analysis of impacts on local wildlife shall be prepared, regarding impacts anticipated during

construction, reconstruction, modification or operation of 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.

- P) The applicant shall, prior to the receipt of a building permit, provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and the applicable Transmission Owner.
- Q) A statement, signed under penalties of perjury, which the information contained in the application, is true and accurate.

SECTION 1601.3 Application Review Process

- A) Applicants may request a pre-application meeting with the Planning Board, or with any consultants retained by the Planning Board for application review. Meetings with the Board shall be conducted in accordance with the Open Meetings Law.
- B) 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. Any variance application must be submitted to the Town of Virgil Zoning Board of Appeals.
- C) 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
- D) 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 WECSs proposed is increased.
- E) Upon determination by the Planning Board that an application is complete, the Town Clerk shall prepare notice of a public hearing.
- F) The Planning Board shall hold at least one public hearing on the application. Notice shall be given by registered or certified mail with a return receipt requested, to property owners within one mile of each

proposed 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, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

- G)** The public hearing may be combined with public hearings on any Environmental Impact Statement or requested variances.
- H)** Notice of the project shall also be given, when applicable, to (1) the Cortland County Planning Board, if required by General Municipal Law §239-1 and 239-m, and (2) to adjoining Towns under Town Law §264.
- I)** 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, 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.
- J)** 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 local law.

SECTION 1601.4 Standards for WECS

The following standards shall apply to all WECS, unless specifically waived by the Planning Board as part of a permit.

- A)** All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent possible and to the maximum extent allowed by law, including all transmission lines transiting the Town of Virgil from wind farms originating in other jurisdictions.
- B)** No television, radio or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the Town Zoning Law. Applications may be jointly submitted for WECS and

telecommunications facilities.

- C)** No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.
- D)** Lighting of tower. No tower shall be lit except to comply with FAA requirements. Minimum security lighting for ground level facilities shall be allowed as approved on the Site plan.
- E)** All applicants shall use measures to reduce the visual impact of WECSs 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 WECSs within a Wind Overlay Zone shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the Zone, 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.
- F)** The use of guy wires is disfavored. A WECS using guy wires for tower support shall incorporate appropriate measures to protect the guy wires from damage which could cause tower failure.
- G)** 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 would 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 Wind Energy Permit for the specific WECS or WECSs causing the interference.
- H)** 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.
- I)** 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 WECS shall be stockpiled and returned to the site upon completion of the activity which disturbed the soil.

- J)** WECSs shall be located in a manner that minimizes 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.
- K)** Wind energy conversion facilities shall be located in a manner consistent with all applicable state and federal wetlands laws and regulations.
- L)** Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable state and federal laws and regulations.
- M)** The maximum Total Height of any WECS shall be 500 feet.
- N)** Construction of the WECS shall be limited to the hours of 7 AM to 7 PM Monday through Friday, unless the prior written approval of the Town Planning Board is received to allow deviation from such hours
- O)** 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 Wind Energy Permit for the specific WECS or WECSs causing the problems.

SECTION 1601.5 Required Safety Measures

- A)** 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.
- B)** If the participating or non-participating, off-site contiguous 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 on the basis of individual applications as safety needs dictate.

- C) 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 a week coverage. The Town Planning Board may require additional signs based on safety needs.
- D) 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.
- E) The minimum distance between the ground and any part of the rotor or blade system shall be thirty five (35) feet.
- F) WECSs shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked.
- G) Copies of all reports concerning operating and safety inspections for each WECS shall be filed with the Town Clerk.

SECTION 1601.6 Traffic Route

- A) Construction of WECS 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 WECS 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.
- B) The applicant is responsible for remediation of damaged roads upon completion of the installation 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.

- C) 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.
- D) Prior to issuance of any permits, the applicant must submit signed agreements with the Town and County for use of their roads.

