

**Town of Rossie, NY**  
**Land Use Regulations Law**  
2022 Revision

**Table of Contents**

Article I. Title..... 3

Article II. General Provisions..... 3

    Section 2.01 Purpose ..... 3

    Section 2.02 Relationship of this Law to Other Laws and Regulations..... 3

    Section 2.03 Separability ..... 4

    Section 2.04 Fees ..... 4

    Section 2.05 Violations and Enforcements ..... 5

    Section 2.06 Nonconforming Uses; Removals..... 5

    Section 2.07 Existing Uses, Lots and Structures. .... 6

Article III. Permits and Procedures ..... 6

    Section 3.01 Classes of Permits ..... 6

    Section 3.02 Procedures for Permit Applicants ..... 7

    Section 3.03 Revocation of Permits..... 7

Article IV. Establishment of District ..... 7

    Section 4.01 Designation of District..... 7

    Section 4.02 District and Its Permitted Uses ..... 7

Article V. Special Permits ..... 8

    Section 5.01 Purpose ..... 8

    Section 5.02 Administration ..... 9

    Section 5.03 Procedure..... 9

    Section 5.04 Findings ..... 10

    Section 5.05 Battery Energy Storage Systems ..... 10

    Section 5.06 Campgrounds ..... 16

    Section 5.07 Industrial Use ..... 16

    Section 5.08 Manufactured Home Parks ..... 19

    Section 5.09 Solar Energy Facilities..... 20

    Section 5.10 Telecommunications Towers ..... 26

Article VI.	Site Plan Review .....	32
Section 6.01	Planning Board Review and Decision.....	32
Section 6.02	Sketch Plan Conference .....	33
Section 6.03	Preliminary Application Requirements .....	35
Section 6.04	Final Application.....	36
Article VII.	Site Plan Review Standards .....	36
Section 7.01	General Standards.....	36
Section 7.02	Specific Standards .....	36
Section 7.03	Explanation of Standards .....	37
Article VIII.	Subdivision Review Procedures.....	40
Section 8.01	Application Requirements .....	40
Section 8.02	Planning Board Review and Decision.....	42
Article IX.	Subdivision Review Standards .....	44
Section 9.01	General Standards.....	44
Section 9.02	Specific Standards .....	44
Article X.	Administration.....	53
Section 10.01	Code Enforcement Officer .....	53
Section 10.02	Planning Board .....	54
Section 10.03	Board of Appeals.....	55
Section 10.04	Amendments.....	59
Section 10.05	Judicial/Court Review.....	60
Section 10.06	Public Hearings and Notification.....	60
Section 10.07	Repealer .....	60
Section 10.08	Effective Date .....	60
Article XI.	Definitions.....	61
Section 11.01	General.....	61
Section 11.02	Battery Energy Storage Systems .....	64
Section 11.03	Solar Energy Facilities.....	66
Section 11.04	Telecommunications Facilities (new name).....	67
Appendix	.....	69

## Article I. Title

This law shall be known and may be cited as "Land Use Regulations Law for The Town of Rossie."

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

## Article II. General Provisions

### Section 2.01 Purpose

The purposes of this Local Law are to:

1. Provide for planned growth and development of residential, commercial, institutional and industrial use of the land consistent with the economic and social needs of the community.
2. Preserve the character of the Town.
3. Promote the health, safety and general welfare of the Town consistent with objectives set forth.

### Section 2.02 Relationship of this Law to Other Laws and Regulations

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

Proposed actions subject to referral

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

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

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

### Section 2.03 Separability

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

### Section 2.04 Fees

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

## Section 2.05 Violations and Enforcements

1. It shall be unlawful to erect, construct, enlarge, alter or use any building or structure or portion thereof or otherwise commence a use defined in this Local Law as requiring site plan approval or commence a use defined in this Local Law as a subdivision without having first applied for and obtained a permit. A copy of the current fee schedules and applications, permit forms for construction, development and demolition are available from the Town Clerk.
2. Any person who shall fail to comply with a written order of the Code Enforcement Officer (CEO) within the item fixed for compliance therewith and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of law or any lawful order, notice, directive, permit or certificate of the CEO made there under, shall be punished by fine of not more than fifty dollars (\$50). Each day that the violation continues shall be deemed a separate offense.
3. Except as provided otherwise by law, such a violation shall not be a crime and the penalty or punishment imposed therefore shall not be deemed for any purpose a penal or criminal penalty or punishment and shall not impose any disability upon or effect or impair the credibility as a witness or otherwise, of any person found guilty of such an offense.
4. Appropriate action and proceedings may be taken at law or in equity to prevent unlawful construction or to prevent illegal occupancy of a building, structure or premises or to prevent illegal acts, conduct or business in or about any premises and these remedies shall be in addition to penalties otherwise prescribed by law.
5. Any person who shall fail to comply with a written order of the CEO to secure a building permit sent by certified mail to any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent, engineer, their agent or agents or any person taking part or assisting in the construction or use of any building who does not secure a building permit shall be fined not more than 110% of the building permit, per day, until a permit has been obtained. This fine shall be in addition to fines and penalties set forth in other sections of this Local Law. A copy of the notice shall be sent to the Town Board.

## Section 2.06 Nonconforming Uses; Removals

Any use requiring site plan approval, special permit approval, or subdivision plat approval commenced after the effective date of this Local Law must comply with its provisions. Such new buildings, structures or uses which do not conform to the provisions of the law may be removed or halted by order of the Town Board.

## Section 2.07 Existing Uses, Lots and Structures.

Uses, lots and structures which existed or were commenced prior to the effective date of this Local Law and which would be regulated under the provisions of this Local Law may be continued subject to the following provisions, unless otherwise provided for elsewhere in this Local Law.

1. Enlargement. Pursuant to Article I, Section 6, any uses requiring site plan approval, special permit approval, or subdivision plat approval must be brought into compliance by the applicant by applying for and receiving approval within one (1) year of the effective date of this Local Law.
2. Restoration following disaster. Uses or structures requiring site plan, special permit, or subdivision approval which have been damaged by fire or other causes may be restored to no more than their previous degree of completion without having to apply for and receive approval.
3. Discontinuance. Uses or structures requiring site plan, special permit, or subdivision approval which have been discontinued for a period of twelve (12) continuous months shall not be reestablished without the applicant having first applied for and obtained approval.
4. Relocation. Should any use or structure requiring site plan, special permit, or subdivision approval be moved for any reason, the applicant must first apply and receive approval.

## Article III. Permits and Procedures

### Section 3.01 Classes of Permits

The following classes of permits may be issued:

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

## Section 3.02 Procedures for Permit Applicants

1. Required Documents. Every application for activities described in Section 3.01 of this Article shall be made using forms approved and supplied by the Town Board and available at the Offices of the Town Clerk and on the Town's website.
2. Amendments. Any amendments to the application or the plans and specifications accompanying the same shall be filed with the CEO prior to the commencement of such change of work. In the case of a use that is the subject of site plan approval or subdivision review, any such amendments shall be filed prior to final action on the site plan or subdivision by the Planning Board.
3. Display. The building permit shall be prominently displayed on the property or premises to which it pertains.
4. Expiration. A building permit issued pursuant to this Local Law shall expire one year from the date of issuance. The permit may, on written request, be renewed for a one year period by the CEO.

## Section 3.03 Revocation of Permits

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

## Article IV. Establishment of District

### Section 4.01 Designation of District

For the purpose of this Local Law, the entire jurisdiction of the Town of Rossie shall be considered as within a single unnamed district, and the application of this Law shall be uniform throughout the Town.

### Section 4.02 District and Its Permitted Uses

1. Purpose. The purpose of the single district is to allow for compatible agricultural, residential, commercial, and rural and open land uses, to grow, yet maintain a rural character.

#### 1.1. Uses Requiring Site Plan Review

- 1.1.1. an expansion of an existing principal or accessory use of property; or
- 1.1.2. the addition of a new accessory use of property; or
- 1.1.3. a change in the principal use of property to another principal use; or
- 1.1.4. the construction or location of any structure within 75' of the centerline of any public road or highway; or
- 1.1.5. all other uses that are not exempt.

1.2. Uses Exempt from Site Plan Review:

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

1.3. Uses Requiring Special Permit (Article V.)

- 1.3.1. Battery Energy Storage Systems
- 1.3.2. Campgrounds
- 1.3.3. Industrial Use
- 1.3.4. Manufactured Home Parks
- 1.3.5. Solar Energy Facilities
- 1.3.6. Telecommunications Facilities

1.4. Specifications

- 1.4.1. Setbacks
  - 1.4.1.1. Front: Seventy-five (75) feet. (as measured from the street centerline)
  - 1.4.1.2. Side: Fifteen (15) feet - total: thirty (30) feet.
  - 1.4.1.3. Rear: Thirty (30) feet.
- 1.4.2. Frontage: One hundred and fifty (150) feet.
- 1.4.3. Height: Thirty-five (35) feet.
- 1.4.4. Minimum lot size: One (1) acre.

## Article V. Special Permits

### Section 5.01 Purpose

It is the intent of this local law to use special permits to control the impact of certain uses upon areas where they could be incompatible unless conditioned in a manner suitable to a particular



location. Special permits bring needed flexibility and individuality to the otherwise rigid controls of Land Use Law and Regulations.

### Section 5.02 Administration

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

### Section 5.03 Procedure

1. Each application for a special permit shall be on forms approved by the Town Planning Board and shall meet all requirements and condition set forth in Articles V, VI, and VII.
2. The Code Enforcement Officer shall refer the submitted special permit application to the Town Planning Board within ten (10) days after receiving the complete application.
3. At its next regular or special meeting, the Town Planning Board shall designate a public hearing date, not to exceed sixty two (62) days from the date application was received by the Planning Board. The applicant or agent for the applicant should attend the Planning Board meeting to answer questions concerning the application.
4. The Town Planning Board shall send a notice of the public hearing to the applicant and publish a hearing notice in the official newspaper. The applicant is required to notify any agricultural operator within an Agricultural District and within five-hundred (500) feet of a proposed project. In instances where a proposed project is within five-hundred (500) feet of an adjacent township, the applicant shall also provide written notice to said township. Public hearing and notification must be in accordance with Article X, Section 10.06.
5. The notice of the public hearing shall be published at least five (5) calendar days prior to the date of the public hearing and shall contain sufficient information so as to identify the property involved and the nature of the proposed action.
6. The Town Planning Board shall make a factual record of all its proceedings involving the granting of a special permit. The record of the Planning Board shall contain the reasons for its decision.
7. The Town Planning Board shall render its decision, either approving, approving with conditions or denying within sixty-two (62) days after the hearing, unless an extension is mutually agreed upon. Any conditions included with a Special Permit may be subject to annual inspection by the Code Enforcement Officer. All special permit decisions shall be filed with the Town Clerk no later than five (5) business days from the date of decision and a copy of the decision shall be mailed to the applicant.

## Section 5.04 Findings

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

## Section 5.05 Battery Energy Storage Systems

1. Purpose. This Battery Energy Storage Systems section is intended to advance and protect the public health, safety, welfare, and quality of life in Rossie by creating regulations for the installation and use of battery energy storage systems, with the following objectives:
  - 1.1. To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems;
  - 1.2. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;
  - 1.3. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; and
  - 1.4. To create synergy between battery energy storage system development and the comprehensive plan.
2. Applicability
  - 2.1. The requirements of this Local Law shall apply to all battery energy storage systems permitted, installed, or modified in Rossie after the effective date of this Local Law, excluding general maintenance and repair.
  - 2.2. Battery energy storage systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
  - 2.3. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Local Law.
3. General Requirements
  - 3.1. A building permit shall be required for installation of all battery energy storage systems.
  - 3.2. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].
  - 3.3. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes,

regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Rossie Code.

4. Permitting Requirements for Tier 1 and Tier 2 Battery Energy Storage Systems

- 4.1. Tier 1 Battery Energy Storage Systems shall be permitted as an accessory use when they are enclosed in a building and are used to store energy for a principal use on the property. These systems shall be subject to the Uniform Code and are exempt from Planning Board review. Examples include: A battery bank installed in a residential garage to store energy collected from a dwelling's solar panels; and a battery bank installed in the basement of an institutional, government or office building (e.g. university library, hospital, government offices).
- 4.2. Tier 2 Battery Energy Storage Systems shall be permitted, subject to the Uniform Code and special permit application requirements set forth in this Section.

5. Application Procedures

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

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

6. Site Plan Application

Any site plan application shall include the following information:

- 6.1. Property lines and physical features, including roads, for the project site.
- 6.2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
- 6.3. A three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- 6.4. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- 6.5. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- 6.6. Name, address, phone number, and signature of the project Applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.

- 6.7. Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, Battery energy storage system commissioning shall be conducted by a New York State (NYS) Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Code Enforcement Officer or Reviewing Board prior to final inspection and approval and maintained at an approved on-site location.
- 6.8. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.
- 6.9. Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code.
- 6.10. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- 6.11. Prior to the issuance of the building permit or final approval by the [Reviewing Board], but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer.
- 6.12. Emergency Operations Plan. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. A permanent copy shall also be placed in an approved location near the entrance of the facility to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:
  - 6.12.1. 24-hour contact information of facility personnel and system owners.
  - 6.12.2. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
  - 6.12.3. Procedures for inspection and testing of associated alarms, interlocks, and controls.
  - 6.12.4. Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
  - 6.12.5. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
  - 6.12.6. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.

