

STATE OF NEW YORK
BOARD ON ELECTRIC GENERATION SITING AND THE ENVIRONMENT

Application of Cape Vincent Wind Power, LLC, for a
Certificate of Environmental Compatibility and Public Need to
Construct an Approximately 200-285 Megawatt Wind Electric
Generating Facility in the Town of Cape Vincent, New York

Case 12-F-0410

PRELIMINARY SCOPING STATEMENT

EXHIBIT F

TOWN OF CAPE VINCENT ZONING LAW OF 1989 AMENDED 2012

(LOCAL LAW NO. THREE, AUGUST 1, 2012)

Town of Cape Vincent Zoning Law 1989

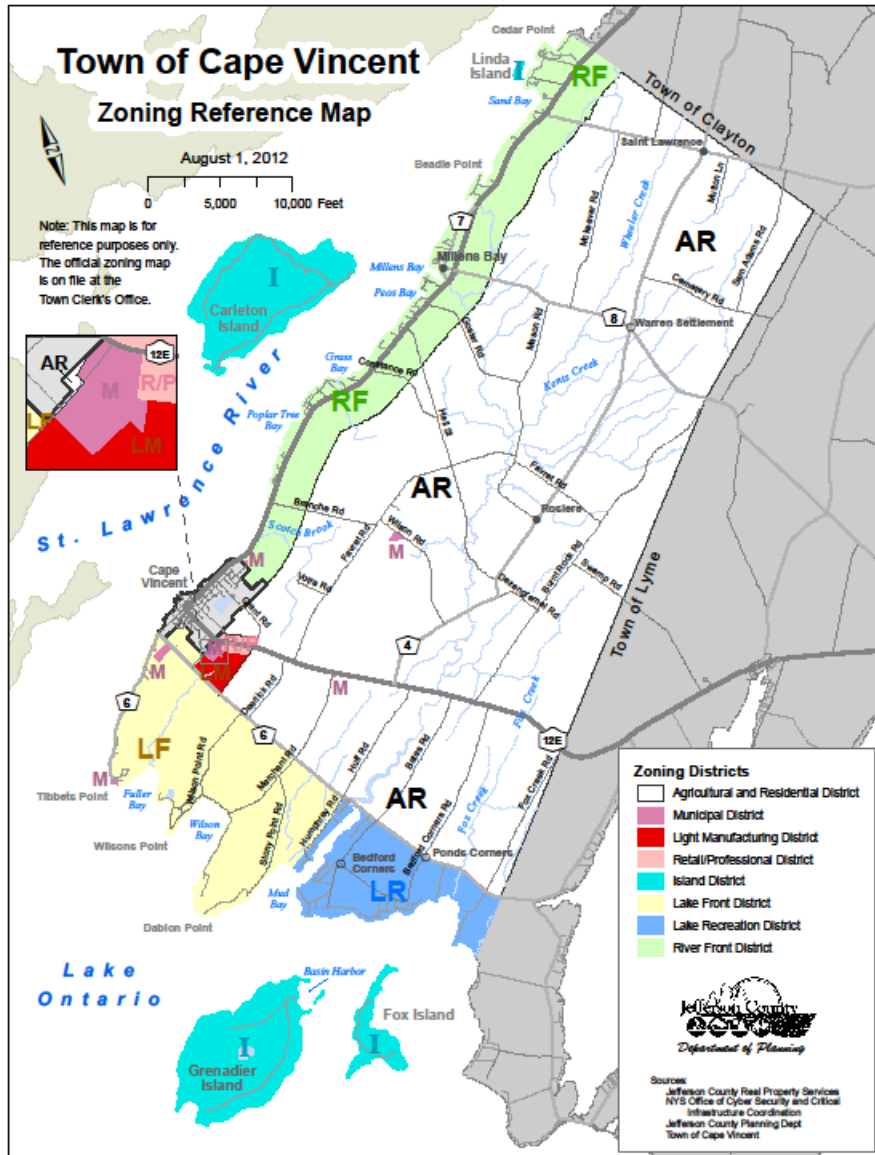
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(Local Law No. Three, August 1, 2012)



Town Of Cape Vincent Zoning Law

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Town Of Cape Vincent Zoning Law

1. INTRODUCTION

1.1 Enacting Clause:

Pursuant to the laws of the State of New York (Article 16 -Town Law and Municipal Home Rule Law - Section 10) to protect and promote the health, safety, and welfare of the community, the Town Board of the Town of Cape Vincent, NY, hereby enacts this Law. This Law is prescribed to implement "A Joint Comprehensive Plan for the Village and Town of Cape Vincent," as may be amended by the Town of Cape Vincent (Town).