SECTION 1601.7 Noise Standards for Wind Energy Conversion Systems

- A) The statistical sound pressure level (L90) generated by a WECS shall in no case, at any time, regardless of wind speed or conditions, exceed ambient plus 5 dBA when measured at the nearest property line of the off-site dwelling, school, hospital, church or public building existing at the time of application. Independent certification shall be provided before and after construction demonstrating compliance with this requirement. For noise levels generated or caused by a wind energy facility:
 - 1) The increase in ambient statistical noise levels is based on an assumed background L90 ambient noise level of 26 dBA or the actual ambient background level from 2200 hrs until 0700 hrs the following day. The applicant shall conduct measurements to determine the actual ambient L90 background level.
 - 2) The "actual ambient background level" is the measured noise level at the appropriate measurement point as specified in this local law in accordance with paragraph D of this section. Background noise measurements shall be obtained at the appropriate measurement point, synchronized with wind speed measurements of hub height conditions at the nearest wind turbine location. "Actual ambient background level" does not include noise generated or caused by the wind energy facility.
 - 3) The noise levels from a wind energy facility may increase the ambient statistical noise levels L90 by more than 5 dBA, only if the person who owns the noise sensitive property executes a legally effective easement or real covenant that benefits the property on which the wind energy facility is located. The easement or covenant must authorize the wind energy facility to increase the ambient statistical noise levels, L90 on the sensitive property by more than 5 dBA at the appropriate measurement point. In no case, at any time, regardless of

wind speed or conditions, may the sound level exceed ambient 50 dBA when measured at the nearest participant dwelling.

- 4) For purposes of determining whether a proposed wind energy facility would satisfy the ambient noise standard where a landowner has not waived the standard, noise levels at the appropriate measurement point are predicted assuming that all of the proposed wind facility's turbines are operating between cut-in speed and the wind speed corresponding to the maximum sound power level established by IEC 61400-11 (version 2002-12). These predictions must be compared to the highest of either the assumed ambient noise (base noise level of 26 dBA), or to the actual ambient background L90 noise level, if measured. The facility complies with the noise ambient background standard if this comparison demonstrates to the satisfaction of the Town's acoustical consultant of §11 A. (16) (e) of this Law and the satisfaction of the Town Board that the increase in noise is not more than 5 dBA over the entire range of wind speeds.
- 5) For purposes of determining whether an operating wind energy facility complies with the ambient noise standard where a landowner has not waived the standard, noise levels at the appropriate measurement point are measured when all of the facility's wind turbines are operating over the entire range of wind speeds between cut-in speed and the wind speed corresponding to the maximum sound power level, and no turbine that could contribute to the noise level is disabled. The facility complies with the noise ambient background standard if the increase in noise over either the assumed ambient noise level of 26 dBA, or to the actual ambient background L90 noise level, if measured, is not more than 5 dBA over this entire range of wind speeds.
- 6) For purposes of determining whether a proposed wind energy facility would satisfy this standards, noise levels at the appropriate measurement point are predicted by using the turbine's maximum sound power level following procedures established by IEC 61400-11 (version 2002-12), and assuming that all of the proposed wind facility's turbines are operating at the maximum sound power level.
- 7) For purposes of determining whether an operating wind energy facility satisfies the standards, noise generated by the

energy facility is measured at the appropriate measurement point when the facility's wind turbines are operating at the full range of wind speeds corresponding to the full range of varying sound power levels and no turbine that could contribute to the noise level is disabled.

- B)** 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 1) 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
- C)** In the event the ambient noise level is proven, prior to permitting to exceed the applicable standard given above (26 dBA), the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is defined as the L90 sound pressure level. Ambient noise levels shall be measured at the non-participating, off-site property lines as determined by the acoustic measurement plan approved by the Planning Board. In addition, the ambient acoustic measurements shall be established at the exterior of potentially affected existing residences, schools, hospitals, churches and public libraries. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project site are sufficient to allow Wind Turbine operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location.
- D)** This section describes the steps to be taken to assess whether the wind farm noise reaching receivers at relevant locations will comply with the criteria of these guidelines.

 - 1)** Background noise is measured at relevant receiver locations over continuous 10-minute intervals and particularly over the range of wind speeds at which the WECS operate.