- 6.12.7. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
- 6.12.8. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders, including but not limited to periodic inspections by the Code Enforcement Officer.
- 6.12.9. Procedures and schedules to conduct drills and training for local first responders on the contents of the plan and appropriate response procedures.

7. Special Permit Standards

- 7.1. Downwind from Residential Areas. Tier 1 and 2 Battery Energy Storage Systems in a Dedicated Use Building shall be downwind from adjacent residential areas according to prevailing wind patterns to minimize the risk of exposure to toxic chemicals that may be released in the event of system failure.
- 7.2. Height. Tier 2 Battery Energy Storage Systems in a Dedicated Use Building shall comply with the building height limitations for principal structures of the underlying district.
- 7.3. Setbacks. Tier 2 Battery Energy Storage Systems in a Dedicated Use Building shall comply with the setback requirements of the underlying district for principal structures.
- 7.4. Noise. The 1-hour average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of 60 dB as measured at the outside wall and/or the property line of any non-participating residence or occupied community building. Applicants may submit equipment and component manufacturer's noise ratings to demonstrate compliance. The applicant may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.
- 7.5. Fencing Requirements. Tier 2 Battery Energy Storage Systems in a Dedicated Use Building, including all mechanical equipment, shall be enclosed by a 6-foot-high solid fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
- 7.6. Screening and Visibility. Tier 2 Battery Energy Storage Systems in a Dedicated Use Building shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports.
- 7.7. Vegetation and tree-cutting. Areas within 10 feet on each side of Tier 2 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.
- 7.8. Hazardous Waste Containment. All Tier 2 Electro-chemical Battery Energy Storage Systems in a Dedicated Use Building shall include an impermeable foundation and

containment perimeter to prevent hazardous waste from contaminating surrounding land and water resources.

- 7.9. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
- 7.10. Signage.
  - 7.10.1. A sign with 24-hour contact information of facility personnel and system owners shall also be posted near the front entrance of the facility. The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.
  - 7.10.2. As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- 7.11. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way. Any utility lines installed above ground on agricultural land in a State-certified Agricultural District shall provide a minimum clearance of 18' as measured between the lowest point of the utility line and finished grade so as to minimize interference with agricultural equipment that may be used in the surrounding area. The installation of guy wires should be avoided as they interfere with the operation of agricultural equipment.
- 7.12. The Applicant for either state or local siting approval shall deliver to the Town Board, along with its application if local approval is sought, and concurrent with the filing of an application with any state authority, if applicable, an amount equal to one percent (1%) of the estimated cost of the project (the "Initial Deposit"), to a maximum Initial Deposit of Thirty Thousand Dollars (\$30,000.00). This sum shall be held by the Town in a non-interest-bearing account, and these funds shall be available to the Town to pay consultants and attorneys engaged the Town to assist in application review if a local permit is sought, and to pay consultants and attorneys engaged by the Town to assist in review. Following the grant or denial of the state or local application, the Town shall return to the Applicant any excess remaining in escrow. If the escrow account has been depleted prior to grant or denial of the application, the Applicant shall deposit such funds necessary for the Town to pay any outstanding fees to said consultants.

## 8. Safety

- 8.1. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) with subcomponents meeting each of the following standards as applicable:
  - 8.1.1. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power, and Light Electric Rail Applications),

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

## 9. Ownership Changes

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

## 10. Permit Time Frame and Abandonment

- 10.1. The Special Permit and site plan approval for a battery energy storage system shall be valid for a period of 24 months, provided that a building permit is issued for construction [and/or] construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the [Planning Board], within 24 months after approval, the

Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 36 months, the approvals shall expire.

- 10.2. The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than one year. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, enter the property and utilize the available bond and/or security for the removal of a Tier 2 Battery Energy Storage System and restoration of the site in accordance with the decommissioning plan.

### Section 5.06 Campgrounds

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

### Section 5.07 Industrial Use

1. Purpose. This section is intended to provide for areas in the Town which industrial, manufacturing or other materials handling, processing and/or storage activities may take place with maximum economic and environmental feasibility and with minimum negative impact on residential, agricultural and commercial development.
2. Permitted Uses.
  - 2.1. No industrial uses are permitted by right.
  - 2.2. Excavation and Mining.
  - 2.3. Junkyards and salvage yards.
  - 2.4. Landfills.
  - 2.5. Manufacturing, assembling, converting, altering, finishing, cleaning, recycling or any other processing and incidental storage of products and materials.
  - 2.6. Waste storage and/or treatment facilities.
  - 2.7. Wholesaling, storage and warehousing.



3. Minimum Lot Area and Dimensions.

The minimum lot area and dimensions shall be as follows:

3.1. Area: Two (2) acres.

3.2. Width: 200 feet.

3.3. Depth: 200 feet.

3.4. Setbacks:

3.4.1. Front: Seventy-five (75) feet. (as measured from the street centerline) An additional 25 feet must be added to this requirement if the property is abutting a residential parcel.

3.4.2. Side: 75 feet. An additional 75 feet must be added to this requirement if the property is abutting a residential parcel.

3.4.3. Rear: 75 feet. An additional 75 feet must be added to this requirement if the property is abutting a residential parcel.

3.5. Lot coverage: 35% of the total lot area may be covered by buildings.

3.6. Building height: 40 feet

4. Regulations applicable to all permitted uses.

4.1. The Planning Board may require a larger minimum lot area if necessary to safely accommodate the nature and scale of the proposed use.

4.2. No operation unless in compliance with all applicable Federal, State, County, Town laws.

5. Junkyards and salvage yards.

5.1. Fencing and Screening Required. Any junkyard or salvage yard shall be completely surrounded with a solid fence that substantially screens the area. All materials stored or deposited at the site shall be kept within the enclosure of the fence and below the top of the fence.

5.2. Where the topography, land forms, natural growth of trees or other considerations accomplish effective screening, the fencing requirements may be varied by the Planning Board.

5.3. Restrictions on Location. No junkyard or salvage yard shall be located within 500 feet of any existing dwelling other than a principal residence on the same parcel or within 100 feet of a public highway, measured from the fence.

5.4. Effect of this Law on Existing Junkyards. All operating junkyards and salvage yards that are legally permitted and in compliance with all applicable laws on the effective date of this Law shall be allowed to continue in operation, but shall be limited to the size, area, manner and scale of the present operation unless a site plan for any proposed expansion or improvements is approved in accordance with this Law, in which event the entire area of the junkyard or salvage yard shall be subject to compliance with all provisions of this Law.

6. Landfills.

6.1. Buffer Area Required. Any landfill, to include any structures, facilities or improvements associated with the operation of the landfill other than:

6.1.1. structures, facilities or improvements that are entirely used for administrative purposes, such as a business office or employee parking lot; and

- 6.1.2. structures, facilities or improvements constructed to provide vehicle or rail access to the landfill, to include roadways and rail spurs and appurtenant bridges, culverts and drainage improvements, shall be completely surrounded by a designated buffer area under the same ownership as the landfill that is:
  - 6.1.2.1. at least five hundred feet in width; or
  - 6.1.2.2. of the width specified a permit issued pursuant to 6 NYCRR, Part 360, whichever is greater. Any unloading, staging or storage area, to include any rail spur where rail cars are held awaiting unloading or pickup, shall be inside of the buffer area. All vehicular, rail switching and maintenance operations shall be conducted inside of the buffer area. All administrative parking lots shall be outside of the buffer area. The buffer area shall incorporate the use of berms and heavy vegetative screening to prevent visibility into the landfill from neighboring properties and public roads.
  
- 6.2. Security. The entire perimeter of the inside of the buffer required under this section shall be fenced by:
  - 6.2.1. a chain link security fence of at least seven (7)(6) feet in height; or
  - 6.2.2. any security fence required under County, State or Federal law or regulation, whichever affords greater protection to the general public. Two (2) gated vehicular access points shall be created through the fence. Both access points shall be of sufficient width to permit the passage of emergency vehicles and equipment. A single gate shall be used during the hours of operation, with the other gate to remain locked. One or more employees of the landfill operator shall be present at the vehicle gate used during the hours of operation for the purpose of providing physical security of the facility and to inspect and monitor vehicles and materials entering the landfill. Notwithstanding any provision in this subsection to the contrary:
  - 6.2.3. Keys or equivalent means of entry to all gates shall be supplied, as appropriate, to the Town or Village Clerk and Volunteer Fire Department.
  
- 6.3. Internal Road System. Roads constructed on landfills, to include any surrounding buffer area, shall comply with the following standards:
  - 6.3.1. All roads shall provide year-round accessibility for emergency vehicles.
  - 6.3.2. All roads shall be a minimum of eighteen (18) feet wide with shoulders as necessary to accommodate two vehicles side by side.
  - 6.3.3. All road surfaces shall be paved unless a particular aspect of the nature of the use of the road requires otherwise. In such event the road surface shall be constructed and maintained with gravel or crushed stone.
  - 6.3.4. Road system design shall provide two separate access points to the adjacent public road network.
  
- 6.4. Restrictions on Location. No landfill, to include any surrounding buffer area provided for in this Law, shall be located within 1,500 feet of any:
  - 6.4.1. existing dwelling; or
  - 6.4.2. commercial or industrial building where one (1) or more persons is employed on a regular basis; or

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

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

7. Waste storage and/or treatment facilities.

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

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

7.3. All structures shall be located at least 1,000 feet from any adjacent residential use or property which would permit a residential use. The Planning Board may require screening from adjacent properties, as needed.

7.4. All treatment activities shall be conducted within an enclosed building, and there shall be no exterior storage of materials.

7.5. There shall be no on-premises disposal of wastes

## Section 5.08 Manufactured Home Parks

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

1. Only manufactured homes that are 20 years old, from the current date, or newer, and bearing the HUD Seal shall hereafter be placed in the Town.
2. Installation standards. Installation of manufactured homes shall be in accordance with standards set out in the New York State Uniform Fire Prevention and Building Code.
3. Water Supply and Wastewater Facilities. All water supply and wastewater discharge facilities for manufactured homes shall conform to Department of Health standards applicable to manufactured home parks.
4. No Operation Unless in Compliance with all Laws. No manufactured home park shall operate, or continue in operation, in any area of the Town unless the operation is in full compliance at all times with all applicable Federal, State, County, and Town laws.
5. Automotive parking. At least two (2) off-street parking spaces for each manufactured home shall be provided for each individual manufactured home site. Each parking space shall have convenient and ready access to the internal road network and shall not directly access a public road.
6. Internal Road System. The internal road system for manufactured home parks shall comply with the following standards:

- 6.1. All roads shall provide year-round accessibility to every lot in the manufactured home park for emergency and service vehicles.
  - 6.2. All roads shall be a minimum of eighteen (18) feet wide and shall be constructed to accommodate two lanes of traffic.
  - 6.3. All road surfaces shall be paved or, at the discretion of the Planning Board, constructed with gravel or crushed stone.
  - 6.4. Any dead-end roads shall be no longer than 500 feet and terminate in a turn-around with a sufficient diameter to accommodate fire trucks and snow plows.
7. Recreation Area. A minimum area shall be set aside exclusively for recreational use by the residents, equal to a minimum of five percent (5%) of the total property area.
  8. Screening and Landscaping. Undisturbed natural vegetation, fencing or a landscaped area along exterior lot lines shall provide visual screening of the manufactured home park from adjacent residential properties.
  9. Separation Distances. No manufactured home shall be located closer than forty (40) feet from any other manufactured home.
  10. Utilities. Utilities shall be placed underground wherever possible, and shall be screened where above-ground placement is necessary. All lighting shall be designed (Dark Sky compliant) and arranged so as to minimize glare and reflection on adjacent properties. Emergency access to above-ground utility structures shall be provided at all times.

#### Section 5.09 Solar Energy Facilities

1. Purpose. This section aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefore, and to balance the potential impact on neighbors when solar collectors may be installed near their property while preserving the rights of property owners to install solar energy systems without excess regulation. In particular, this legislation is intended to apply to free standing; ground or pole mounted and roof mounted solar energy system installations based upon certain placement. This legislation is not intended to override agricultural exemptions that are currently in place.
2. Applicability
  - 2.1. The requirements of this section shall apply to all solar energy systems installed or modified after the effective date of this ordinance, excluding general maintenance and repair.
  - 2.2. Solar energy system installations for which a valid building permit has been issued or, if no building permit is presently required, for which installation has commenced before the effective date of this local law shall not be required to meet the requirements herein.

