New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
www.dos.ny.gov

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

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

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

of Hartsville

FILED
STATE RECORDS
OCT 22 2018
DEPARTMENT OF STATE

Local Law No. 3 **of the year 20** 18

A local law To provide Amendment to Clean energy wind + Solar law
(Insert Title)

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

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

of Hartsville **as follows:**

See attached pages

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 20 18 of the (County)(City)(Town)(Village) of Hartsville was duly passed by the Town Board on July 20 18, in accordance with the applicable provisions of law.

(Name of Legislative Body)

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

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

(Name of Legislative Body)

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

(Elective Chief Executive Officer)*

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

3. (Final adoption by referendum.)

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

(Name of Legislative Body)

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

(Elective Chief Executive Officer)*

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

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

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

(Name of Legislative Body)

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

(Elective Chief Executive Officer)*

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

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

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

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

Vivian Woodward
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: 10/11/18

Motion Dated October 10, 2018 to amend Local Law #3 of 2018, Clean Energy Facilities (Wind and Solar) Law of the Town of Hartsville, Steuben County, New York. The following sections of the Local Law #3 of 2018 are hereby amended to read as follows:

1. Page 2 - SOUND PRESSURE LEVEL - means the level which is equaled or exceeded a stated percentage of time. *DELETE: Refer to Article 10 SEQRA standards.*

2. Page 5 - Section 8. Paragraph C: item 2. Noise Study. A noise analysis documenting the noise levels associated with the proposed IWTG. *DELETE: Refer to the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.*

3. Page 15 - Section 25. Paragraph C. Industrial Noise Level Limit. *DELETE: Refer to the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.* **ADD:** Except during short-term events including utility outages and severe wind storms, an Industrial WTG shall be designed, installed, and operated so that noise generated by the system shall not exceed 50 decibels (dBA), as measured at the closest neighboring inhabited dwelling.

4. Page 16 - Section 28. Paragraph F. IWTG Noise Level Limit. *DELETE: Refer to the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.* **ADD:** Refer to Page 15, Section 25, Paragraph C. Industrial WTG Noise Level Limit.

Motion is presented by John A. Bowles, Supervisor, seconded by Leon Woodworth

After discussion the vote is taken as follows:

Randy Amidon, Councilperson Nays
Rodney Caward, Councilperson Ayes
Russell Gerow, Councilperson — - *Abstained, conflict of interest*
Leon Woodworth, Jr., Councilperson Ayes
John A. Bowles, Supervisor Ayes

The Motion is X Approved _____ Denied

Vivian Woodworth
Vivian Woodworth, Town Clerk

10/10/18
Date

Short Environmental Assessment Form
Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information
N/A

Name of Action or Project:
Town of Hartsville, Steuben County, New York Local Law #3 of 2018 - Clean Energy Facilities (Wind and Solar) Law

Project Location (describe, and attach a location map):
Town of Hartsville, Steuben County, New York

Brief Description of Proposed Action:
Town of Hartsville, Steuben County, New York Local Law #3 of 2018 - Clean Energy Facilities (Wind and Solar) Law

Name of Applicant or Sponsor:	Telephone: (607) 698-4940
Town of Hartsville	E-Mail: hartsvillets17@gmail.com

Address:
5150 Purdy Creek Road

City/PO:	State:	Zip Code:
Homell	New York	14843

	NO	YES
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.	☐	☑
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Steuben County Planning Department	☐	☑

3.a. Total acreage of the site of the proposed action? N/A acres
b. Total acreage to be physically disturbed? N/A acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? N/A acres

4. Check all land uses that occur on, adjoining and near the proposed action.
☐ Urban ☑ Rural (non-agriculture) ☐ Industrial ☐ Commercial ☐ Residential (suburban)
☑ Forest ☑ Agriculture ☐ Aquatic ☐ Other (specify): _____
☐ Parkland

	NO	YES	N/A
5. Is the proposed action,			
a. A permitted use under the zoning regulations?	☐	☐	☑
b. Consistent with the adopted comprehensive plan?	☐	☐	☑

	NO	YES
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	☑	☐

	NO	YES
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?		
If Yes, identify: N/A	☑	☐

	NO	YES
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	☑	☐
b. Are public transportation service(s) available at or near the site of the proposed action?	☑	☐
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	☑	☐

	NO	YES
9. Does the proposed action meet or exceed the state energy code requirements?		
If the proposed action will exceed requirements, describe design features and technologies:	☑	☐

	NO	YES
10. Will the proposed action connect to an existing public/private water supply?		
If No, describe method for providing potable water: N/A	☑	☐

	NO	YES
11. Will the proposed action connect to existing wastewater utilities?		
If No, describe method for providing wastewater treatment: N/A	☑	☐

	NO	YES
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	☑	☐
b. Is the proposed action located in an archeological sensitive area?	☑	☐

	NO	YES
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	☑	☐
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	☑	☐
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres:		

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:

☐ Shoreline ☑ Forest ☑ Agricultural/grasslands ☐ Early mid-successional
☑ Wetland ☐ Urban ☐ Suburban

	NO	YES
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	☑	☐

	NO	YES
16. Is the project site located in the 100 year flood plain?	☑	☐

	NO	YES
17. Will the proposed action create storm water discharge, either from point or non-point sources?		
If Yes,		
a. Will storm water discharges flow to adjacent properties? ☐ NO ☐ YES	☑	☐
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? ☐ NO ☐ YES		
If Yes, briefly describe:		

	NO	YES
18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size:	☑	☐
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	☑	☐
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	☑	☐

I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor name: Town of Hartsville – John A. Bowles, Town Supervisor Date: 10/3/2018