- 2) The data must adequately represent conditions at the site and cover approximately 2000 intervals. Wind speed is measured at 30 feet above the ground and in intervals that correlate with the background noise measurements.
 - 3) The wind speed data, together with the manufacturer's noise data for the WECS and using a suitable model, is then used to predict noise levels at each integer wind speed from cut-in to rated power, at relevant receiver locations.
 - 4) The correlated wind speed and background noise data are plotted against each other to give a standard graph for background noise at each relevant receiver. This graph is then used in conjunction with the predicted noise levels to assess whether the wind farm will meet the criteria of these guidelines.
 - 5) Background noise measurement position: All measurements should be made outdoors. The microphone should be positioned 4 to 5 feet above the ground and at least 16 feet from any reflecting surface (other than the ground).
 - 6) In general the protocol to be followed will be that of the Environmental Noise Guidelines: Wind Farms, Environment Protection Authority, Adelaide SA.
- E) Any noise level falling between two whole decibels shall be the lower of the two.
- F) Staged development:
- 1) The procedure and criteria presented in this Law consider a wind farm may be developed over a number of separate stages, or by different developers within different areas of the Town. A previous stage of the wind farm that is installed and operating may raise the background noise level at the relevant receivers by up to 5 dBA. Any subsequent stage in the development of the wind farm site should meet the criteria using the background noise levels as they existed prior to the wind farm. Therefore, the noise generated by existing WECS from a previous stage should not be considered as part of the background noise in determining criteria for subsequent stages.

- 2) Separate wind farm developments in close proximity to each other may impact on the same relevant receiver. Therefore, as for staged development, any additional wind farm that may impact on the same relevant receiver as an existing wind farm, should meet the criteria using the background noise levels as they existed before the original wind farm site development. The noise generated by existing WECS from another wind farm should not be considered as part of the background noise in determining criteria for subsequent development.

SECTION 1601.8 Setback Standards for Wind Energy Conversion Systems

Each WECS shall be setback from Site boundaries not less than, measured from the center of the WECS, yet more stringent set-backs may be determined, and those setbacks governed by the limits established in other sections of this law:

- A) 2 and 1/2 times the total height from the nearest public road.
- B) 2 and 1/2 times the total height from the nearest edge of the Wind Overlay District
- C) 2 and 1/2 times the total height from any residence or non WECS structure existing at the time of application on the lot on which the facility is located, measured from the exterior of such residence/structure and for non-participating properties, 2 and 1/2 times from the property line.
- D) Tower height plus 10% from any non-WECS above-ground utilities located within the project boundary.
- E) 500 feet from state-identified wetlands or bodies of water. This distance may be adjusted to be greater at the discretion of the reviewing body, based on topography, land cover, land uses and other factors that influence the flight patterns of resident birds, bats or other creatures.
- F) All WECS shall be setback a minimum of 2,500 feet from the
 - 1) schools and churches
 - 2) public land where people gather (public access sites)
- G) All setbacks from property lines and residences resulting from the noise limitations set forth in this law shall be in addition to any less restrictive setback defined above.

SECTION 1601.9 Issuance of Special Use Permits

- A)** Upon completion of the review process, the 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.
- B)** If approved, the Planning Board will issue a Special Use Permit for each WECS upon satisfaction of all conditions for said Permit, and direct the Building Inspector to issue a building permit, upon compliance with the Uniform Fire Prevention and Building Code and the other conditions of this Local Law.
- C)** The decision of the Planning Board shall be filed within five days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.
- D)** If any approved WECS is not substantially commenced within two years of issuance of the permit, the special use permit shall expire.

SECTION 1601.10 Abatement

- A)** If any WECS remains non-functional or inoperative for a continuous period of 1 year, the applicant agrees that, without any further action by the Town Board it shall remove said system at its own expense. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property. 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's ability to order a remedial action plan after public hearing.
- B)** 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 (subject to a nondisclosure agreement) to the Town Board all reports to and from the purchaser of energy from individual Wind Energy Conversion Systems, if requested, necessary to prove the WECS is functioning.
- C)** Decommissioning Bond or Fund. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town for the removal of non-functional towers and appurtenant facilities in an amount to be determined by the Town for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York-licensed financial institution. All costs of the financial security shall be borne by the applicant. All decommissioning funding requirements shall be met prior to commencement of construction.