- 2.3. All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code Act and the Town Code.
  - 2.4. Nothing contained in this provision shall be construed to prohibit "Collective Solar" installations or the sale of excess power through a "net billing" or "net metering" arrangement in accordance with New York State Public Service Law §66-j or similar New York State or federal law or regulation.
  - 2.5. All solar energy systems shall be designed, erected, and installed in a manner so as to prevent undue glare from failing on adjoining properties or creating traffic safety issues.
  - 2.6. All solar collection systems shall require a building permit. Minor solar systems, as defined in Section 11.03, are exempt from site plan and special use permit requirements but must meet setback dimensions identified in Section 4.02.
3. Major Solar Systems
- 3.1. A Major Solar System may be permitted when authorized by site plan review and special permit from the Planning Board subject to the following terms and conditions.
    - 3.1.1. Height and setback restrictions:
      - 3.1.1.1. The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed twenty (20) feet in height above the ground.
      - 3.1.1.2. The minimum setback from property lines shall be twenty-five (25) feet, unless adjacent to residential neighbor. The setback when adjacent to residential neighbors shall be 100 feet.
      - 3.1.1.3. Fencing shall be provided around all equipment and solar collectors to provide screening from adjacent residential properties and roads. Fencing shall not be topped with barbed wire. When fencing will enclose the perimeter of the site or facility, wildlife friendly fencing that allows the passage of small mammals and reptiles and is designed to minimize wildlife injury and death due to entanglement or strangulation shall be used on sites having a solar facility footprint greater than 5 acres. Exceptions can be made by the Planning Board for sites that have limited surrounding wildlife habitat and/or are designed to accommodate small livestock grazing.
    - 3.1.2. Design standards:
      - 3.1.2.1. Removal of trees and other existing vegetation should be minimized or offset with planting elsewhere on the property to achieve no net loss.
      - 3.1.2.2. Removal of any prime agricultural soil from the subject parcel is prohibited.
      - 3.1.2.3. Proposed major solar collection systems shall minimize the displacement of prime soils that are in active agricultural production. The site plan shall depict the location and extent of prime soils, prime soils if drained, soils of statewide importance, and indicate whether the parcel(s) is/are receiving an agricultural valuation. The site plan shall also depict the

location and extent of current agricultural uses on the land (e.g., rotational crops, hay land, unimproved pasture, support lands, and fallow lands) the location of diversions and ditches, and areas where tile drainage has been installed. Prime soils, prime if drained, and soils of statewide importance that are in agricultural production are a valuable and finite resource. The site plan should include a cross section of any subsurface foundations that will be used for the solar array. In the event the array utilizes at-grade ballast footers, the underlayment should include a bed of crushed stone atop monofilament woven geotextile fabric so that the stone can be readily removed from the site when the facility is decommissioned. A plan for clearing and/or grading the site and Stormwater Pollution Prevention Plan (SWPPP) for the site must be included. The lease area shall be designed to be compatible with agricultural operations i.e., small livestock grazing, apiary, etc.

- 3.1.2.4. Roadways within the site shall be built along field edges and along elevation contours where practical, constructed at grade and have a maximum width of 16 feet. Roadways shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction.
- 3.1.2.5. All on-site utility and transmission lines shall, to the extent feasible, be placed underground. Any above ground transmission lines that are used to accommodate the facility shall require utility poles that are tall enough and installed at widths able to accommodate farm machinery and equipment. The installation of guy wires to utility poles is discouraged.
- 3.1.2.6. Solar collectors and other facilities shall be designed and located in order to minimize reflective glare and/or glint toward any inhabited buildings on adjacent properties and roads.
- 3.1.2.7. All mechanical equipment, including any structure for batteries or storage cells, shall be enclosed by a minimum six-foot-high fence with a self-locking gate.
- 3.1.2.8. Major systems or solar farms shall be constructed in a fashion so as to not obstruct solar access to adjacent properties.
- 3.1.2.9. Any exterior lighting installed within the facility shall be downcast and dark sky compliant with recessed bulbs and full cut off shields.
- 3.1.2.10. For adjoining solar arrays, the number of features installed for the facility should be consolidated and kept to a minimum, such as the use of shared access roads, fencing and appropriate screening.
- 3.1.3. Signs:
  - 3.1.3.1. A sign not to exceed twelve (12) square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number.
  - 3.1.3.2. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations not to exceed four (4) square feet.
- 3.1.4. Safety:

- 3.1.4.1. The owner/operator shall provide evidence that a copy of the site plan application has been submitted to the Fire Chief of the local fire department. All means of shutting down the photovoltaic solar energy system shall be clearly marked on the site plan and building permit applications.
- 3.2. If a piece of equipment meets the definition of oil-filled operational equipment at 40 CFR part 112.2 (e.g. transformers, capacitors and electrical switches), it shall comply with the secondary containment procedures of that regulation.
- 3.3. Decommissioning. Prior to removal of a Major Solar Collection System, a demolition permit for removal activities shall be obtained from the Town of Rossie.
  - 3.3.1. Decommissioning Bond:
    - 3.3.1.1. Prior to issuance of a building permit for a Major Solar Collection System, the owner or operator of the Solar Energy System shall post a surety in an amount and form acceptable to the Town for the purposes of removal in the event the Major Solar Collection System is abandoned. The amount of the surety required under this section shall be 125% of the projected cost (not including salvage value) of removal of the Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System. Acceptable forms shall include, in order of preference: cash; irrevocable letter of credit; or a bond that cannot expire; or a combination thereof. Such surety will be used to guarantee removal of the Major Solar Collection System should the system be abandoned. In such case, the Town Building Inspector/Code Enforcement Officer shall then provide written notice to the owner or operator to remove the Major Solar Collection System, and the owner or operator shall have one (1) year from written notice to remove the Solar Energy System including any associated accessory structures and/or equipment, and restore the site to a condition approved by the Planning Board. If the owner, operator applicant or lessee fails to remove any associated structures or restore the site to the condition approved by the Board, all costs of the Town incurred to enforce or comply with this condition shall be paid using the surety provided by the applicant.
  - 3.3.2. Decommissioning Plan. An application for a Major Solar Collection System shall include a Decommissioning Plan. Removal of a Major Solar Collection System must be completed in accordance with the Decommissioning Plan. The Decommissioning Plan shall:
    - 3.3.2.1. Specify that after the Major Solar Collection System will no longer be used, it shall be removed by the owner and/or operator or any subsequent owner/operator and shall include a signed statement from the applicant acknowledging such responsibility. The application shall disclose the lease start date, length of the original lease, and number of options and time frames if the lease is renewed.
    - 3.3.2.2. Within thirty days of changing ownership, notice shall be provided to the Town of Rossie with the name and contact information of the new owner.

- 3.3.2.3. Demonstrate how the removal of all infrastructures (including but not limited to aboveground and below ground equipment, structures and foundations) and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. In areas where agricultural production will resume, re-vegetation shall include native plants and seed mixes and exclude any invasive species. The reclamation of land when the Major Solar Collection System is decommissioned shall include the removal of rock, construction materials and debris to a depth of four (4) feet, the decompaction of soils to a depth of 18 to 24 inches, regrading and reseeding the site to its original condition prior to the project construction.
- 3.3.2.4. Include photographs or archival color images of the property for the proposed Major Solar Collection System. Such information must, in aggregate, adequately portray the entire property for the purpose of future reference when soil and vegetation remediation of the property occurs.
- 3.3.2.5. State that disposal of all solid and hazardous waste shall be in accordance with local, state and federal waste disposal regulations.
- 3.3.2.6. Provide an expected timeline for decommissioning within the 365 period set forth below.
- 3.3.2.7. Provide a cost estimate detailing the projected cost to execute the Decommissioning Plan, subject to 3rd party verification at the developer's expense.

#### 3.4. Abandonment and Removal:

- 3.4.1. A Major Solar Collection System shall be deemed to be abandoned after it has ceased operating for a continuous one (1) year period.
- 3.4.2. Upon cessation of operations of a Major Solar Collection System for a period of one (1) year, the Town may notify the owner and/or operator of the facility to implement the Decommissioning Plan. Within 180 days of notice being served, the owner and/or operator can either restore operation equal to 80% of approved capacity or implement the Decommissioning Plan.
- 3.4.3. In the event that construction of the Major Solar Collection System has been started but is not completed and functioning within eighteen (18) months of the issuance of the final Site Plan, the Town may notify the operator and/or the owner to complete construction and installation of the facility within 365 days. If the owner and/or operator fail to perform, the Town may require the owner and/or operator to implement the Decommissioning Plan. The decommissioning plan must be completed within 180 days of notification by the Town to implement the Decommissioning Plan.
- 3.4.4. Applications for extensions of the time periods set forth in this subsection of no greater than 180 days shall be reviewed by the Town Board.
- 3.4.5. Upon recommendation of the Building Inspector/Code Enforcement Officer, the Town Board may waive or defer the requirement that a Major Solar Collection System be removed if it determines that retention of such facility is in the best interest of the Town.
- 3.4.6. If the owner and/or operator fails to fully implement the Decommissioning Plan within the prescribed time period and restore the site as required, the Town may use



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

#### 4. Requirements

4.1. The following shall be provided to the Town:

4.1.1. Verification of utility notification. Any foreseeable infrastructure upgrades shall be documented and submitted. Off-grid systems are exempt from this requirement.

4.1.2. Name, address, and contact information of the applicant, property owner(s), and agent submitting the project. In the event ownership of the facility changes hands, or if the lease is terminated, notification shall be sent to the Town within thirty days of the transfer or termination date. The notice shall include the name and contact information of the new owner(s). The new owner shall then be bound by the terms of the original agreement.

4.2. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.

4.3. Site Plan: Site plan approval is required.

4.4. Blueprints signed by a Professional Engineer or Registered Architect of the solar installation showing the layout of the system.

4.5. Property Operation and Maintenance Plan: A property operation and maintenance plan is required, describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, etc. Any such plan shall propose that the property maintain a neat and orderly appearance consistent with surrounding properties. The property shall always be maintained in a manner consistent with all properties within the Town of Rossie.

4.6. If the array will be sited on farmland located in an Agricultural District, an Agricultural Data Statement shall be completed.

4.7. Cybersecurity. To minimize cybersecurity threats to the electrical grid, the applicant shall submit evidence that malware prevention, detection and mitigation software or programming has been installed where electronic information exchanges take place between the solar array and the utility's distribution control system.

#### 5. Fees

5.1. The fees for a Special Permit and Site Plan Review for a Solar Energy System shall be set from time to time by Town Board resolution.

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

#### 6. PILOT Program

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

### Section 5.10 Telecommunications Towers

#### 1. Background and Purpose

Recent advances in wireless communications technology have resulted in a new generation of telecommunication services. These new services transmit electromagnetic waves of such a frequency and power that will likely require numerous antenna locations. These antennas may be located on buildings, water towers and other similar structures but will also frequently be located on new or enlarged towers. This requires that the Town of Rossie regulate these wireless communication system facilities in a different manner than conventional television and radio transmission towers which are able to transmit their signals at much greater distances.

The Federal Communications Commission has recently licensed a number of providers of wireless communication services and additional providers are expected to be licensed in the near future. These firms are expected to pursue antenna sites within the Town of Rossie and these efforts are expected to include requests to construct new communication towers and/or structures as well.

The intent of this proposed regulation is to provide for the establishment and/or expansion of wireless telecommunication services within the Town of Rossie while protecting neighborhoods and minimizing the adverse visual and operational effects of wireless telecommunications

facilities through careful design, siting and screening. More specifically, this regulation has been developed in order to:

- Maximize use of existing and approved towers and other structures to accommodate new antennas and transmitters in order to reduce the number of communication towers needed to serve the Town; and
- Encourage providers to co-locate their facilities on a single tower.

The Town of Rossie has undertaken a deliberate process to establish policy, standards and procedures related to the siting of tower structure and antenna arrays for wireless telecommunications as contained herein. In doing so, the municipality attempted to:

- Preserve property values and development opportunities;
- Minimize the visual impact of towers;
- Minimize the number of towers and their heights;
- Promote safety, general welfare and quality of life; and
- Assure adequate access to wireless communication service for the community.

## 2. Application Procedures

2.1. No communication installation, transmission tower, telecommunication tower, communication tower, accessory facility or structure, free-standing tower and/or pole or transmission reception antenna shall henceforth be erected, moved, changed or altered other than replacement in kind except after the approval in conformance with the provisions of these regulations.

2.2. No existing structure shall be modified to serve as a transmission tower, telecommunication tower, communication tower accessory facility or structure freestanding tower, antenna and/or pole unless in conformity with this local law and other laws of the Town.

2.3. Applicant must provide a copy (in applicant's name) of the Certificate of Need or appropriate FCC License issued by the FEDERAL COMMUNICATIONS COMMISSION to provide the telecommunication services that the proposed tower is designed to support. If the appropriate applicant FCC license has not been issued, applicant must show proof that the application has been filed and accepted by the Federal Communications Commission and is under review for the granting of applicant's license. "Speculative" applications of any type shall not be considered or acted upon by the Town or Planning Board.

2.4. All applications for installation of a new telecommunications tower shall be accompanied by a report containing the information hereinafter set forth. The report shall be signed by the tower operator and contain the following information:

2.4.1. Name(s) and address(es) of person(s) preparing the report.

2.4.2. Name(s) and address(es) of the property owner, operator and the applicant.

- 2.4.3. Postal address and tax map page, block and lot or parcel number of the property.
  - 2.4.4. Size of the property on which the proposed construction is to occur and the location of all adjoining lot lines within five hundred feet (500’).
  - 2.4.5. Location of nearest residential structure measured in feet.
  - 2.4.6. Location of nearest occupied residential structure measured in feet.
  - 2.4.7. Location of all structures, existing and proposed on the property, which is the subject of this application.
  - 2.4.8. Location, size and height of all proposed and/or existing antennae and all appurtenant structures.
  - 2.4.9. Type, size and location of all proposed and existing mitigating landscaping.
  - 2.4.10. The number, type and design of the tower and antenna(e) proposed and the basis for the calculations of tower and system capacity.
  - 2.4.11. The make, model and manufacturer of the communications tower and antenna(e) with supporting construction details.
  - 2.4.12. A description of the proposed tower and antenna(e) and all related fixtures, structures, appurtenances and apparatus, including but not limited to, height above grade materials, color and lighting.
  - 2.4.13. The frequency, modulation and class of service of radio equipment.
  - 2.4.14. Applicant's proposed tower maintenance and inspection procedures and records systems.
  - 2.4.15. Certification that NIER levels at the proposed site are within threshold levels adopted by the FCC.
  - 2.4.16. Certification to the Town that the tower and attachments both are designed and constructed ("As Built") to meet all State and Federal structural requirements for loads, wind, ice, etc.
  - 2.4.17. A professionally prepared contour radio propagation map showing anticipated coverage from the site proposed.
- 2.5. The applicant shall submit a complete long EAF pursuant to SEQR, Type I/II and a complete Visual Environmental Assessment form (visual EAF addendum). The Town Planning Board, as lead agency, may require sub-mission of a more detailed visual analysis based on the results of the Visual EAF. In addition, the applicant shall address the environmental flight path of area species.