Signature: John A Bowles

PRINT FORM

Agency Use Only [If applicable]

Project:

Date:

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.
Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	☑	☐
2. Will the proposed action result in a change in the use or intensity of use of land?	☑	☐
3. Will the proposed action impair the character or quality of the existing community?	☑	☐
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	☑	☐
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	☑	☐
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	☑	☐
7. Will the proposed action impact existing: a. public / private water supplies?	☑	☐
b. public / private wastewater treatment utilities?	☑	☐
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	☑	☐
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	☑	☐
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	☑	☐
11. Will the proposed action create a hazard to environmental resources or human health?	☑	☐

PRINT FORM

Agency Use Only [If applicable]

Project:

Date:

Short Environmental Assessment Form
Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

☑ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Town of Hartsville	10/3/2018
Name of Lead Agency	Date
John A. Bowles	Town Supervisor
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT FORM

LOCAL LAW #3 OF 2018
CLEAN ENERGY FACILITIES (WIND AND SOLAR) LAW
OF THE TOWN OF HARTSVILLE, STEUBEN COUNTY, NEW YORK

ARTICLE I

Section 1. Title

This Local Law may be cited as the Local Law #3 of 2018 - Clean Energy Facilities (Wind and Solar) Law of the Town of Hartsville, New York and is adopted to read in its entirety as follows. Local Law No. 2 of 2009 is hereby repealed in its entirety and replaced with this Local Law #3 of 2018.

Section 2. Purpose

The Town Board of the Town of Hartsville adopts this Local Law to promote the effective and efficient use of the Town's Wind and Solar Energy resources through Wind Turbine Generators (WTGs), and Solar Panels, and to regulate the placement of such systems so that public health, safety and welfare will not be jeopardized.

Section 3. Authority

The Town Board of the Town of Hartsville enacts this Local Law under the authority granted by:

1. Article IX of the New York State Constitution, Section 2(c)(6) and (10).
2. New York Statute of Local Governments, Section 10 (1) and (7).
3. New York Municipal Home Rule Law, Section 10 (1)(i) and (ii) and Section 10 (1)(a)(6), (11), (12), and (14).
4. New York Town Law Section 130 (1) (Building Code), (3) (Electrical Code), (5) (Fire Prevention), (7) (Use of Streets and Highways), (7-a) (Location of Driveways), (11) (Peace, good order and safety), (15) (Promotion of public welfare), (15-a) (Excavated Lands), (16) (Unsafe Buildings), (19) (Trespass), and (25) (Building lines).
5. New York Town Law, Section 64 (17-a) (Protection of aesthetic interests), (23) (General Powers).

Section 4. Definitions

As used in this Local Law, the following terms and conditions shall have the meanings indicated:

AGRICULTURAL OR FARM OPERATIONS - means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock. Such farm operations may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

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.

RESIDENCE - means any dwelling suitable for year-round habitation existing in the Town of Hartsville on the date an application is received. A residence may be part of a multi-dwelling or multi-purpose building, but shall

not include buildings such as hunting camps, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes, or correctional institutions.

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

SOUND PRESSURE LEVEL - means the level which is equaled or exceeded a stated percentage of time.

SITE - The parcel(s) of land where a Wind Energy Facility is to be placed. The Site can 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 off-site.

SMALL WIND TURBINE GENERATOR - ("Small WTG") - A wind turbine generator 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 reduce consumption of utility power at that location.

TOTAL HEIGHT - The height of the tower and the furthest vertical extension of the WTG including blades.

INDUSTRIAL WIND TURBINE GENERATOR ("IWTG") - A machine which converts the kinetic energy of the wind into electricity available for use beyond that used by the machine (commonly known as a "wind turbine" or "windmill").

WIND ENERGY FACILITY - Any IWTG, Small WTG, 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 ENERGY PERMIT - A permit granted pursuant to this Local Law granting the holder the right to construct, maintain and operate a Wind Energy Facility.

Section 5. Findings.

A. The Town Board of the Town of Hartsville determined that:
   1. Wind energy is an abundant, renewable and nonpolluting energy source of the Town and its conversion to electricity may reduce dependence on non-renewal energy sources and decrease the air and water pollution that results from the use of conventional energy sources.
   2. The generation of electricity from properly sited wind turbines, including small systems, can be cost effective, and in many cases existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other users, or energy consumption at that location can be reduced.
   3. Regulation of the siting and installation of wind turbines is necessary for the purpose of protecting the health, safety and welfare of neighboring property owners and the general public.
   4. Wind turbines may represent significant potential aesthetic impacts because of their size, lighting, and shadow effects, if not properly sited.

5. If not properly regulated, installation of Wind Energy Facilities can create drainage problems through erosion and lack of sediment control for facility and access road sites, and harm farmlands through improper construction methods.
6. Wind turbines may present a risk to bird and bat populations if not properly sited.
7. Wind turbines may be significant sources of noise, which if unregulated, can negatively impact adjoining properties.
8. Without proper planning, construction of Wind Energy Facilities can create traffic problems and damage local roads.

Section 6. Permits Required; Transfer; Modifications.

A. Permit Requirements:
1. No Wind Energy Facility shall be constructed or operated in the Town of Hartsville except in compliance with this Local Law.
2. No IWTG shall be constructed or operated in the Town of Hartsville except with a Wind Energy Facility Permit issued pursuant to this Local Law.
3. No Wind Measurement Tower shall be constructed in the Town of Hartsville except pursuant to a Wind Energy Facility Permit issued pursuant to this Local Law.
4. No Small WTG shall be constructed or operated in the Town of Hartsville except pursuant to a Wind Energy Permit issued pursuant to this Local Law.