The amount of the bond shall be reviewed annually by the Town Board.

SECTION 1601.11 Limitations on Approvals; Easements on Town Property

- A) 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.

- B) 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.

SECTION 1601.12 Permit Revocation

- A) Testing fund: A Special Use Permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as every two years, or more frequently upon request of the Town Board in response to concerns by residents or property owners. The initial fund shall be in the amount of \$25,000. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Special Use Permit and this Local Law and shall also include an evaluation of any complaints received by the Town. The applicant shall have 90 days after written notice from the Town Board, to cure any deficiency. An extension of the 90 day period may be considered by the Town Board, but the total period may not exceed 180 days.

- B) 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, the owner or operator shall remedy the situation within 90 days after written notice from the Town Board. The applicant shall have 90 days after written notice from the Town Board, to cure any deficiency. An extension of the 90 day period may be considered

by the Town Board, but the total period may not exceed 180 days.

- C) Notwithstanding any other abatement provision under this Local Law, and consistent with § 18(A) and §20(B), 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 Town Board shall have the right to use the security posted as part of the Decommission Plan to remove the WECS.

SECTION 1602 Wind Measurement Towers

SECTION 1602.1 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 not be limited to those areas delineated as Wind Overlay Districts.

- A) As a condition of the permit for the Met tower, all data collected shall be turned over to the Town on demand, at any time, when so requested by the Town Board.

- B) In addition, continuous sound recordings shall be collected in accordance with §16, paragraph D, and shall be turned over to the Town on a monthly basis.

SECTION 1602.2 Applications for Wind Measurement Towers

- A) An application for a Wind Measurement Tower shall include:
 - 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.

 - 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.

- 3) Address of each proposed tower Site, including Tax Map section, block and lot number.
- 4) Site plan.
- 5) Decommissioning Plan, including a security bond or cash for removal.

SECTION 1602.3 Standards for Wind Measurement Towers

- A) 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.
- B) Special Use Permits for Wind Measurement Towers may be issued for a period of up to twenty-six (26) months. Permits may be renewed if the Facility is in compliance with the conditions of the Special Use Permit.
- C) Anchor points for any guy wires for a Wind Measurement Tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from three to eight feet above the ground.

SECTION 1602.4 Application Review Process for Wind Measurement Towers

- A) 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.
- B) 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.
- C) 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.

- D) 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.
- E) 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 one mile 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.
- F) The public hearing may be combined with public hearings on any Environmental Impact Statement or requested variances.
- G) Notice of the project shall also be given, when applicable, to (1) the Cortland County Planning Board, if required by General Municipal Law §239-1 and 239-m, and (2) to adjoining Towns under Town Law §264.
- H) 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.
- I) 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 local law.

Section 1603 Small Wind Energy Conversion Systems

Section 1603.1 Purpose and Intent

The purpose of this section 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 on-site 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

Section 1603.2 Permitted Areas

Small Wind Energy Conversion Systems (Small WECS) may be permitted in any zoning district on a site of at least 1 acre, upon issuance of a Special Use Permit by the planning board. A Small WECS shall be set back from all property lines and residences a distance equal to at least 1.5 times its height. Any adjoining property owner within a radius of 4 times the height of the proposed small WECS will be required to grant approval for construction and operation of the turbine.

Section 1603.3 Applications

Applications for Small WECS special use permits shall include:

- A)** 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.
- B)** 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.
- C)** Address of each proposed tower Site, including Tax Map section, block and lot number.
- D)** 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.
- E)** Ownership and land use information within a 500-foot radius of the location proposed for each tower.

- F) Evidence that the proposed tower height does not exceed the height recommended by the manufacture or distributor of the system.
- G) 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.
- H) Sufficient information demonstrating that the system will be used primarily to reduce off-site consumption of electricity.
- I) 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.
- J) 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.

Section 1603.4 Application Review Process

- A) 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.
- B) 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.
- C) 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.
- D) 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.