### 3. Siting Preferences

#### 3.1. Shared use of existing towers

At all times, shared use of existing towers shall be preferred to the construction of new towers. An applicant shall be required to present an adequate report inventorying existing towers within a reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities as an alternative to a proposed new tower.

3.1.1. An applicant proposing to share use of an existing tower shall be required to document intent from an existing tower owner to allow shared use.

3.1.2. The Board shall consider a new telecommunication tower where the applicant adequately demonstrates that shared usage of an existing tower or other structure is

impractical. The applicant shall be required to submit a report demonstrating good-faith efforts to secure shared use from existing towers as well as documentation of the physical and/or financial reasons why shared usage is not practical. Written requests and responses for shared use shall be provided.

3.2. Shared usage of site with new tower (clustering)

Where shared usage of an existing tower is found to be impractical, the applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses. Documentation and conditions shall be in accordance with Subsections 3.1.1 and 3.1.2 above.

3.3. New Tower at a New Location

The Board shall consider a new telecommunications tower on a site not previously developed with an existing tower. The applicant shall adequately demonstrate that shared usage of an existing tower site is impractical and shall submit a report demonstrating good-faith efforts to secure shared use from existing tower, as well as documentation of the physical and/or financial reasons why shared usage is not practical. (Written requests and responses for shared use inquiries shall be provided). Information regarding the required need for the new telecommunications tower shall be required to the form of empirical data illustrating said need.

3.4. Future shared usage of new towers

The applicant must examine the feasibility of including a telecommunication tower in its proposed plan that will accommodate future demand for reception and transmitting facilities.

The Board reserves the right to impose reasonable conditions regarding reservation of tower space for future antennae including height, orientation and power and restriction or elimination of restrictive use covenants as part of tower use contracts and preservation of reasonable fee structures as part of the contract.

4. Standards Applicable to New Towers

4.1. Siting Considerations

4.1.1. The siting of any new Telecommunications Tower shall be in the most inconspicuous location within the Town, as determined by the Planning Board that will meet the technical requirements of the facility while minimizing its impact on the Town's viewscape.

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

4.2. Lot size and setback for new towers

4.2.1. All proposed telecommunications towers and accessory structures shall be located on a single parcel and a set back from abutting residential parcels, public property or street lines a distance sufficient to contain on-site substantially all ice-fall or debris from tower failure and preserve the privacy of the adjoining residential properties.

- 4.2.2. Lot size of parcels containing a tower shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased, the entire lot required shall be leased from a single parcel.
- 4.2.3. All tower bases shall be located at a minimum setback from any property line a minimum distance equal to one and one-half (1-1/2) times the height of the tower.

Accessory structures shall comply with the minimum setback requirements in the Town of Rossie Land Use Regulation.

#### 4.3. Visual impact assessment

The Board shall require the applicant to undertake a visual impact assessment of any proposed new towers or any proposed modification of an existing tower. The visual impact assessment shall include:

- 4.3.1. A "Zone of Visibility Map" provided in order to determine location where the tower may be seen.
- 4.3.2. Pictorial representatives of "before and after" views from key viewpoints both inside and outside of the Town, including but not limited to, state highways and other major roads, state and local parks and areas of aesthetic interest.
- 4.3.3. Alternative tower designs and color schemes.
- 4.3.4. Description of visual impact of the tower base, guy wires and foundations, accessory buildings and overhead utility lines from abutting properties and roads.

#### 4.4. New tower design

Alternative designs shall be considered for new towers, including lattice and single pole structures. The design of a proposed new tower shall comply with the following:

- 4.4.1. Towers and antennas shall be designed to withstand the effects of the wind according to the standards designated by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association.
- 4.4.2. Unless specifically required by FAA or APA regulations, all towers shall have a finish compatible with the surrounding area that shall minimize the degree of visual impact.
- 4.4.3. The maximum height of any tower intended to be used as a telecommunication tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature in accordance with municipal, state and/or federal law and/or regulation.
- 4.4.4. The Board may request a review of the application by a qualified engineer for the evaluation of need for the design of any new tower.
- 4.4.5. Facilities shall maximize the use of building materials, colors and textures designed to blend with the ambient surroundings.
- 4.4.6. No portion of any tower or related structure shall be used for advertising purposes.

#### 4.5. Screening

Deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas. Where a site abuts a residential property or public property, including streets, screening shall be required.

#### 4.6. Access

4.6.1. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize grounds disturbance and vegetation cutting to within the toe of fill, the top of cuts or no more than ten feet (10') beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

#### 4.7. Fencing

Sites of proposed new towers and sites where modifications to existing towers are proposed shall be adequately secured to prevent unauthorized access by the general public. Specifically:

4.7.1. all antennae communication towers, antenna towers, monopoles and other supporting structures including guy wires, shall be made inaccessible to children and constructed or shielded in such a manner that they cannot be climbed or run into; and

4.7.2. transmitters and communication control points shall be installed so that they are accessible only to persons authorized by the licensee to operate or service them.

#### 4.8. Signage:

4.8.1. Telecommunication towers/facilities shall be permitted one (1) sign no larger than two (2) square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmit capabilities. The sign shall also contain the names(s) of the owner(s) and operator(s) of the antenna(e) as well as emergency phone number(s).

4.8.2. The sign shall be located so as to be visible from the primary access point to site. No other signage shall be permitted on any antenna(e), antenna(e) supporting structure, monopole or communication tower structure unless required by Federal or State regulation.

#### 4.9. Color, Shape and Camouflage

4.9.1. In scenic or historic area, companies are required to camouflage each tower; for example, by putting it inside an artificial tree, a clock tower, a church steeple, silos or a flag pole.

4.9.2. Wireless towers are required to paint wireless devices or supporting structures in a neutral color designed to blend in with the background. Large dish antennas (e.g. over six feet (6') in diameter) are prohibited. Existing trees must be left as a buffer and additional trees may be required to be planted around the entire facility in order to provide screening.

#### 4.10. Health Concerns – Testing and Reporting

Section 704 of the Federal Telecommunications Act of 1996 allows localities to regulate wireless facilities on the basis of environmental or health effects. The tower company may be required to pay for regular inspections (annually) if such structure is located within one thousand feet (1,000') of a residence or occupied structure and provide the local governments with a copy of the inspection report to assure continued compliance with FCC emissions standards.

#### 5. Review Process and Decisions

The applicant must follow the requirements set forth in this Article, and Article VI. Site Plan Review and Article VII Site Plan Review Standards.

#### 6. Compatibility With Applicable State Or Federal Laws

All towers approved must comply with all other regulations of the State or Federal government, including Federal Communications Commission (FCC) regulations applicable to environmental and health effects of both transmitters and receivers.

#### 7. Removal of Towers

The applicant will provide a bond equal to the estimated cost of construction for the removal of such tower(s) due to nonuse for a period of six (6) months or for noncompliance or discontinuance of use as determined by the municipality.

#### 8. Exceptions

Residential accessory uses (e.g. television antennae, satellite dishes, ham radio, citizens band radio) under sixty feet (60') in height are not affected. Specifically, exceptions to these regulations are:

- new use that are accessory to residential uses; and
- approved uses existing prior to the effective date of these regulations.

### Article VI. Site Plan Review

#### Section 6.01 Planning Board Review and Decision.

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



modifications, the applicant shall submit a final detailed plan to the Planning Board for approval according to requirements set forth in this Article.

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

2. Public Hearings. If the Planning Board, in its discretion, decides to hold a public hearing concerning an application for final site plan approval, such public hearing will be held within 62 days of receipt of said application. The Planning Board shall render its decision concerning said application for final site plan approval within 62 days after the public hearing. Hearings shall be advertised in accordance with Article X, Section 10.06.
3. Time Limitations. The time periods within which Planning Board actions are required in this Article are the maximum times allowable. The Board shall make every effort to act as quickly as possible in reviewing applications in order to minimize delays to the applicant. If the Board does not complete their review within the times specified in this Article, this will constitute approval of the application, except where the review period has been extended by mutual consent of applicant and the Board.
4. Justification and Notice.
  - 4.1. The Planning Board shall apply all of the review standards described in Article VII of this Local Law in reviewing site plans.
  - 4.2. Decisions of the Board shall be in writing and may include reasonable conditions to further the intent of this Local Law. Reasons for disapproval shall be clearly stated.
  - 4.3. Decisions of the Board shall be filed immediately in the Office of the Town Clerk and a copy mailed to the applicant by certified mail, with return receipt requested.
  - 4.4. Approval of a Site Plan by the Planning Board shall be valid for a period of one (1) year from the date thereof for the purpose of obtaining a building permit. Failure to secure a building permit during the period shall cause the Site Plan approvals to become null and void. No building permit shall be issued and no site work shall commence until all necessary permits and approvals from Town, County, State and Federal agencies are obtained and any required performance bond is filed with the Town Clerk

## Section 6.02 Sketch Plan Conference

1. Purpose. Prior to submission of an application as defined in Article III of this Local Law, an applicant may, as an option, request an informal Sketch Plan Conference with the Planning Board. The purpose of this conference is to save time and money and to make the most of opportunities for desirable development. This conference is to be used to review the basic

design concept, to discuss site characteristics (advantages and limitation), to determine the information to be required by the New York State Environmental Quality Review Act (8 NYCRR 617) previously referred to in Article I, Section 10.

2. Sketch Plan Submission. Prior to the sketch plan conference, the applicant shall submit in as much detail as possible, a written letter to the Town of Rossie Code Enforcement Officer including as a minimum the following:
  - 2.1. A statement describing the proposed use.
  - 2.2. The approximate acreage or square feet involved and the scale of the map.
  - 2.3. A sketch map of the proposed activity and adjacent property owners' boundaries.
  - 2.4. A topographical map of an appropriate scale showing the location of the proposed use and all surrounding area within five hundred feet (500') of the site of proposed use. Copies of U.S.G.S. 7-1/2 minute sheets are acceptable.

Upon receipt of the Sketch Plan, the Code Enforcement Officer, in conjunction with the applicant, schedule a time for the Sketch Plan Conference which is mutually convenient to the applicant and the Board, but not to exceed thirty (30) days from the date of submission of the Sketch Plan.

3. Sketch Plan Conference Actions. Upon receipt and review of the Sketch Plan, the Board shall take the following actions:
  - 3.1. With regard to SEQR, the Board shall determine if the applicant's proposal for site plan is a Type I, Type II or unlisted action. The Board shall determine the lead agency for SEQR review.
  - 3.2. Do the following:
    - 3.2.1. Waive the requirement for preliminary and final site plan submission declaring that the Sketch Plan is the final information required and approve the issuance of a building permit by the Code Enforcement Officer. This action will normally follow when the proposed use is such that all of the information required for decision is contained in the Sketch Plan, the proposed use is compatible with the Town's land use regulations and the Planning Board has determined that the public interest will be served by not holding a public hearing.
    - 3.2.2. Do the same as in the above paragraph of this Local Law except to order that a public hearing will be held in order to better serve the public interest.

3.2.3. Require a Preliminary Site Plan to be prepared by the applicant. The Board may, at this time and at its discretion, waive any preliminary requirements which are clearly not relevant to the proposed activity.

3.2.4. Declare the Sketch Plan to be incomplete. The applicant may resubmit it with the addition of the indicated missing information.

### Section 6.03 Preliminary Application Requirements

1. Application. An application for Preliminary Site Plan Approval shall be submitted in writing to the Code Enforcement Officer who shall then forward it within fifteen (15) days to the Planning Board after ensuring that it contains the necessary information for the Board's review. The application shall be accompanied by information drawn from the list in Section 4(B) below.

The Application for Site Plan Approval will be on a form adopted by the Board. Any person uncertain as to whether this Local Law applies to a given land use activity may apply in writing to the Board for a written determination.

2. Required Documents. The following shall be required, unless specifically waived by the Planning Board or otherwise indicated and shall constitute application for a site plan review:
  - 2.1. Application form (as approved by the Planning Board and available from the Town Clerk).
  - 2.2. Location map with scale, north arrow and date showing boundaries and dimensions of the properties involved, identification of adjacent properties including ownership and roads and any known easements right-of-ways.
  - 2.3. Map showing existing features of the site, including structures, roads, easements, right-of-way, bodies of water, flood prone areas, wooded areas land use, water and sewer lines, paved areas, wells and on-site sewage disposal facilities.
  - 2.4. On the same or separate map as 3 above, indicate the location, dimension and arrangement of any proposed buildings or use on the site, including roads, easements and right-of-way, etc., providing ingress and egress.
  - 2.5. Sketch of any proposed building or structure including exterior dimensions and elevations of front, side and rear.
  - 2.6. Name and address of applicant and any professional advisors.
  - 2.7. Copy of the deed to the property if requested by the Board.