B. Applicability. This Local Law shall apply to all areas of the Town of Hartsville

C. Agricultural Use Exemption. No permit or other approval shall be required under this Chapter for a WTG utilized solely for agricultural operations in a state or county agricultural district, as long as the facility is set back at least 1.5 times its total height from a property line, 1.3 times it total height from a roadway, and power line and two times its total height from any permanent structure on property not owned by the applicant, and does not exceed 120 feet in height. Towers over 120 feet in Total Height utilized solely for agricultural operations in a State or County agricultural district shall apply for a special use permit in accordance with Article II of this Local Law, but shall not require a height variance. Prior to the construction of a WTG under this exemption, the property owner or a designated agent shall submit a sketch plan or building permit application to the Town to demonstrate compliance with the setback requirements.

D. Transfer. Transfer of any Wind Energy Facility or Wind Energy Permit to an entity other than the applicant to whom the permit was issued shall require approval of the Town, which approval shall be granted upon written acceptance of a duly qualified transferee of the obligations of the transferor under this Local Law. No transfer shall eliminate the liability neither of an applicant nor of any other party under this Local Law.

E. Facility Modifications. Notwithstanding the requirements of this Section, replacement in kind or modification of a Wind Energy Facility may occur without Town Board approval when (i) there will be no increase in Total Height; (ii) no change in the location of the IWTG; (iii) no additional lighting or change in facility color; and (iv) no increase in noise produced by the IWTG.

Section 7. Applicability

A. The requirements of this Local Law shall apply to all Wind Energy Facilities proposed 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 existing 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.

ARTICLE II

Wind Turbine Generators - Industrial (IWTG)

Section 8. Applications for Wind Energy Permits for Wind Turbine Generators - Industrial

A. Application Contents. An application for a Wind Energy Permit for an IWTG shall include the following:

1. Applicant Information. Name, address, telephone number of 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. Property Owner Information and Authorization. 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. Adjacent Owners. A list of property owners, with their mailing address, within 500 feet of the boundaries of the proposed Site. The applicant may delay submitting this list until the Town Board calls for a Public Hearing on the application.
4. Parcel Information. Address, or other property identification of each proposed Tower location, including tax map section, block and lot number.
5. Project Description. A description of the project, including the number and maximum rated capacity of each IWTG.
6. Plot Plans. A set of plot plans containing sufficient detail to clearly describe the following:
   a) Property lines and physical dimensions of the Site;
   b) Locations of all proposed facilities, including IWTG, access roads, electrical lines, substations, storage or maintenance units, and fencing;
   c) Locations of Residences and other major existing structures on the Site and within five hundred (500) feet of the Site boundaries;
   d) Locations of parcels adjoining the Site;
   e) Locations of public roads on the Site;
   f) Locations of all public utility lines on the Site;
   g) To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed IWTG location equal to the Tower Height and the setback distances specified in Section 25B of this Local Law.
7. Wind Turbine Information. One drawing or other set of information may be submitted for each IWTG of the same type and Total height. For each type of IWTG proposed, the application shall include:

a) A vertical drawing of the IWTG showing Total Height, turbine dimensions, tower and turbine colors, distance between ground and lowest point of any blade, location of climbing pegs, and access doors.
b) Make, model, picture and manufacturer's specifications, including information on noise levels during IWTG operation.
c) Manufacturer's 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.

8. Landscaping Plan. A plan depicting existing vegetation and describing any areas to be cleared and the specimens proposed to be added.
9. Lighting Plan. A plan showing any FAA-required lighting and other proposed lighting.
10. Decommissioning Plan. The applicant shall submit a decommissioning plan, which shall include: (i) the anticipated life of the IWTG; (ii) the estimated decommissioning plan in current dollars; (iii) how said estimate was determined; (iv) the method of ensuring that funds will be available for decommissioning and restoration; (v) the method that the decommissioning cost will be kept current; (vi) the manner in which the IWTG will be decommissioned and the Site restored.
11. Complaint Resolution Plan. The application will include a complaint resolution process to address complaints from nearby residents. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve the complaint. The applicant shall shut down within 24 hours if unexpected noise issues manifest.
12. Construction Information. An applicant 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
    b) A description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.
13. EAF. Environmental Assessment Form as per the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.
14. Signed Statement. A statement, signed under penalties of perjury, that the information contained in the application is true and accurate.

B. Positive Declaration. Refer to the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.

C. Environmental Studies. Refer to the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.
    1. Visual Impact Assessment. A visual impact assessment (VIA) of the proposed IWTG as installed. Refer to the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.
    2. Noise Study. A noise analysis documenting the noise levels associated with the proposed IWTG.
    3. Shadow Study. A study on potential shadows from the IWTG. Refer to the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.
    4. Communications Impacts. An assessment of potential interference of the proposed IWTG with microwave, radio, television, personal communication systems and other wireless communications. Refer to the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.
    5. Fire Protection Plan. A fire protection and emergency response plan, created in consultation with the fire department having jurisdiction over the proposed Site. Refer to the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.

Section 9. Application Review Process.

A. Pre-Application Meeting. Applicants may request a pre-application meeting with the Town Board or with any consultants prior retained by the Town Board for application review. Meetings with the Town Board shall be conducted in accordance with the Open Meetings Law.

B. Escrow Agreement. The Town may require the applicant to fund an escrow agreement to cover the amount by which the Town's cost to review the applicant's applications exceed the application fees paid by the applicant.

C. Application Submittal. Six copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be paid at the time of application submission.

D. Application Completion Review. This review shall fall under the Article 10 process administered by the Department of Public Service.

E. Board Receipt of Applications. Upon submission of a complete application, including the grant of any application waiver by the Town Board, the Town Clerk shall submit the application to the Town Board.