- E) 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 1,000 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.
- F) The public hearing may be combined with public hearings on any Environmental Impact Statement or requested variances.
- G) Notice of the project shall also be given, when applicable, to (1) the Cortland County Planning Board, if required by General Municipal Law §239-1 and 239-m, and (2) to adjoining Towns under Town Law §264.
- H) 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.
- I) Upon receipt of the report of the recommendation of the County Planning Board, 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 local law.

Section 1603.5 Development Standards

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 zoning law that are not in conflict with the requirements contained in this section.

- A) A Small WECS system shall be located on a lot a minimum of one acre in size, however, this requirement can be met by multiple owners

submitting a joint application.

- B)** Small WECSs may be used primarily to generate on-site power or to reduce the off-site supply of electricity.
- C)** Tower height may be allowed to vary, dependent on the technology employed. However, setbacks from all property lines shall be maintained, at a minimum, at one and a half times the total height of the tower.
 - 1)** The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.
- D)** The system's tower 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 any visual disruption.
- E)** The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails). To the greatest extent feasible a small wind energy system shall use natural landforms and vegetation for screening.
- F)** Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
- G)** 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.
- H)** The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.
- I)** 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.

- J)** At least one sign shall be posted on the tower at a height of five 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's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.
- K)** Owners shall be constructed to provide one of the following means of access control, or other appropriate method of access:
 - 1)** Tower-climbing apparatus located no closer than 12 feet from the ground.
 - 2)** A locked anti-climb device installed on the tower.
- L)** Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from three to eight feet above the ground.
- M)** Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.
- N)** To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a 250 foot radius. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.
- O)** All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Building Code and National Electric Code.
- P)** All small wind energy systems 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.

- Q) The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects shall be adhered to both inside and outside of agricultural districts.

Section 1603.6 Standards

- A) Small Wind Energy System shall comply with the following standards:

- 1) Setback requirements. A Small WECS shall not be located closer to a property line than one and a half times the Total Height of the facility.
- 2) Noise. Except during short-term events including utility outages and severe windstorms, a Small WECS shall be designed, installed, and operated so that noise generated by the system shall not exceed ambient plus 5 decibels (dBA), as measured at the closest neighboring property line.

Section 1603.7 Abandonment of Use

- A) 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 any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Town of Virgil.
- B) All Small WECS shall be maintained in good condition and in accordance with all requirements of this section.

Section 1604 Miscellaneous

- A) Building Permits: The Town of Virgil believes the review of building and electrical permits for Wind Energy Facilities requires specific expertise for those facilities. Accordingly, for such facilities an administrative fee 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. In the alternative, the Town and the applicant may enter into an agreement for an inspection and/or certification procedure for these unique facilities. In such case, the Town and the applicant will agree to a fee arrangement and escrow agreement to pay for the costs of the review of the plans, certifications or conduct inspections as agreed by the parties, document handling and storage.
- B) 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 fair, reasonable and customary for the area, of any application review, including the review required by SEQRA.

- C)** In addition to the amendments being made to the Zoning Law of the Town of Virgil, the Town Board of the Town of Virgil also hereby exercises its right to opt out of the tax exempting provisions of the Real Property Tax Law Section 487, pursuant to the authority granted by Section 487 subdivision 8.

ARTICLE XVI: SOLAR COLLECTORS & INSTALLATIONS FOR MINOR SYSTEMS

Commented [P29]: Added via LL # 1 of 2017; in 2009 Article 16 was added via LL #1 of 2009 but never updated in the full zoning law so there are now 2 Article 16s

SECTION 1601 Solar Collectors and Installations for minor systems

- A)** Roof top mounted solar collectors for minor systems are permitted in any zoning districts in the Town.
- B)** Ground-mounted and freestanding solar collectors for minor systems are permitted as accessory structures in all zoning districts of the Town. Subject to the following requirements:
 - 1)** The location of the solar collectors meets all applicable setback requirements of the zone in which they are located.
 - 2)** The height of the solar collectors and any mounts shall not exceed the height restrictions of the zone when oriented at maximum tilt.
 - 3)** The total surface area of all solar collectors on the lot shall not exceed 3,000 square feet and, when combined with all other buildings and structures on the lot, shall not exceed fifty-percent lot coverage.
 - 4)** A building permit has been obtained for the solar collectors.
 - 5)** The solar collectors are located in a side or rear yard.
 - 6)** Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties and roads.
- C)** Site plan approval is required pursuant to zoning law Article XIII. Any site plan review shall include review of the adequacy, location, arrangement, size, design, impacts to aesthetic resources, and general site compatibility of proposed solar collectors.
- D)** Construction shall be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards. Prior to operation the electrical connections shall be inspected by the Town 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 shall be subject to inspection by the appropriate public

utility.