- 2.8. Authorization of the owner to apply for a permit if the applicant is not the owner of the property in question.
- 2.9. Application and processing fee according to current schedule. A copy of the current fee schedule is available in the Town Clerk's Office.

#### Section 6.04 Final Application

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

### Article VII. Site Plan Review Standards

#### Section 7.01 General Standards

The proposed land use activity should not be in conflict with the Town's intent as expressed in Article I, Section 2 of the Local Law and the community goals and objectives as expressed in the Town Plan or in future community planning documents.

#### Section 7.02 Specific Standards

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

1. Compatibility of development with natural features of the site and with surrounding land use.
2. Measures to prevent damage from floods.
3. Landscaping arrangements and the retention of existing vegetation for aesthetic qualities.

4. Buffers to protect neighboring properties against noise, glare or other nuisances.
5. Vehicular traffic access and circulation, including intersections, road, easement and right-of-way widths, pavement surfaces dividers and other traffic control.
6. Parking provisions.
7. Exterior lighting.
8. Fire protection provisions.
9. Erosion control methods during and after construction.
10. Storm water and drainage facilities.
11. Water supply.
12. Sewage disposal facilities.
13. Preservation of scenic vistas.
14. Bulk storage of petroleum products shall be in compliance with New York State Department of Environmental Conservation requirements.

### Section 7.03 Explanation of Standards

The specific standards listed in Section 7.02 above are further described as follows:

1. Compatibility of development with natural features of the site and with surrounding land uses. The proposed use should not be located in such a manner on the site so as to:
  - 1.1. Create a traffic hazard by limiting site distance.
  - 1.2. Be located in poorly-drained area.
  - 1.3. Be located on soils, which according to USDA Soil Conservation service criteria are unsuitable for the particular use.
  - 1.4. A proposed use which would substantially obstruct an existing view of river, stream, lake or historic structure.
  - 1.5. Disturb existing bodies of water which contributes to the natural beauty site.
  - 1.6. Be located on slopes too steep to accommodate roads, walkways, riding trails or bike paths, as appropriate.
2. Measures to prevent damage from floods. Uses should, in as far as possible, be located in areas outside of designated flood hazards areas. Further considerations are:
  - 2.1.No use designated as primarily a public use shall be located within a flood hazard area.

2.2. Uses which are not primarily public uses shall demonstrate mitigating measures such as flood insurance, water diversion structures and well and septic system protective devices to prevent floodwater from entering.

2.3. Uses should not be situated in such a manner that they would endanger life or property if carried away with the flood.

3. Landscaping arrangements and the retention of existing vegetation for aesthetic qualities.

Existing stone walls, mature trees and roads should be retained in as far as it is possible and to the extent that their retention will enhance the visual and aesthetic appeal of the site.

4. Buffers to protect neighboring properties against noise, glare or other nuisances. If a proposed use is likely to generate noise, odor, vibration or other emissions, the feasibility of using the following should be considered:

4.1. Berms

4.2. Fences

4.3. Mufflers

4.4. Limiting hours of operation

4.5. Vegetation for screening

4.6. On a corner lot, no fence, wall, hedge, sign or other structure or planting more than forty inches (40") in height shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street line at points which are thirty feet (30') distance from the point of intersection.

5. Vehicular traffic access and circulation, including intersections, roads, easement and right-of-way widths and pavement surface, dividers and other traffic controls.

Uses generating traffic should be reviewed for the following possible impacts:

5.1. Poor access off a State, County or Town road.

5.2. Parking arrangements poorly designated so as to force vehicles to back into a public roadway or block entrances or exits.

5.3. Unclear or confusing traffic control signs.

5.4. Traffic flow which creates hazards to pedestrians.

6. Parking Conditions.

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

6.1	Residences, Apartments	One (2) parking space for each dwelling unit.
6.2	Stores, Shops, Offices	One (1) for each two hundred (200) square feet of gross floor area.

6.3	Churches, Meeting Halls, other places of public assembly	One (1) parking space for each eight (8) seats provided for its patrons based on maximum seating capacity.
6.4	Restaurants	One (1) parking space for each three (3) seats.
6.5	Motels, Tourist Homes	One (1) parking space for each guest room.
6.6	Nursing Homes	One (1) parking space for each five (5) patients.
6.7	Industries	One (1) parking space for each employee per shift.
6.8	Other uses, including home occupations, rural businesses and rural industries	Parking space adequate to meet expected maximum demand based on the requirements for similar uses and on reasonable estimates, such estimates to be included in the application for a building permit.

7. Exterior Lighting. Exterior lighting shall neither be too poor nor excessively bright. Lighting should be directed at those areas where people are likely to come into contact with vehicles, machinery, etc. Site illumination should not be directed at residences adjacent to the site so as to create a nuisance.
8. Fire protection provisions. The New York State Uniform Fire Prevention and Building Code regulates fire protection. The Planning Board shall consult with the Building Inspector to determine whether the Code has been complied with. No mobile home shall be allowed into the Town of Rossie or if located in the Town, may not be moved to another point within the Town unless said mobile home meets the New York State Uniform Fire Prevention and Building, Electrical and Fire Codes.
9. Erosion control methods during and after construction. Existing vegetation should not be retained in as far as possible. Hay bales, netting, retaining structures, sediment ponds and timely seeding of ground cover should be considered depending on the erodibility of the site.
10. Storm water and drainage facilities. Provisions for control of storm water and drainage should be consistent with State regulations.
11. Water Supply. Water supply must be clearly identified in the application. Water for public use or semi-public uses should be from a drilled well, properly grouted. Water for primarily private uses may come from a drilled well, dug or driven well or springhouse.
12. Sewage disposal facilities. Must comply with current New York State Health laws.

13. Preservation of scenic vistas. The specific considerations pertaining to this item are found above in subsection 3.
14. Signs. Shall not be designed so as to be confused with any traffic sign or signal. Flashing, distracting, oscillating and revolving signs are not permitted. Signs may be illuminated by steady light provided the lighting does not directly illuminate the adjacent properties or road.
15. Bulk storage of petroleum products. Applicants proposing uses involving the bulk storage of petroleum products shall demonstrate that:
  - 15.1. Applicants proposing uses involving the bulk storage of petroleum and like products shall do so in compliance with New York State Regulations and demonstrate that containment in the above ground tank is accomplished in such a way as to prevent surface spills.
  - 15.2. Containment in above ground tanks is accomplished in such a way as to prevent surface spills leaving property or entering surface or groundwater.

## Article VIII. Subdivision Review Procedures

### Section 8.01 Application Requirements

1. Preliminary Plat. Whenever any subdivision of land is proposed, the subdivider or his or her designated agent shall file a preliminary plat with the Code Enforcement Officer, who shall immediately ensure that it contains the required information and who shall then forward it to the Planning Board for review and action.
  - 1.1. The preliminary plat shall be titled “Preliminary Plat” and shall contain the following information:
    - 1.1.1. Name of subdivision, scale, date, north arrow and location within the Town.
    - 1.1.2. Topographic data on the tract and existing drainage-ways and water bodies.
    - 1.1.3. Tract boundaries, tract area and street layout.
    - 1.1.4. Name and right-of-way width of each street or other right-of-way. Street names shall not duplicate existing street names within the Town
    - 1.1.5. Location of all utilities on or adjacent to the tract.
    - 1.1.6. Name of all property owners within five hundred feet (500’) of the boundaries of the tract to be subdivided.
    - 1.1.7. Location, dimensions, owners of record and purpose of easements.
    - 1.1.8. Number to identify each lot and letters to identify each block.
    - 1.1.9. Location and purpose for which sites other than residential lots are dedicated or reserved.
    - 1.1.10. Minimum front, side yard and rear setback lines on all lots and other sites.



- 1.1.11. Summarized site data including number of residential lots, typical lot sizes, lineal feet of streets, area in parks, etc.
  - 1.2. Three (3) copies of the preliminary plat and any supplementary material shall be submitted to the Code Enforcement Officer.
2. Final Plat. Upon receiving approval or conditional approval for a preliminary plat, a final plat shall be filed with the Code Enforcement Officer who shall immediately ensure that it contains the required information and who shall forward it to the Planning Board for review and action. The subdivider shall within six (6) months after approval with or without modifications of a Preliminary Subdivision Plat approval shall be null and void unless an extension of time is applied for and granted by the Board. The final plat shall conform substantially to the preliminary plat as conditionally approved and shall indicate any condition or modifications which have been imposed by the Planning Board. Three (3) copies, and one (1) digital copy, shall be submitted.
  - 2.1. Information contained in the final plat shall consist of the following minimum items:
    - 2.1.1. All information required by Article VIII, Section 8.01, for a preliminary plat except the title shall be "Final Plat."
    - 2.1.2. Tract boundary lines, right-of-way lines, easements and individual lot lines with accurate dimensions, bearings, radii, areas and central angles of all curves and location and description of all monuments.
    - 2.1.3. A scaled, topographic representation of the entire development site reflecting a contour interval of ten to fifteen feet (10'-15') with reference to the nearest USGS permanent bench mark.
    - 2.1.4. Where applicable, typical cross sections of streets, including pavement, shoulders, ditches and walks and cross-sections of drainage easements.
    - 2.1.5. Where applicable, profiles of street center lines showing vertical curve data, slope of tangents and elevations of streets, intersections and other critical points.
    - 2.1.6. Where applicable, profiles of water distribution lines, storm and sanitary sewers, if any, showing pipe diameter and distance between individual lines, manholes and catch basins.
    - 2.1.7. Where applicable, preliminary drawings for buildings to be constructed, if any, including floor plans, exterior elevations and sections.
    - 2.1.8. Where applicable, landscaping, lighting and all site improvements, including final grading plans and where natural contours are changed beyond the road and building area.
  - 2.2. Accompanying data to be submitted with final plat should include:
    - 2.2.1. Deed showing owner of the tract to be subdivided.
    - 2.2.2. Authorization of the owner to apply for final plat approval if the applicant is not the owner of the property in question.

- 2.2.3. Documentation showing that the proposed subdivision has been approved by the New York State Department of Health and the New York State Department of Environmental Conservation, if appropriate.
  - 2.2.4. A one-time application fee, according to the current fee schedule, payable to the Town of Rossie.
  - 2.2.5. Offers of cession which have been approved as satisfactory by the Town Attorney dedicating streets, easements, open space or other facilities. (Note: Approval of the final plat shall not constitute acceptance by the Town Board of the dedication of such facilities without formal acceptance by the Town Board.)
- 2.3. The final plat shall be filed a minimum of ten (10) days prior to the regularly scheduled Planning Board meeting.
- 2.4. The signature of the Chairperson of the Planning Board or designated member and the Code Enforcement Officer constituting final approval by the Planning Board of the plat or the approval by such Board of the development of a partially developed plat on file with the County Clerk shall expire within sixty-two (62) days from the date of such approval unless within such sixty-two (62) day period such a plat or section thereof is duly filed by the owner with the County Clerk. If the Board has failed to act on the final plat and the Code Enforcement Officer has issued a certificate to the owner to the effect, that certificate will become null and void if the owner has not filed the plat or section thereof with the County Clerk within sixty-two (62) days from the date the certificate was issued. In event the owner shall file only a section with the County Clerk, such section shall encompass at least ten percent (10%) of the total number of parcels contained in the approved plat and the approval of the remaining sections shall expire unless said sections are filed with the County Clerk within two (2) years after filing the first section.
- 2.5. Sketch Plan Conference. Prior to the filing of an application for approval of a preliminary plat, the subdivider or his or her authorized representative may request a Pre-Application Conference with the Code Enforcement Officer and the Chairperson of the Planning Board. The purpose of such a conference is to consult informally and at an early stage with the Board for the purpose of conserving time and expense to the subdivider and exchanging information that will aid in assuring a desirable subdivision in the public interest.

## Section 8.02 Planning Board Review and Decision

1. Preliminary Plat. Upon receipt of a preliminary plat and accompanying information from the Code Enforcement Officer, the Planning Board shall, within sixty-two (62) days, hold a public hearing, which hearing shall be advertised at least once in the newspaper of general circulation in the Town at least seven (7) days before such hearing. The Planning Board may waive the requirement for a public hearing and approve, or approve with modifications a preliminary plat, provided the proposed subdivision involves the division of a parcel of land into no more than two (2) parcels and that all applicable minimum standards as set forth

in Article IX are met. Within sixty-two (62) days after the date of such hearing, the Planning Board shall approve, approve with modifications or disapprove such preliminary plat in accordance with the criteria set forth in Article VIII of this Local Law, and in accordance with the Town Plan and any other relevant planning documents produced by the Planning Board. When so approving a preliminary plat, the Board shall state in writing modifications, if any as it deems necessary for the submission of the plat in final form. Within five (5) days of approval of such preliminary plat, it shall be certified by the Clerk of the Board as a preliminary approved and a copy filed in his or her office and a certified copy mailed to the subdivider. Within six (6) months of the approval of the preliminary plat, the subdivider must submit the plat in final form or the preliminary approval by the Board is revoked. If the Board fails to take action within the time constraints set forth in this subsection, such plat shall be deemed granted preliminary approval. The certificate of the Code Enforcement Officer as to the date of submission and failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.