F. Public Hearing. The Town Board shall hold at least one public hearing on the application as stipulated in the Article 10 process.

G. County Planning Board Notice. Notice of the project shall also be given when applicable to the Steuben County Planning Board, if required by General Municipal Law Section 239-l and 239-m.

H. SEQRA Review. IWTG applications shall be handled according to the DPS Article 10 rules and regulations.

I. SEQRA Findings. At the completion of the SEQRA review process there shall be issued a Statement of Findings according to the DPS Article 10 rules and regulations.

J. Application Decision. Upon receipt of the recommendations of the DPS and the holding of a public hearing, the Town Board may approve, approve with conditions, or deny the applications, in accordance with the standards of this Article.

Section 10. Standards for Wind Energy Facilities.

The following standards shall apply to all Wind Energy Facilities, unless specifically waived by the Town Board as part of a Wind Energy Permit:

A. Collection Lines. All power collection lines from the Tower to any building or other structure shall be located underground to the maximum extent practicable.

B. Antennae Location. No television, radio or other communications antennae may be affixed or otherwise made part of any IWTG, except pursuant to the Town Code. Applications may be jointly submitted for IWTG and communications facilities.

C. Advertising. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.

D. IWTG Lighting. No IWTG shall be lit except to comply with FAA requirements, lights will be red or orange of color. Developers of Wind Energy Facilities shall install an aircraft detection lighting system if feasible and approved by the FAA. Refer to the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.

E. Visual Impact Mitigation. Applicants shall use measures to reduce the visual impact of the IWTG to the extent possible.
   1. IWTGs shall use tubular towers.
   2. IWTGs shall be finished in a single, non-reflective matte finished color.

F. Guy Wires. The use of guy wires for IWTGs is disfavored. An IWTG using guy wires for tower support shall incorporate appropriate measures to protect the guy wires from damage which could cause tower failure.

G. Microwave Links. Refer to the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.

H. Waste removal. Solid waste, hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all appropriate rules and regulations.

I. Clearing. Wind Energy Facilities shall be designated to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas will be given priority wherever possible.

J. Wildlife. An IWTG shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity. Refer to the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.

K. Wetlands. IWTGs shall be located in a manner consistent with all applicable state and federal wetlands laws and regulations. Refer to the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.

L. Storm Water. Storm water run-off erosion control shall be managed in a manner consistent with all applicable state and federal laws and regulations. Refer to the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.

M. Construction Times. Construction of IWTGs during non-daylight hours shall not generate nuisance noises, and any construction during non-daylight hours will require approval by the Town Board. Weekdays, from daylight to dark. Night hours or Saturday or Sunday hours must have Town Board approved variance. (Town Board call schedule to be developed.)

Section 11. Required Safety Measures

A. Controls. Each IWTG 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. Minimum Blade Height. The minimum distance between the ground and any part of the rotor or blade system shall be twenty (20) feet.

C. Signs. 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. The Town Board may require additional signs based on safety needs.

D. Climbing Pegs. No climbing pegs or tower ladders shall be located less than twelve (12) feet from the ground level at the base of the structure for freestanding single pole or guyed towers.

E. Access Control. IWTGs shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.

F. Dust Control. The applicant will ensure that dust control measures are implemented during the construction of the IWTG.

Section 12. Roads and Traffic

A. Traffic Routes. Construction and delivery vehicles for Small or Industrial WTGs and Wind Energy Facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include (i) minimizing traffic impacts from construction and delivery vehicles; (ii) minimizing WTG related traffic during times of school bus activity; (iii) minimizing wear and tear on local roads; (iv) minimizing impacts on local business operations; and (v) controlling dust exposures from construction traffic. Wind Energy Permit conditions may limit IWTG-related traffic to specified routes, and include a plan for disseminating traffic route information to the public.

B. Road Remediation. The applicant shall be responsible for remediation of roads damaged upon or during the construction or completion of a Small or Industrial WTG. 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 that is not corrected by the applicant.

C. IWTG Access Roads.
   1. Any IWTG facility access road off Town or County Roads are to be maintained 100% by the responsible party representing the IWTG owner/operator.
   2. Any care or maintenance of Town Seasonal Roads (per season dates) necessary for access to any IWTG will be the total responsibility of the IWTG owner/operator.
   3. The Town of Hartsville may elect, for a reasonable fee, to enter into an expanded Road Use Agreement to enhance wind developer access to IWTG units during difficult and/or emergency conditions.

Section 13. Noise and Setback Easements.

A. In the event a Wind Energy Facility does not meet a setback requirement or exceeds noise or other criteria established in the Local Law as it existed at the time the Wind Energy Permit is granted, a waiver will be granted from such requirement by the Town Board in the following circumstances:
   1. Written consent from the affected property owners has been obtained stating that they are aware of the Wind Energy Facility and the noise and/or setback limitations imposed by this Local Law, and that consent is granted to (i) allow noise levels to exceed the maximum limits otherwise allowed or (ii) setbacks less than required; and
   2. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, has been recorded in the County Clerk's Office describing the benefited and burdened properties. Such easements shall be permanent and shall state that they may not be

revoked without consent of the Town Board. Consent shall be granted upon the completion of the decommissioning of the benefited IWTG in accordance with this Article, or the acquisition of the burdened parcel by the owner of the benefited parcel or the IWTG.

B. Waivers granted under this Section differ from waiver requests under Article IV of this Local Law in that no Article IV waiver is required if a waiver is given under this Section and an Article IV waiver must be sought rather than a waiver under this Section if the adjoining property owner will not grant an easement pursuant to this Section.