- E) When solar storage batteries are included as part of the solar collector system, they shall be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Cortland County and other applicable laws and regulations.

SECTION 1602 Solar collectors and installations for major systems or solar farms

- A) Where applicable, and unless more restrictive regulations also apply, the requirements of § 3 of this Article shall apply to solar Collectors and installations for major systems or solar farms.
- B) A major system or solar farm may be constructed subject to obtaining a special permit from the town board. Issuance of a special permit shall be in the sole discretion of the town board. Any application regarding major solar systems shall include detailed soil maps.
- C) The following areas must be avoided:
 - 1) One-hundred-year flood hazard zones
 - 2) Historic and/or culturally significant resources in an historic district or historic, district transition zone
 - 3) Any regulated freshwater wetland
- D) A major system or solar farm may be permitted in any zone in the town when authorized by the town board subject to the following terms and conditions:
 - 1) The total coverage of all buildings and structures on a lot, including freestanding solar panels, shall not exceed 5 0%.
 - 2) Height and setback restrictions:
 - i) The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed 15 feet in height, above the ground
 - ii) The minimum setback from property lines for fences and solar equipment shall be 50 feet from the center of

a road or the property line, whichever is greater

- iii) A landscaped buffer shall be provided around all equipment and solar collectors to provide screening from adjacent residential properties and roads as needed

3) Design standards:

- i) Removal of trees and other existing vegetation shall be minimized or offset with planting elsewhere on the property.
- ii) Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize soil compaction.
- iii) All on-site utility and transmission lines shall, to the extent feasible, be placed underground.
- iv) Solar collectors and other facilities shall be designed and located in order to minimize reflective glare toward any inhabited buildings on adjacent properties and roads.
- v) All solar equipment, including any structure for batteries or storage cells, shall be enclosed by a minimum six-foot-high fence with a secure gate and shall be provided with landscaping.

4) Signs:

- i) A sign not to exceed eight square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number.

5) A clearly visible warning/disconnect sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations

6) Abandonment:

- i) All applications for a solar farm shall be accompanied by a decommissioning plan to be implemented upon

abandonment or cessation of activity, or in conjunction with removal of the facility, prior to issuance of a building permit.

- ii) If the applicant begins but does not complete construction of the project within 12 months after receiving special permit approval, this may be deemed abandonment of the project and require implementation of the decommissioning plan to the extent applicable
- iii) The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:
 - (a) Removal of aboveground and below-ground 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 time frame for the completion of site restoration work
- iv) In the event the facility is not completed and functioning within 12 months of the issuance of the special permit, the Town may notify the operator and/or the owner to complete construction and installation of the facility within 180 days. If the owner and/or operator fail to perform, the Town may notify the owner and/or operator to implement the decommissioning plan, the decommissioning plan must be completed within 180 days-of notification by the Town
- v) Upon cessation of activity of a constructed facility for a period of one year, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within 180 days of notice being served, the owner and/or operator can either restore operation equal to 80% of approved capacity or

implement the decommissioning plan

- vi) If the owner and/or operator fails to fully implement the decommissioning plan within the one-hundred-eighty-day time period, the Town may, at its discretion, provide for the restoration of the site in accordance with the decommissioning plan and may recover all expenses incurred for such activities from the defaulted owner and/or operator. Any and all costs incurred by the Town shall be assessed against the property, shall become a lien and tax upon the property, and shall be enforced and collected with interest by the same officer and in the same manner as other taxes.

SECTION 1603 Reclamation Bond

The Town Board shall have the authority to require a reclamation bond in an amount reasonably related to the expected cost to remove the facilities and restore the land.

SECTION 1604 Application Fees

The Town Board shall have the authority to set application fees by resolution.