2. Final Plat. Within sixty-two (62) days of the submission of a plat in final form for approval by the Planning Board, an advertisement for public hearing shall appear at least once in a newspaper of general circulation in the Town at least seven (7) days before such a hearing, provided however, that when the Board deems the final plat to be in substantial agreement with a preliminary plat and modified in accordance with requirements of such approval if such preliminary plat has been approved with modification, the Board may waive the requirement for such public hearing. The Board shall, by resolution, conditionally approve with or without modifications, disapprove or grant final approval and authorize the signing of such plat, within sixty-two (62) days of its receipt by the Code Enforcement Officer if no hearing is held, or in the event such hearing is held, within sixty-two (62) days after the date of such hearing. Notwithstanding the foregoing provisions of this subdivision, the time in which the Planning Board must take action on such plat may be extended by mutual consent of the owner and the Board. In event the Board fails to take action on a final plat within the time prescribed, the plat shall be deemed approved and a certificate of the Code Enforcement Officer as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required, this section shall be cited in the certificate. Upon resolution of conditional approval of such final plat, the Planning Board Chairperson and the Code Enforcement Officer shall sign the plat subject to completion of such requirements as may be stated in the resolution.
3. The Planning Board may require the posting of a bond or other form of surety to ensure the satisfactory completion or required improvements in accordance with Section 277 of NYS Town Law. Within five (5) days of the resolution, the plat shall be certified by Code Enforcement Officer as conditionally approved and a copy filed in his or her office and a certified copy mailed to the owner including a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of such requirements, the plat shall be signed by said duly authorized

officer of the Board. Conditional approval of a final plat shall expire within one hundred eighty (180) days after the date of the resolution granting conditional approval unless such requirements have been certified as completed. Notwithstanding the foregoing provisions of this section, the Planning Board may extend the time in which a conditionally approved plat in final form must be submitted for signature, if in its opinion such extension is warranted by the particular circumstances. Such extension may not exceed two (2) additional periods of ninety (90) days each. Prior to granting conditional or final approval of a plat in final form, the Board may permit the plat to be subdivided into two (2) or more sections and may, in its resolution granting conditional or final approval, state that such requirements as it deems necessary to insure the orderly development of the plat be completed before such sections may be signed by the Chairperson of the Board and the Code Enforcement Officer. Conditional or final approval of the section of a final plat, subject to any conditions imposed by the Board, shall be granted concurrently with conditional or final approval of the plat.

## Article IX. Subdivision Review Standards

### Section 9.01 General Standards

1. All standards set forth herein shall apply to the extent that they are applicable as determined by the Planning Board and are required minimum standards. Only where exceptional conditions warrant, which conditions shall be fully documented, shall the Board require such additional measures as are reasonable and appropriate under circumstances to accomplish the purposes of these regulations.
2. Land to be subdivided shall be of such character that it can be used safely for building purpose without danger to health or peril from fire, flood or other natural hazard and shall be in keeping with the objectives of the Town Plan.

### Section 9.02 Specific Standards

#### 1. Block Design

The length, width and shapes of blocks shall be determined with due regard to:

- 1.1. The type of development proposed.
- 1.2. Need for convenient access, circulation, control and safety of vehicular traffic, with particular attention to limitation of the number and location of points ingress and egress.
- 1.3. Limitation and opportunities of topographic and other site characteristics.

Where the subdivision is laid out in conventional block forms, block lengths shall generally not exceed one thousand five hundred feet (1,500'), nor be less than seven hundred fifty feet (750'). Block widths shall generally be two (2) lots deep.

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

## 2. Lot Arrangements

- 2.1. In accord with the provisions of the NYS Town Law, Section 280-a., and the Town's right and interest there under, each lot shall have such access to a public roadway as is determined appropriate by the Planning Board based on the size, locations and nature of the subdivision. In particular, in any subdivision of more than five (5) lots, each lot shall have the minimum required lot width on an approved roadway or shoreline, other than in an approved cluster arrangement, of one hundred and fifty feet (150'). In addition, no subdivision lots shall be approved with a lot depth to road frontage ratio greater than five (5) to one (1).
- 2.2. Property lines meeting road, easement and shorelines shall be substantially at right angles to straight road lines or radial to curved road lines.
- 2.3. Driveway access and grades shall conform in general to the terrain, but shall not exceed a fifteen percent (15%) grade over any fifty feet (50') length, and shall not exceed three percent (3%) within twenty five feet (25') of the improved surface area of the roadway, as measured along the centerline of the driveway.

## 3. Easements

- 3.1. Adequate easements centered on rear or side property lines shall provide for utilities, where necessary. A minimum easement width of fifteen feet (15') shall be required. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded, where required.
- 3.2. A pedestrian easement, not less than fifteen feet (15') wide, in addition to any road, shall be provided where required by the Board to provide safe circulation, or access to schools, recreation areas and other community facilities.
- 3.3. Where a subdivision is traversed by water source, drainageway, channel or stream, there shall be provided a storm-water easement or drainage right-of- way conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose, as determined by the Board.
- 3.4. Where a subdivision is so situated as to involve a noteworthy scenic view or vista, either for the subdivision, along a travel corridor or for established residences, a scenic easement of appropriate configuration may be required by the Board.
- 3.5. When so required by the Board, a screen planted easement not less than fifteen feet (15') wide, across which there shall be no right of access, may be required along the line of property between the subdivision and any adjoining use which would be incompatible with the subdivision or require separation from it.

4. Access

All roads, easements and right-of-way, and related construction, whether to be offered for dedication or not, shall be the responsibility of the subdivider unless otherwise indicated and shall be in accord with the following criteria:

- 4.1. The arrangement, character, extent, width, grade and location of roadways shall conform to the Town Plan as such exists at the time, and shall be considered in their relation to existing and planned roads, to topographical conditions, to public convenience and safety, and to the proposed uses of the land to be served by such roadways. Road grades shall conform as closely as possible to the natural topography, and all roads shall be arranged so as to allow for a maximum number of the proposed number of building sites to be situated at or above the finished grade level of the roadway.
- 4.2. The arrangement of roadways in a subdivision shall provide for the continuation, if appropriate, of residential roadways in the surrounding areas and be such as to compose a convenient system both for the subdivision and connection to the existing highway system.
- 4.3. Roadway layout shall consider the installation of utility distribution and service lines and shall be situated so as to best accommodate these installations in an acceptable manner.
- 4.4. Roadways shall minimize stream crossings, avoid traversing slopes in excess of twenty-five percent (25%) and avoid soils with a susceptibility to erosion or slippage.
- 4.5. Local roadways shall be laid out that their use by through traffic will be discouraged.
- 4.6. Where subdivision abuts, contains, or has access to an existing or proposed major traffic artery, the Board may require a frontage with screen-planting contained in a non-access reservation along the property lines or such other treatment as may be necessary for adequate protection of both the subdivided properties and the scenic qualities of the Town and to afford separation of through and local traffic.
- 4.7. Reserved strips controlling access to roadways, whether public or private or other improvements dedicated or to be dedicated to public use shall be prohibited unless control thereof is expressly placed in the Town under conditions approved by the Board.
- 4.8. The arrangement of roadways in any subdivision shall consider provisions for continuation of collector or key local roads to adjoining property which has the potential to be similarly subdivided and to existing road systems.
- 4.9. Clearing and grading for road and utility installation shall be limited to that which is necessary to construct safe roads, provide needed roadside and embankment drainage, construct stable cuts and fills and provides for utility installation.
- 4.10. The construction of roads and the installation of utilities shall be planned sequentially, so that construction operations do not interfere with or destroy completed work.
- 4.11. No roadway name shall be duplicated or be confused with the names of existing roads or highways in the Town. Road names shall be subject to the approval of the Town Board.
- 4.12. Every roadway shown on a plat that is hereafter filed or recorded in the office of the County Clerk shall be deemed to be a private road until such times as it has been formally offered for cession to the Town and formally accepted as a public road by

resolution of the Town Board or; alternatively, until it has been condemned by the Town for use as a public roadway.

- 4.13. Roadway jogs with center line offsets of less than one hundred fifty feet (150') shall not be permitted, and any subdivision road intersecting an existing arterial or collector road shall be no closer to another intersecting roadway than the stopping site distance as determined by the configuration of the roadway at that point and the legal speed limit.
- 4.14. All roadway intersections shall be rounded by curves with a minimum radius of twenty-five feet (25') as measured from the edge of the improved travel surface. Within the triangular area formed by the connecting two points fifty feet (50') from the intersecting road right-of-ways, visibility shall not be restricted by the natural landform nor by the location of any structure or planning.
- 4.15. The length of the tangent between reverse curves on arterial and collector roadways shall be a minimum of one hundred fifty feet (150'); and on local roadways a minimum of one hundred feet (100').
- 4.16. Roadways shall be laid out so as to intersect as nearly as possible at right angles. No roadway shall intersect any other at less than seventy-five degrees (75°) and all roadways shall join each other so that for a distance of at least one hundred feet (100') the roadway is approximately at right angles to the roadway it joins.
- 4.17. Roadways vertical gradients shall be not less than four-tenth (0.4) of one percent (1%), nor more than twelve percent (12%) over any one hundred feet (100') distance and shall not exceed three percent (3%) within fifty feet (50') of any intersection.
- 4.18. Dead end roadways shall not be permitted, except as provided herein:
  - 4.18.1. A closed turn-around or cul-de-sac may be permitted where no through connection is possible or desirable providing it is designed with a turn-around having outside roadway diameter of at least one hundred feet (100') and a right-of-way diameter of at least one hundred fifty feet (150').
  - 4.18.2. No such dead-end roadway or segment thereof shall provide the sole means of access to more than twenty-five (25) dwelling units.
    - 4.18.2.1. Reservation of an easement of appropriate width shall be provided for pedestrian or utility connection to adjoining property or the existing roadway system, where desirable
- 4.19. Proper roadway drainage facilities shall be installed where required. Reinforced concrete pipe or corrugated metal pipe shall be used throughout for all culverts or subsurface drainage systems. Drainage shall be accommodated by one (1) or a combination of the following:
  - 4.19.1. A roadside ditch a minimum of eighteen inches (18") below the finished center line;
  - 4.19.2. A concrete or asphalt gutter; or
  - 4.19.3. A concrete or asphalt curb with storm sewer.

- 4.20. Road ditches shall be designed to have a minimum hydraulic capacity equal to the peak runoff rate from a five (5) year, twenty-four (24) hour rainfall. Drainage culverts shall be adequate size and so located as to maintain preconstruction surface drainage patterns, provided such patterns were acceptable prior to construction.
- 4.21. Catch basins, manholes, seepage drains, reinforced concrete pipe or other drainage appurtenances and all underdrain shall be installed or constructed in accordance with the direction and requirements of the Planning Board, shall vary in size as conditions may require and shall be connected from basin or manholes to the proper lines and grades in such a manner as directed by the Board and all such underdrains shall connect with piping or ditches leading to a live stream or natural drainageway as required by the Board
- 4.22. Stream crossings shall be roughly at right angles, and bridge structures or culverts shall be designed to carry the peak runoff rate from:
- 4.22.1. A ten (10) year, twenty-four (24) hour rainfall if the contributing drainage area is one (1) square mile or less;
- 4.22.2. A twenty-five (25) year, twenty-four (24) hour rainfall if the contributing drainage area is between one (1) and four (4) square miles;
- 4.22.3. A one hundred (100) year, twenty-four (24) hour rainfall if the contributing drainage area is more than four (4) square miles.
- 4.23. Fill slopes shall not be steeper than two (2) horizontal on one (1) vertical (2:1) and cut slopes shall not be steeper than four (4) horizontal on one (1) vertical (4:1).
- 4.24. Right-of-way and pavement or improved surface area shall have the following widths:

<u>Minimum Right-of-Way</u>	<u>Minimum Pavement or Improved Surface Area</u>
50'	a. 18' + curbing or two 5' shoulders (populated area or 25 lots or more)
	b. 16' + two 2' shoulders (rural area and less than 25 lots)

- 4.25. Where curbs exist on abutting properties, their extension by the subdivider may be required, at the discretion of the Planning Board, throughout all or a portion of the proposed subdivision. All curbs shall be approved by the Board. Where curbs are not required, adequate ditches or gutters shall be constructed and protected by seeding or appropriate surfacing by the subdivider.
- 4.26. The Planning Board may require such sidewalks as it deems necessary to provide for the safety of pedestrians. Concrete sidewalks at least four feet (4') wide and four inches (4") thick shall be installed where required, as specified by the Board.
- 4.27. All top soil, humus, tree stumps and like organic material shall be removed from the roadbed and the sub-base shall be approved by the Town's Road Supervisor before any gravel is placed upon it.