Section 14. Issuance of Wind Energy Permits

A. Upon completion of the review process, the Town 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 Town Board will direct the Town Clerk to issue a Wind Energy Permit 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 other pre-construction conditions of this Local Law.

C. The decision of the Town Board shall be filed within five (5) working days in the Office of the Town Clerk and a copy mailed to the applicant by first class mail.

Section 15. Approval of Turbulence Easements

A. Wind Flow. This Local Law shall be deemed a guarantee against any future impediment that may in any way impact the wind flow to any Wind Energy Facility. It shall be the sole responsibility of the Facility operator and/or owner to acquire any necessary wind flow or turbulence easements.

B. Easements on Town Owned Property. 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 16. Permit Revocation; Abatement

A. Operation. An IWTG 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.

B. Violations of Permit Conditions. Should an IWTG 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 the written notice from the Town Board to cure any deficiency, and the Town Board may grant extensions of the 90 day cure period.

C. Public Hearing and Remedial Action. Notwithstanding any other abatement provision under this Local Law, if the IWTG is not brought into permit compliance after said notice, the Town Board may, after a public meeting at which the operator or owner shall be given opportunity to be heard and to present evidence, including a plan to come into compliance, (i) order either remedial action within a particular

timeframe, or (ii) order revocation of the Wind Energy Permit for the IWTG and require the removal of the IWTG within 90 days. If the IWTG is not removed, the Town Board shall have the right to use the security posted as part of the Decommission Fund to remove the IWTG.

D. Inoperative IWTG. If any IWTG remains non-functional or inoperative for a continuous period of one (1) year, the applicant agrees that, without further action by the Town Board, the applicant shall remove the IWTG.
   1. This provision shall not apply if the applicant demonstrates to the Town Board that it has been making good faith efforts to restore the IWTG to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after a public hearing.
   2. IWTG non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA, New York Independent System Operator, or by lack of income generation. Upon request of the Town Board, the applicant shall make available (subject to a non-disclosure agreement) to the Town Board all reports to and from the purchaser of energy from an individual IWTG necessary to prove the IWTG is functioning, which reports may be redacted as necessary to protect proprietary information.
   3. Developer must submit a statement of protocol (to be approved by the Town Board) for the shut down (within 24 hours) of any malfunctioning IWTG causing excessive mechanical sound not related to normal functioning.

E. IWTG Removal and Remediation. IWTG removal shall include removal of all above-ground equipment, removal of foundations to a depth of four (4) feet below grade, restoration of soil conditions, and restoration of vegetation to be consistent and compatible with surrounding vegetation.

F. Decommissioning Fund. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town for the removal of inoperative IWTGs, 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 fund requirements shall be fully funded before a building permit is issued.

ARTICLE III

Wind Measurement Towers

Section 17. Wind Site Assessment

The Town Board acknowledges that prior to construction of an IWTG, a wind site assessment is conducted to determine the wind speeds and the feasibility of using particular Sites. The installation of Wind Measurement Towers, also known as meteorological ("Met") towers, shall be permitted on the issuance of a Wind Energy Permit in accordance with this Article.

Section 18. Applications for Wind Measurement Towers

A. Applications. An application for a Wind Measurement Tower shall include:
   1. Applicant Information. 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 the original signature of the applicant authorizing the representation.

2. Property Owner Information and Authorization. Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
3. Site Information. The address of each proposed tower location, including tax map section, block and lot number.
4. Map. A map showing proposed location of the Wind Measurement Tower and any roads, parcel boundaries or structures within 1.2 times the height of the wind measurement tower.

Section 19. Standards for Wind Measurement Towers.

A. Setback. The distance between a Wind Measurement Tower and the property line shall be at least 1.2 times the height of the Wind Measurement Tower. Sites for a Wind Measurement Tower can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring properties are also allowed with the consent of those property owners.

B. Permit Duration. Wind Energy Permits for Wind Measurement Towers may be issued for a period of up to two (2) years. Permits shall be renewable upon application to the Town Board.

ARTICLE IV

Small Wind Turbine Generators

Section 20. Purpose and Intent.

The purpose of this Article is to provide standards for Small WTGs designed for home, farm and small commercial use on the same parcel, and that are primarily used to reduce consumption of utility power at that location. 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 21. Applications.

Applications for Small WTG Wind Energy permits shall include:

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

C. Site Information. Address of each proposed tower location, including tax map section, block and lot number.

D. Height Information. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system (up to 120' total) without Town Board approved variance.

E. Electrical Drawing. 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 Uniform Fire Prevention Code.

F. Electric Use. Sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location.

G. Utility Notice. Written evidence that the electric utility 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, and so states in the application, to connect the system to the electricity grid.

H. Visual Analysis. A visual analysis of the Small WTG as installed, which may include a computerized photographic simulation, demonstrating the visual impact 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 22. Development Standards.

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

A. Lot Size. A 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. Number. Only one small wind energy system tower per legal lot shall be allowed, unless there are multiple applicants, in which their joint lots shall be treated as one for the purposes of this Article.

C. Use. Small wind energy systems shall be used primarily to reduce the on-site consumption of electricity.

D. Height. Tower heights up 120' will be allowed. 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.

E. Output. The maximum turbine power is limited to 100 kw.

F. Color. 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 incorporates non-reflective surfaces to minimize any visual disruption.

G. Visual impact. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas

H. Lighting. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.

I. Electric Lines. 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, tower and lines. This standard may be modified by the decision-maker if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.

J. Electromagnetic Interference. The system shall be certified and operated by the owner that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the owner shall promptly mitigate the harmful interference or cease operation of the system.

K. Signs. 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 unless a variance is obtained from the Town Board/Planning Board.