- 4.28. Each road shall be constructed of a base course of suitable run-of-bank gravel to a depth of twelve inches (12”), size of stone not to exceed two inches (2”) in diameter, extending ten (10) to fourteen (14) in each direction from the centerline of said road so that each roadway shall be comprised of a base course constructed of compacted gravel to a width of twenty feet (20’) to twenty-eight feet (28’) depending on its classification above. No gravel shall be laid on any roadway unless the type of gravel shall be approved by the Town’s Road Supervisor; provided, however that the Road Supervisor may, in any case where the nature of the soil over which the roadway is to be laid out necessitates special construction, require that the subdivider build said roadway base of a material and to a dimension as is deemed necessary in excess of the minimum requirements above set forth.
- 4.29. The improved travel area shall be properly graded to consist of two (2) eight feet-nine feet (8’-9’) lanes on twelve inches (12”) of gravel base pitched at a minimum of three-eighth inch (3/8”) per foot. The finished graveled roadway shall be approved in writing by the Code Enforcement Officer.
- 4.30. The shoulder shall be constructed with a one inch (1”) per foot pitch and be a minimum of two feet to five feet (2’-5’) in width depending on classification of the subdivision above.
- 4.31. In addition, the Planning Board may require for any subdivision of twenty-five (25) or more lots a double oil and stone surface treatment or asphalt concrete pavement surface where it determines such is needed based on the following considerations:
- 4.31.1. The street classification and the type and volume of anticipated traffic;
  - 4.31.2. Whether access is to year round or seasonal uses;
  - 4.31.3. The schedule for completion of the roadway or sections thereof.
- 4.32. All cleared areas associated with the construction of roads and installation of utilities, excluding those areas comprising road surfaces or shoulders, all exposed borrow areas and all cut and fill slopes, including ditch banks, shall be successfully vegetated to grasses or legumes that are suited to site conditions and as approved by the Board. Ditch bottoms shall be constructed and maintained to minimize soil erosion during periods of design flow by means of re-vegetation, seeding, mulching, netting, stone paving, riprap and other materials or combination of these, depending on hydraulics and soil properties.

## 5. Utilities

- 5.1. Where, in the opinion of the Planning Board and the State agency having jurisdiction there over, a subdivision can be reasonably served by the creation of a public water supply system, the subdivider shall make application to create such system and create a water district.
- 5.2. Where the Board and responsible State agency determine a community supply system is necessary, such system shall be installed according to standards of New York State Department of Health or Department of Environmental Conservation, as may be applicable.
- 5.3. Where public or community water supply is not feasible, the subdivider shall provide specifications, including location of individual systems for each residential property, in

accordance with the New York State Department of Health Waste Treatment Handbook – Individual Household Systems and Rural Water Supplies.

- 5.4. Where, based on the size of the subdivision and the intensity of the development pattern, the Planning Board and responsible State agency determine a community disposal system is necessary, such system shall be installed according to standards of the New York State Department of Health or Department of Environmental Conservation, as may be applicable.
- 5.5. Where public or community sanitary sewers are not feasible, the subdivider shall provide specifications including location for install of individual systems for each residential property in accordance with State requirements and upon specific approval by the Planning Board in accord with the applicable requirements set forth in this Section.
- 5.6. Fire Hydrants – Installation, type and location of all fire hydrants shall be approved by the Planning Board and shall be in conformity with the standards of the New York Fire Insurance Rating Organization, the Division of Fire Safety of the State of New York and any special requirements of the Town, water district or fire district.
- 5.7. Location – Utilities shall be located in accord with any applicable Public Service Commission guidelines and as approved by the Board. The Board shall require whenever physically possible and when the size, location and present service permits, that utilities be placed underground and in the road right-of-way between the travel surface and right-of-way or in a consistent location within individual property lines to simplify location and repairs of said utility when they require attention. The subdivider shall install underground service connections to the property line of each residential property within the subdivision for such required utilities before road is surfaced.

## 6. Flooding, Draining and Runoff

- 6.1. Any properties intended for residential or commercial development involving lands designated as Flood Hazard Areas by the Federal Emergency Management Agency (FEMA) of the U.S. Department of Homeland Security and any other land subject to repeated flooding or deemed by the Planning Board to be subject to flood hazard shall be reviewed by the Board in accord with published guidelines for development in flood hazard areas.
- 6.2. Storm and surface drainage shall be designed for the tract in relation to the drainage area above the tract and drainage outlets into adjacent tracts. Drainage systems must be sufficient to handle discharge from the entire drainage area whether inside or outside the subdivision, based on the following:
  - 6.2.1. A ten (10) year, twenty-four (24) hour rainfall if contributing drainage area is one (1) square mile or less;
  - 6.2.2. A twenty-five (25) year, twenty-four (24) hour rainfall if the contributing area is between one (1) and four (4) square miles; or
  - 6.2.3. A one hundred (100) year, twenty-four (24) hour rainfall if contributing area is more than four (4) square miles.
- 6.3. No subdivision shall be approved where anticipated runoff incident to subdivision development will over load existing downstream facilities or capacity.

- 6.4. Drainage structures and facilities shall be installed as necessary to assure adequate drainage for the tract and drainage easements shall be provided, where necessary.
- 6.5. The subdivider shall allow no holes, depressions or other undrained areas to remain, except such wetlands as may be natural features or necessary retention basins which shall be protected or situated at the direction of the Board.
- 6.6. The grading plan and the design of roadways in relation to the storm drainage shall be such that the runoff from roofs, driveways, and other impervious surfaces will be collected in the ditches and/or gutters along the roadway in short runs of generally less than five hundred feet (500') and will then be diverted from the roadway surfaces into storm sewers or a natural drainage course.
- 6.7. The use of open water courses for drainage involves consideration related to safety, erosion control, stagnant water, protection of capacity and appearance, which considerations will be recognized according to the following:
  - 6.7.1. Safety – Board, shallow courses shall be created wherever necessary to increase capacity or eliminate steep banks. Ditches shall, wherever feasible, be in the shape of a wide “U” with rounded or square invert.
  - 6.7.2. Erosion Control – Adequate measures shall be taken to prevent erosion. The Board shall requiring seeding, planting, riprap or such measures as may be necessary to prevent souring.
  - 6.7.3. Drainage – The subdivider shall guard against the creation or continuation of swampy areas or stagnant pools in close proximity to any development.
  - 6.7.4. Capacity – The subdivider shall provide adequate measures for the protection of open drainage channels by establishing satisfactorily located drainage easements of sufficient widths.
  - 6.7.5. Appearance – As a natural water course can be an attractive visual asset to the subdivision as well as the community, the subdivider shall, where possible, retain and improve the appearance of any natural water course used for surface or storm drainage as is practical.
- 6.8. Storm sewers shall have a minimum diameter of twelve inches (12”) and a minimum grade of one-half (1/2) of one percent (1%).
- 6.9. Manholes shall not be more than three hundred feet (300') apart where pipe sizes of twenty-four inches (24”) or less are used and not more than five hundred feet (500') apart where larger sizes are installed.
- 6.10. Subdivisions shall be so designed that the length of flow for water in a gutter or roadside ditch does not exceed five hundred feet (500'), except as permitted by the Board. Runs exceeding the maximum shall be connected to storm sewers or diverted to a natural drainageway.
- 6.11. All enclosed drainage courses shall be designed with sufficient grade to create a water flow velocity of three feet (3') per second.
- 6.12. Water in gutters and ditches shall not be allowed to flow over intersecting roadways, but shall be placed in adequate culverts.
- 6.13. Suitable headwalls, end-walls, ditch seeding or sodding and other procedures or devices to prevent erosion shall be used.

## 7. Revegetation of Disturbed Soil Areas

- 7.1. Areas on which vegetation has been destroyed or removed, excluding areas proposed for road surfaces or shoulders, driveways, building sites or parking lots shall be successfully revegetated or otherwise stabilized with structural measures to minimize the potential for soil erosion as soon as practicable.
  - 7.2. Revegetation measures and efforts shall be evaluated by visual inspections which shall include identification and measurement of the actual condition of new health vegetation. Such evaluation shall be made not sooner than one hundred eighty (180) calendar days from the date of planting and not later than three hundred sixty (360) days from the date of planting.
  - 7.3. Corrective action shall be instituted and completed within the time specified by the Code Enforcement Officer upon determination of unsatisfactory compliance with this section. In making any determination required by this section, the Code Enforcement Officer shall consider significant rills, gullies, loss of mulch, loss of seed or failure of seed germination as evidence of unsatisfactory compliance.
  - 7.4. Construction operations requiring revegetation of an aggregate area larger than twenty thousand square feet (20,000') shall be done in stages. Each stage shall receive complete treatment for revegetation and mulching as if the stages were individual constructions.
  - 7.5. Upon completion of final grading of any area, revegetation operation shall begin within five (5) days and shall be completed within ten (10) days. In event more than five (5) shall elapse between the consecutive construction operation that materially disturb the soil, such area shall be adequately mulched or otherwise stabilized with structural measures within five (5) days of disturbance and shall be completed within ten (10) days to minimize the potential for soil erosion.
8. Street Lights, Tree, Signs an Seedings
    - 8.1. Streetlights shall be, downcast and Dark Sky compliant, arranged for by the subdivider where appropriate, as determined by the Planning Board and be of a type at such interval as specified by the Board.
    - 8.2. Street trees are to be the responsibility of the subdivider. Retention and preservation of existing trees and location and type of new trees shall be approved by the Board.
    - 8.3. The area between the drainageway and the property lines shall be seeded and otherwise improved by the subdivider and maintained by the owner.
    - 8.4. Street names shall be of the type and in the location determined by the Board and shall be provided by agreement between the Board and the applicant.
9. Public Sites and Open Spaces
    - 9.1. Where a proposed park, playground, school or other public use shown in the Town Plan, or desirable for use as same, is located in whole or in part in a subdivision, such area

shall either be dedicated to the proper public agency, or it shall be reserved for acquisition by such agency within a specified period by purchase or other means and an agreement shall be entered into between the subdivider and the public agency regarding the time and method of acquisition and the cost thereof.

9.2. In the instance of a subdivision involving the creation of twenty-five (25) lots or more, the Board shall, and in the instance of a subdivision of twenty-four (24) lots or less, the Board may require up to ten percent (10%) of the land area of such subdivision be reserved and improved for open space recreation purposes.

9.3. If the Board determines that suitable open space recreation area cannot be located in a given subdivision or it is otherwise not practical to do so, the Board may require as a condition to approval of any such plat, other or further conditions as may be authorized by law, including payment to the Town of an acceptable sum based on the size of the subdivision, the number of lots to be subdivided, and the value of the land in relationship to the ten percent (10%) standard which might otherwise have been required for open space recreation purposes; which in sum shall constitute a trust fund to be used exclusively for open space recreational purposes designed to serve such subdivisions, including the improvement of existing facilities.

## 10. Monuments

10.1. The tract boundary lines and the lines of all the streets or roads shall be monuments with concrete, stone or iron monuments with monuments caps.

10.2. Individual property boundaries shall have corners marked with iron pins or pipes.

10.3. The Board may require that all such monuments be in place and capable of verification prior to the Planning Board Chairperson recording their signature on the Subdivision Plat.

## Article X. Administration

### Section 10.01 Code Enforcement Officer

#### 1. Creation

The Town Board has previously established the Office of Code Enforcement Officer in the Town of Rossie. This Local Law ratifies the continuance of this Office. The Code Enforcement Officer shall be appointed by the Town Board and be compensated at a rate to be fixed by the Town Board. In the absence of the Code Enforcement Officer, or in the case of the inability of the Code Enforcement Officer to act for any reason, the Supervisor shall have the power, with the consent of the Town Board to designate a person to act in this capacity.

#### 2. Duties and Powers

The Code Enforcement Officer shall perform all of the functions identified in this Local Law and shall otherwise assist the Town Board in the administration and enforcement of this and other local laws.

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

## Section 10.02 Planning Board

1. Creation and Membership

Pursuant to Section 271 of New York State Town Law, the Rossie Planning Board shall consist of five (5) members who are appointed by the Town Board. No person who is a member of the Town Board shall be eligible for membership on the Planning Board.

2. Vacancies

If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint a new member for the unexpired term.

3. Chairperson

The Town Board shall designate the Chairperson. In the absence of a chairperson, the Planning Board may designate a member to serve as acting chairperson.

4. Alternate Members. The Town Board shall have the authority to establish alternate planning board member positions for purposes of substituting for a member in the event such a member is unable to participate because of a conflict of interest or other reasons, such as, sickness, vacation, temporary relocation, etc.. Alternate members of the Planning board shall be appointed by resolution of the Town Board for terms established by the Board.

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

5. Compensation. Compensation of Planning Board members for expenses associated with their duties may be fixed, from time to time, by resolution of the Rossie Town Board.
6. Training. Each member of the Planning Board shall complete, at a minimum, four (4) hours of training each year designed to enable such members to more effectively carry out their duties. Training in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet this training requirement. To be eligible for reappointment to such board, such member shall have completed this training requirement. This training may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.

7. Removal. A Planning Board member may have his or her appointment terminated for cause by a resolution of the Rossie Town Board following a public hearing. Cause may include, but is not limited to, failure of a member to obtain the required training or failure to attend at least 75% of regularly scheduled meetings during any calendar year.
8. Meetings. All meetings of the Planning Board shall be held at the call of the Chairman and at such other times as a majority of the members of the full Board may determine. All meetings of the Planning Board shall be open to the public and in accordance with the requirements for public notice, access and participation established in the State's Open Meetings law.
9. Duties and Powers. The Planning Board shall have the following duties:
  - 9.1. Develop its official procedures and maintain records of its actions. Review subdivision plats and approve, approve with conditions, or disapprove them.
  - 9.2. Review site plans and special permits, and approve, approve with conditions, or disapprove them.
  - 9.3. Conduct studies, planning, or surveys as needed to further the purposes of this Local Law.