L. Access Control. Towers 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.
(3) A locked, protective fence at least six feet in height that encloses the tower.

M. Anchors. 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 enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.

N. Access Roads. 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.

O. Code Compliance. All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Prevention and Building Code.

P. Controls. 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.

Section 23. Standards.

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

A. Setbacks. Each WTG shall be located with the following minimum setbacks, as measured from the center of the WTG:
1. 2 times the WTG Total Height from off-Site residences, measured from the exterior of such residence.

2. 1.5 times the WTG Total Height from the nearest Site boundary property line
3. 1.3 times the WTG Total Height from the right-of-way of all public roads
4. 1.3 times the WTG Total Height from above-ground utilities, unless waived by the utility companies
5. 1.5 times the WTG Total Height from off-Site occupied and permanent structures

B. Noise. Except during short-term events including utility outages and severe wind storms, a Small WTG shall be designed, installed, and operated so that noise generated by the system shall not exceed 50 decibels (dBA), as measured at the closest neighboring inhabited dwelling.

Section 24. Abatement.

A. Operation. All Small WTGs shall be maintained in good condition and in accordance with all requirements of this section.

B. Removal. A Small WTG which is not used for a continuous period of one (1) year 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. The Town will require an escrow to cover demolition costs that reflect NYS inflation costs year to year. The Town after one (1) year and three (3) months of inactivity may hire a private contractor to remove the Small WTG financed by the owner's escrow account held by the Town.

ARTICLE V

Industrial Wind Turbine Generators (IWTG)

Section 25. Placement

A. Setbacks. Each IWTG shall be located with the following minimum setbacks, as measured from the center of the IWTG. Structure height shall be measured from the ground surface level to the maximum height of the blades above the nacelle.

1. 1400 feet or 2 times the IWTG Total Height, whichever is greater, from offsite residences, measured from the closest exterior wall
2. 1.5 times the IWTG Total Height from Property Lines
3. 1.3 times the IWTG Total Height from the Right of Way of all public roads
4. 1.3 times the IWTG Total Height from Power Lines (not to include residential feed lines)
5. 1.5 times the IWTG Total Height from off site permanent structures
6. The property lines setback requirement may be reduced by the Town Board/Planning Board as an incident of special permit review when the Town Board/Planning Board finds the following: (i) both properties on each side of the property line in question will have electric generation or transmission facilities constructed on them as part of the project review, or (ii) the owner of the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town Board/Planning Board in which the reduced setback is consented to, and construction within, and use of the easement area is appropriately restricted.

B. Setbacks, Ice and Blade Throw from Dwellings

1. The dwelling setback requirement may be reduced by the Town Board/ Planning Board as an incident of special permit review when the Town Board/Planning Board finds the following: (i) both properties on each side of the property line in question will have electric generation or transmission facilities constructed on them as part of the project review, or (ii) the owner of the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town in which the reduced setback is consented to, and construction within, and use of the easement area is appropriately restricted.

C. Industrial WTG Noise Level Limit. Except during short-term events including utility outages and severe wind storms, an Industrial WTG shall be designed, installed, and operated so that noise generated by the system shall not exceed 50 decibels (dBA), as measured at the closest neighboring inhabited dwelling.

D. Guy Wires and/or Anchors. All guy wires or cables shall be marked with high visibility orange or yellow sleeves from the ground to a point ten (10) feet above the ground. Setbacks for any IWTG from any property lines shall be a distance of fifty (50) feet from any anchor point for guy wires or cables.

E. Lighting. Towers shall be lit according to State and Federal Agency guidelines. Anything over 200' presently requires lighting.

F. Broadcast Interference. Refer to the SEQRA requirements under Article 10 of the Public Service Law for standards and guidelines.

G. Substations and/or Switch yards and connecting Distribution/Transmission Lines. The Town Board/ Planning Board shall review locations on visual considerations at time of site plan approval.

Section 26. Specifications

A. Maximum Height Limit. The maximum height of any Industrial WTG shall be unrestricted.

B. Color of IWTG. Industrial WTGs must be color approved by the Planning Board and/or Town Board unless an agency of the State or Federal government mandates something different.

C. Type. All types of IWTGs will be allowed. New or experimental types may require a variance from the Town Board/Planning Board.

D. Ice Buildup Sensors. No Industrial WTG shall be permitted which lacks an automatic shutdown feature in the event of blade icing.

E. Blade to Ground Distance. The lowest portion of the blade may not be closer than thirty (30) feet to the ground.

F. IWTG Design. Only upwind design Industrial WTGs are allowed in the Town.

G. Signage. No advertising signs are allowed on any part of the IWTG or IWTG facilities.

Section 27. Notice and Safety Considerations

A. Fencing. Access to the IWTGs shall be limited by secured entry to the Tower base.

B. Limit Tip Speed. No IWTG shall be permitted that lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades and turbine components.

Section 28. Operating Considerations

A. Removal if Not Operational. Any IWTG which has been out of active and continuous service for a period of one (1) year, shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within eighteen (18) months of the cessation of active and continuous use of such IWTG.

B. Landscaping. Upon completion of installation the site shall be returned as close as possible to its natural state. Seeding of disturbed areas will be a minimum.

C. Buildings and Grounds Maintenance. Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in a fenced designated storage area or legally disposed of. All maintenance equipment and spare parts, etc. shall also be kept in a fenced designated storage. Oil shall be legally disposed of within ninety (90) days.

D. Ownership Changes. If the ownership of a IWTG operating under a special use permit changes, the special use permit shall remain in force. All conditions of the special use permit, including bonding, letters of credit or continuing certification requirements of the original owner will continue to be obligations of succeeding owners. The change in ownership shall be registered with the Town Clerk.

E. IWTG Modifications. Any and all modifications, additions, deletions or changes to IWTGs that operate under a special use permit, whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such IWTG or become necessary as a result of natural forces, such as wind or ice.

F. IWTG Noise Level Limit. See statement on Page 15, Section 25, Paragraph C. Industrial Noise Level Limit.

G. Certifications.

1. Routine Inspection Report. An inspection report prepared by the IWTG supplier/manufacturer licensed in the State of New York will be required at the time of installation and every three (3) years thereafter. The inspection reports required at the time of installation and thereafter will be for the structure and the electronics and will be given to the Code Enforcement Officer or other designated individual.
2. National and State Standards. The applicant shall show that all applicable manufacturers, New York State and U.S. Standards for the construction, operation and maintenance of the proposed IWTG have been met or are being complied with. IWTGs shall be built, operated and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI). The applicant for a IWTG special use permit

shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such IWTG is in compliance with such standards.

3. Lightning Strike/Grounding. The applicant shall show that all applicable manufacturers, New York State and U.S. Standards for the construction, operation and maintenance of the proposed IWTG have been or are being complied with.
4. Wind Speed. Certification is required by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State.

H. Sureties.

1. Performance Bond (Removal).
   a. The owner of a IWTG, after such application has been approved and before a building permit is issued, shall submit a letter of credit or other acceptable surety sufficient to ensure the removal if the use of the IWTG is discontinued. An Engineer selected by the Town Board and the Town Attorney shall judge this letter of credit or other surety adequate and satisfactory before a building permit is issued. Said letter of credit shall be forfeited if removal is not completed by the deadline specified herein.
   b. If transmission/distribution service from the IWTG is discontinued for a period exceeding six (6) months, the owner of such IWTG shall notify the Code Enforcement Officer or other designated individual, within fifteen (15) days following the expiration of the six (6) month discontinuance period.
   c. Any IWTG which has been out of active and continuous service for a period of one (1) year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmills shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within eighteen (18) months of the cessation of active and continuous use of such IWTG. Any foundation left must be at least four (4) feet below surface land or facilities shall be left at the discretion of the land owner.
2. Insurance - Liability. 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/Planning Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of an IWTG or any other part(s) of the IWTG and transmission facility.
3. Environmental Contamination by Oil. A performance bond will be required to deal with this situation. The owner of the IWTG after such application has been approved and before a building permit is issued, shall submit the maximum amount letter of credit or acceptable surety necessary to ensure the cleanup of any contamination according to DEC requirements. An Engineer selected by the Town Board and Town Attorney shall judge the letter of credit or other surety adequate and satisfactory before a building permit is issued.
4. Road Repairs. The IWTG supplier and associated contractors will be responsible for any road repairs that may be necessary upon construction completion. The Project Developer shall document local road conditions prior to construction for all roads to be utilized in connection with the project, and shall submit a quarterly report to the Town of Hartsville Highway Superintendent which identifies all material changes in the condition of roads so utilized, which report shall be verified by the Town Highway Superintendent. Project approval should stipulate that the developer shall restore any road damage to the documented pre-construction conditions.

Section 29. Modifications and Waivers

A. The Town Board/Planning Board, in addition to the foregoing section, may require such additional provisions and conditions that appear to promote further understanding of the applicant's proposal and are necessary for the purposes of ultimately protecting the health, safety and general welfare of the Town's residents.

B. The Town Board/Planning Board may, at its discretion, judge that certain requirements of this Article are not applicable in its approval of a site plan or special use permit, and may therefore, modify the applicable requirements and allow the applicant to submit only those elements which it deems necessary to the review and approval of the particular application.

Section 30. Duration of Special Use Permit and Continuing Obligations

A. Any special use permit approved pursuant to this Article shall remain in force and effect unless or until the IWTG related facilities are removed in accordance with the foregoing sections.

Section 31. Enforcement

A. This local law shall be enforced by the Code Enforcement Officer or such enforcement officer duly empowered by the Town of Hartsville.

Section 32. Penalties

A. In addition to Penalties and Remedial Actions allowed pursuant to these Regulations, the Code Enforcement Officer or such enforcement officer duly empowered by the Town of Hartsville may assess a civil penalty in an amount not to exceed $1,000 for any and all violations of this Article. Each day the violation continues once notice of the same is provided to the responsible party shall constitute a separate violation.

ARTICLE VI

Solar Energy

Section 33. Definitions

As used in this local law, the following terms and conditions shall have the meanings indicated:

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM - A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

GROUND-MOUNTED SOLAR ENERGY SYSTEM OR FREESTANDING ENERGY SYSTEM - A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity or other useable forms of energy for onsite consumption.

MAJOR SOLAR COLLECTION SYSTEM or MAJOR SYSTEM or 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. Facilities consist of one or more ground- or roof-mounted solar collector devices, solar-related equipment and other accessory structures and buildings, including light reflectors, concentrators, and heat exchangers, substations, electric infrastructure, transmission lines and other appurtenant structures and facilities. Major solar collection systems are defined as ground-mounted accessory systems with a total surface area greater than 2,000 square feet.

MINOR SOLAR COLLECTION SYSTEM or MINOR 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, accessory to the use of the premises for other lawful purposes. Minor solar collection systems are defined as roof- or building-mounted solar collectors with the total surface area greater than 60 square feet and less than 2,000 square feet.

NET METERING - A billing arrangement that allows for solar customers to get credit for excess electricity generated on-site and delivered back to the grid.

PHOTOVOLTAIC (PV) SYSTEM - A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, that generate electricity when light strikes them.