#### 10. Procedure

- 10.1. The Planning Board shall act in strict accordance with the procedures specified by law and by these Regulations and shall be in accord with the following:
  - 10.1.1. Application. All applications made to Planning Board shall be in writing, in the form prescribed by the Board. Every application shall refer to the specific provisions of the Regulations involved. The Code Enforcement Officer shall transmit to the Board all of the records concerning the application.
  - 10.1.2. Referrals. Where any application involves lands within the 500 foot thresholds of Section 239-m of New York State General Municipal Law it shall be referred to the St. Lawrence County Planning Board and acted upon in accord with Article II, Section 2.02. of this Local Law.
  - 10.1.3. Notification of Public Hearing. The Planning Board, if it so chooses shall fix a reasonable time for any public hearing in connection with the application and shall be given public notice thereof, by publication in an official paper of a notice of such public hearing at least seven (7) days prior to that date; and shall, at least seven (7) days before such public hearing, mail notice thereof to the applicant and to the adjacent land owners.
  - 10.1.4. Decision and Notification. Within 62 days from the date of any public hearing, the Board shall render a determination on any appeal and notify the applicant in writing within five (5) working days of the date of determination.

#### Section 10.03 Board of Appeals

1. Creation and Membership. Pursuant to Section 267 of New York State Town Law, the Town Board hereby establishes the Rossie Board of Appeals, which shall consist of three (3) members, who are appointed by the Town Board. No person who is a member of the Town

Board shall be eligible for membership on the Board of Appeals. One member of the Board of Appeals can hold simultaneous membership on the Planning Board.

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



determination or notification of action taken by the Code Enforcement Officer or other body of original jurisdiction, except where such appeal is instituted by a Town official.

11. Time of Appeal. Each order, requirement, decision, interpretation or determination of the Code Enforcement Office shall be filed and be a public record within five (5) business days from the day it is rendered. An appeal shall be taken within sixty (60) days after the filing of the determination that is being appealed.
12. Application. All appeals and applications made to the Board of Appeals shall be in writing, in a form prescribed by the Board. Every appeal or application shall refer to the specific provisions of the regulations involved, and shall exactly set forth the interpretation that is claimed, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted. The Code Enforcement Officer shall transmit to the Board all of the records concerning the case which is being appealed.
13. Public Hearing and Legal Notice. The Board of Appeals shall fix a reasonable time for a public hearing in connection with an appeal or application, and shall publish a notice of such public hearing in the Town's official newspaper, and shall mail the notice thereof to the applicant or appellant, and to property owners of land that is adjacent to the subject property at seven (7) prior to public hearing date. Additional provision set forth in Article X, Section 10.06 are required.
14. Referrals to County Planning Board. Where an appeal for an area variance or use variance to the Board of Appeals involves land within the 500 foot thresholds of Section 239-m of New York State General Municipal Law of the following features shall be referred to the St. Lawrence County Planning Board in Article II, Section 2.02. of this Local Law
15. Time of Decision. The Board shall render a decision within sixty-two (62) days from the date of a public hearing. The time to render a decision may be extended by mutual consent by the applicant and the Board.
16. Voting Requirements. Every decision of the Board of Appeals shall be by resolution. The concurring vote of a majority of the full membership of the Board shall be required to constitute an official action by the Board of Appeals.
17. Extraordinary Vote. If the County Planning Board disapproves or approves an appeal with condition(s), the Board of Appeals shall not act contrary to the decision except by a vote of a majority plus one of the full membership of the Board of Appeals.
18. Default Denial. If an affirmative vote of a majority of the full membership of the Board is not attained to grant a variance, or to reverse an order, requirement, decision or determination of the Code Enforcement Officer, the appeal is denied. The Board may amend a failed motion or resolution and vote on an amended motion or resolution within sixty-two (62) days of a public hearing without being subject to a rehearing process.
19. Records. The Board of Appeals shall keep minutes of its proceedings, including interpretations, findings, and official actions and shall record the vote of each member upon every question put to vote or, if absent or failing to vote, indicating such fact. All decisions of

the Board of Appeals shall be recorded in the minutes, which shall fully set forth the reasons for its decision and the findings of fact on which the decision was based.

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

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

#### Section 10.04 Amendments

1. The Town Board may on their own motion, on a petition, or on recommendation of the Planning Board, amend the provisions of this local law pursuant to the applicable requirements of law. In the event that the proposed amendments change the district classification of real property within the thresholds set forth in Section 239-m of New York State General Municipal Law, the Town Board must refer such amendments to the St. Lawrence County Planning Board pursuant to Article II, Section 2.02. of this Local Law.
2. All proposed amendments shall be referred to the Planning Board for a report and a recommendation. The Planning Board shall submit its report within 30 days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to constitute their recommendation for approval of the proposed amendment.
3. Before any amendment, there shall be a public notice and hearing thereon as provided by law. Notice of the hearing shall be published in a paper of general circulation at least seven (7) days prior to the hearing.
4. After the public hearing, a majority vote of the members of the Town Board shall be required to amend these Regulations.

### Section 10.05 Judicial/Court Review

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

### Section 10.06 Public Hearings and Notification

Any public hearing held under the provision of this Local Law shall be advertised by a notice of public hearing, to be posted in municipal buildings, and published, on municipal websites and once in the official newspaper of the Town at least seven (7) days prior to the date of the hearing. In addition, notices shall be mailed to the applicant and all owners of real property within 500 feet of the exterior boundary of the parcel in question. Notices shall be mailed by certified mail, return receipt requested, or may be presented in person. Mailed notices must be sent at least 10 days prior to the date of the public hearing. The applicant must cover the costs associated with notification mailing (postage, letters, etc.). Access, participation, and notice shall be in accordance with the State's Open Meetings Law. Any hearing may be recessed by the Planning Board in order to obtain additional information or to serve further notice upon property, owners or other persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

### Section 10.07 Repealer

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

1. Local Law No. 2 of 1985.
2. The Town of Rossie Land Use Regulation, Revised 1994.
3. Local Law No. 1 of the Year 2002: A local law amending Local Law No. 2 of 1985 regarding Land Use Regulations
4. Local Law No. 2 of the Year 2006: A local law to amend Local Law No. 2 of 1985 regarding Land Use Regulations
5. Local Law No. 2 of the Year 2007: A local law to amend Local Law No. 2 of 1985 regarding Land Use Regulations
6. Local Law No. 1 of the Year 2013: A local law to amend Local Law No. 2 of 1985 regarding Land Use Regulations

### Section 10.08 Effective Date

This Local Law shall take effect on \_\_\_\_\_ 2022.

## Article XI. Definitions

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

### Section 11.01 General

Accessory Structure or Use. A structure or use which is incidental to the principal structure or use and which is located on the same premises. Accessory structures include private automobile garages and sheds, etc. Accessory uses include occupations conducted within a residence, an apartment over a store, a manager's office in an apartment house, etc.

Agriculture. Raising livestock and/or crops or farm products.

Agricultural Building or Structure. Buildings or structure use for agriculture, not to include buildings or structures for temporary or permanent human habitation.

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

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

Business. A for-profit use involving manufacturing or the conversion of raw material into saleable products or wholesale or retail sales of food or non-food products or all of the above simultaneously.

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

Club. A semi-public or private membership organization.

Dwelling Unit. One (1) or more rooms with the provision for living, cooking, sanitary and sleeping facilities arranged for the use of one (1) household.

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

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

Industrial. Of, relating to, concerning, or arising from the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or mineral extraction, or demolition, reconversion of materials, transportation, generation of electrical power and heat, or wholesale trade.

Junk or Salvage Yard. Any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old, or secondhand motor vehicles, no longer intended or in condition for legal use on public highways, are held.

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

Livestock. Agricultural animals raised for direct human consumption or use or the consumptive use of their body parts or products, including eggs, milk, hair, hide and meat and specifically including hogs, horses, ponies, sheep, cows, fowl, fur-bearing animals and the like. See also Agriculture.

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

Lot Line Adjustment. The relocation of a common boundary between adjacent parcels where no new lot is created, and is of a sufficient size to readily accommodate habitable structures without adversely affect the health, safety and welfare of the occupants and surrounding neighbors.

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

Manufactured Home Park. A site intended for the long-term parking of three (3) or more manufactured home dwellings, which may include services and facilities for residents.

Manufacturing. Mechanical or chemical transformation of materials into new products through assembly of components, the manufacturing of products or the blending of material such as oils, plastics, resins or liquors.

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

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

Principal Use/Structure. The primary or predominant use of any lot or parcel, the structure within which the principal use is conducted.

Public Buildings and Grounds. Uses which are predominantly public in nature, such as Post Offices, Religious Institutions, Community Centers, etc.

Public Utilities. Facilities which provide the following public services: electricity, communications, gas, water and sanitary sewage treatment and disposal.

SEQR: State Environmental Quality Review as described in 6 NYCRR Part 617.

Setback: The minimum distance between any building or any projection thereof, excluding uncovered steps, from the street centerline or lot line.

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

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

Site. One (1) or more adjacent lots sharing a common use.

Site Plan. Development plan for one (1) or more lots on which is shown the existing and proposed conditions, including natural and made conditions, structures, lighting, drainage, walkways, signs, screening and ingress and egress (See Articles VI and VII).

Soil Percolation. Test of the rate of movement of water downward through a soil conducted in accordance with the New York State Department of Health "Waste Treatment Hand Book, Individual Household System."

Structure. An assembly of material forming a construction framed of component structural parts for occupancy or use, including buildings.

Subdivision. The division; for purposes of immediate or future sale, lease, partition by the court for distribution to heirs or devisees, transfer of ownership, building or lot development; of any parcel of land into two or more lots, plots, sites or other divisions of land; with or without streets or highways.

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

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

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

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

Waste Disposal Facility. Any public or private facility which receives, processes and/or disposes of solid, liquid or gaseous waste material.

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

## Section 11.02 Battery Energy Storage Systems

ANSI. American National Standards Institute

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

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

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

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



2. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area.

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

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

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

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

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

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

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

NEC. National Electric Code.

NFPA. National Fire Protection Association.

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

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

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

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

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

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

### Section 11.03 Solar Energy Facilities

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

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

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

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

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

**Major Solar Collection System**: An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid but also may be for on-site use and is intended to be

used for any purpose, other than private, or residential, or agricultural use, including community based systems. Solar farm facilities consist of one or more freestanding GROUND-MOUNTED or ROOF-MOUNTED solar collector devices. Major solar systems are those systems which generate more than 110% of the energy demand for onsite use.

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

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

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

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

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

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

#### [Section 11.04 Telecommunications Facilities](#)

**Antenna:** A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include, but not be limited to, radio, television, cellular, paging, personal communication services and microwave communications. The frequency of these waves generally range from 10 hertz to 300 megahertz but can be higher as technology advances.

**BTS (base transceiver station):** the central cell facility that contains all the receivers, transmitters and other apparatus needed for cellular/PCS operation.

**Capacity:** The number of mobile users that can realistically be serviced by a BTS.

**Coverage:** The general term that describes the ability of a BTS to send and receive wireless signals of sufficient strength to provide reliable cellular/PCS service.

**Co-Location** means locating wireless communications facilities from more than one wireless communications services provider on a single site.

**EAF:** Environmental Assessment Form.

**EPA:** The Environmental Protection Agency.

**FAA:** The Federal Aviation Administration.

**FCC:** The Federal Communications Commission.

**Guyed Tower:** A construction technique that uses stabilizing cable to provide lateral support for a tower.

**Height of Tower:** means the vertical distance measured in feet from the average existing level of the ground surrounding the tower and within ten feet (10') thereof to the top point of the tower including any antenna or other appurtenances. The existing elevation shall mean the actual or approved elevation of the property at the time of application.

**Interference:** Any electromagnetic radiation or noise that is not the desired signal.

**Lattice Tower:** Description of the type of tower construction typified by cross-bracing between three (3) posts that constitute a rigid antenna support structure.

**Monopole Tower:** A unified self-supporting structure typified by a smooth tapered steel pole similar to roadway light supports.

**Network:** The general term used to describe all the BTS facilities and equipment required to provide cellular/PCS services.

**Nier:** Non-Ionizing Electromagnetic Radiation.

**Path Loss:** The attenuation experienced by the radio waves as they propagate from the BTS to the mobile phone or from the mobile phone to the BTS. Path loss will be the same for either direction over short periods of time.

**Satellite Antenna:** Shall be any parabolic dish, antenna or other device or equipment of whatever nature or kind, the primary purpose of which is to receive television, radio, light, microwave or other electronic signals, waves and/or communications from space satellites.

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

**Telecommunication Tower:** A structure intended to support wireless communications equipment used to receive and/or transmit electron magnetic waves. Design examples of towers might include but may not be limited to: (a) self-supporting lattice, (b) guyed, (c) monopoles structures and (d) water towers.

**Tower Operator:** The owner, manager and/or management firm of a telecommunication tower.

**Wireless Telecommunication Services:** A licensed wireless telecommunications services including, but not necessarily limited to: cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and other types of telecommunications services that are or may be marketed to the general public.

**Wireless Telecommunication Site:** A facility operated by a licensed wireless telecommunication service provider which consists of the equipment and structures involved in receiving or transmitting electromagnetic waves associated with wireless telecommunications services.

## Appendix

1. New York State Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Solar Energy Projects.  
[https://agriculture.ny.gov/system/files/documents/2019/10/solar\\_energy\\_guidelines.pdf](https://agriculture.ny.gov/system/files/documents/2019/10/solar_energy_guidelines.pdf)