QUALIFIED SOLAR INSTALLER - A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSERDA's or NABCEP's list of certified installers may still be deemed to be qualified solar installers if the Town of Hartsville Planning Board/Town Board determines such persons to have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of the exposed parts.

ROOF-MOUNTED SOLAR ENERGY SYSTEM - A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

SOLAR COLLECTOR - A solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure affixed to the ground, a building, or other structure that harnesses solar radiation to directly or indirectly generate thermal, chemical, electrical, or other useable energy, or that reflects or concentrates solar radiation to a solar or photovoltaic cell, plate, panel, film, array, reflector, or other structure that directly or indirectly generates thermal, chemical, electrical, or other useable energy.

SOLAR EASEMENT - An easement recorded pursuant to the New York Real Property Law § 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

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

SOLAR ENERGY SYSTEM - An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

SOLAR PANEL - A photovoltaic device capable of collecting and converting solar energy into electrical energy or other useable forms of energy.

Section 34. Solar Energy Systems

A. Purpose and Intent - It is the purpose of this regulation to promote the safe, effective, and efficient use of installed solar energy systems that reduce consumption of utility delivered energy while protecting the health, safety, and welfare of adjacent and surrounding land uses. This Section seeks to:
   1. Provide property owners and business owners/ operators with flexibility in satisfying their energy needs.
   2. Reduce overall energy demands within the Town of Hartsville and to promote clean energy.
   3. Integrate solar energy systems seamlessly into the Town's neighborhoods and landscapes without diminishing residents' quality of life.

B. Applicability
   1. This Clean Energy Local Law #3 of 2018 applies to all building-mounted and ground-mounted systems installed and constructed after the effective date of this Law.
   2. Solar PV systems constructed prior to the effective date of this Law are not required to meet the requirements of this Law.
   3. Any Upgrade, modification or structural change that alters the size or placement of an existing solar PV system by 50% or more, or that triggers NYS Code compliance, shall comply with the provisions of this Law.
   4. To the extent practicable, and in accordance with Town of Hartsville law, the accommodation of solar access to sunlight for such equipment and the protection of access to sunlight for such equipment shall be encouraged in the application of the various review and approval provisions of the Town of Hartsville.

C. Building-integrated photovoltaic (BIPV) systems - Minor ground-mounted and freestanding solar systems are permitted in all districts in the Town of Hartsville subject to the following conditions:
   1. Building permits are required for all ground-mounted and freestanding solar collectors.
   2. The unit must be installed in a side or rear yard.
   3. The location of the solar collectors must meet all applicable setback requirements for accessory structures in the applicable district.
   4. Special permits from the Town of Hartsville Town Board/Planning Board are required for all ground-mounted or freestanding solar collectors 10 feet or more in height above the ground. Height above ground is determined by the highest extension of any part of the solar array. For solar arrays that move to maintain optimal exposure to the sun, the highest extension of any array component in any attainable orientation shall serve as the limiting height.
   5. Solar collectors and other facilities shall be designed and located to minimize reflective glare toward any inhabited buildings on adjacent properties and roads.
   6. The town encourages installations that would employ landscape screening and other methods of enhancing the appeal of the ground mounted and freestanding solar collector such as the use of architectural features, earth berms, or other screening which will harmonize with the character of the property and surrounding area.
   7. For residential lots, less than or equal to 5 acres, one (1) 100 square foot solar array is permitted for each 10,000 square feet of lot area. For lot sizes greater than five (5) acres, one (1) square

foot solar array is permitted for each 5,000 square feet of lot area. The total capacity of the solar arrays cannot exceed 125% of the estimated site electrical needs or 2,000 square feet.

8. All solar collector installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards, and prior to operation the electrical connections must 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 must be inspected by the appropriate public utility.
9. When solar storage batteries are included as part of the solar collector system, they must 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 Steuben County and other applicable laws and regulations.

D. Major Solar Collection System - Major Solar Collection systems are permitted in all districts in the Town of Hartsville subject to the following conditions:

1. Application Information:
    a. Blueprints or drawings of the solar photovoltaic installation signed by a licensed Professional Engineer showing the proposed layout of the system and any potential shading from nearby structures.
    b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
    c. A description of the solar farm facility and the technical, economic and other reasons for the proposed location and design shall be prepared and signed by a licensed professional engineer.
    d. Confirmation prepared and signed by a licensed professional engineer that the solar farm complies with all applicable Federal and State standards.
    e. One or three-line electrical diagram detailing the solar farm layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices.
    f. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter.
    g. An operation and maintenance plan which shall include measure for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.
    h. Information on noise (Inverter) and reflectivity/glare of solar panels and identify potential impacts to adjacent properties.
2. Minimum Requirements. In any district requiring a Special Use Permit for a Solar Farm, the development shall conform to the following standards which shall be regarded as minimum requirements:
    a. Solar Farms of less than 26 (kW) shall be on a parcel of not less than five (5) acres, otherwise a minimum of ten (10) acre parcel shall be required.
    b. All ground-mounted panels shall not exceed ten (10) feet in height.
    c. All mechanical equipment on a Solar Farm, including any structure for batteries or storage cells, are completely enclosed by a minimum eight (8) foot high fence with a self-locking gate.
    d. The total surface area of all ground-mounted and freestanding solar collectors, including solar voltaic cells, panels and arrays, shall not exceed 80% of the total parcel area.
    e. The installation of a vegetated perimeter buffer to provide year-round screening of the system from adjacent properties.
    f. Because of neighborhood characteristics and topography, the Town of Hartsville Town Board/Planning Board shall examine the proposed location on a case by case basis, ensuring the potential impact to its residents, business or traffic are not a detriment.