The Village of Cape Vincent is not included in this Law. The zoning requirements of the Village are controlled by the most recent version of the "Village of Cape Vincent Zoning Law." This law may be obtained through the Village office.

1.2 Title:

This Law shall be known and may be cited as the "Town of Cape Vincent Zoning Law" (Law).

1.3 Purpose:

This Law, in conjunction with "A Joint Comprehensive Plan for the Village and Town of Cape Vincent," (the "Plan") is designed to protect the health, welfare, and safety of the Town's citizens while encouraging growth through the logical, orderly development of the land within the Town, while maintaining the character of the Town and long-term growth objectives as laid out in the Plan.

It is intended that this will be accomplished through the following actions:

1. All Members of the Boards created by this Law and the Zoning Enforcement Officer, whose position is also created by this Law shall abide by the Code of Ethics for the Town of Cape Vincent as same may be adopted and/or revised by the Town Board.
2. This Law supersedes all commercial, industrial, and private agreements affecting any aspect of this Law, except as specified in this Law.
3. Maintain/update Land Use Regulations based upon experience derived from previous versions of the Law. To promote and encourage future development in the Town that will not adversely affect either the health, welfare, or well being of its residents or adversely impact the lands in the Town and their natural resources.
4. Provide a flexible system of land-use regulation that enables the Town to grow while preserving its unique features, natural resources, natural character, historical sites, agricultural importance, rural character, destination for vacationers and seasonal residents, tourism, and recreation.
5. Minimize the adverse environmental impacts of development, especially in visually and environmentally sensitive areas such as scenic view sheds, stream

corridors, waterfronts, wetlands, floodplains and active farmlands. (Section 1.5, "Unique Features")

6. Ensure adequate services to Town residents, inclusive of transportation, water, sewage systems, schools, fire, police, and other facilities.
7. Preserve and enhance real property values and protect private property rights and enjoyment of landowners.
8. Regulate commercial, industrial, and other non-residential uses in a manner that is sensitive to the community and provide freedom for economic use of the land, provided that such uses are not harmful to neighboring property values, health, welfare and safety of the residents.
9. Provide a variety of housing opportunities in an effort to encourage affordable housing.
10. Protect residences from nuisances, odors, noise, light pollution, and other unsightly obtrusive and offensive land uses and activities.
11. Encourage the use of alternative energy systems that are not in conflict with any of the other purposes stated in Section 1.3, "Purpose."

1.4 SEQR (State Environmental Quality Review):

The Town of Cape Vincent shall be an involved agency in all aspects of the SEQR process.

1.5 Unique Features:

The Town of Cape Vincent possesses unique features that require special consideration when applying land-use regulations. See "A Joint Comprehensive Plan for the Village and Town of Cape Vincent" (the "Plan") when applying this Law.

1.6 Enacting Date:

Law shall be enacted upon filing with the Secretary of State.

1.7 Periodic Review:

This Law is intended to reflect the general intent and spirit of the Plan at any given time. Similarly, it should be reviewed no less frequently than every five years to reflect warranted changes over time. This does not preclude adding an amendment to the Law as may be determined by the Town Board.

1.8 Separability:

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

1.9 New York State Certified Agricultural District:

This Law recognizes that farm operations as defined in NYS Agriculture and Markets Law §301, subdivision 11, authorizes certain benefits to farm operations that are registered certified agricultural, Jefferson County's North Agricultural District No. 2. However, landowners within certified agricultural districts are not exempted from provisions of this Law for non-farm operations.

2. ESTABLISHMENT OF ZONING DISTRICTS

2.1 Districts:

- 2.1.1 Lake Front (LF)
- 2.1.2 Lake Recreation (LR)
- 2.1.3 River Front (RF)
- 2.1.4 Agricultural Residential (AR)
- 2.1.5 Light Manufacturing (LM)
- 2.1.6 Retail/Professional (RP)
- 2.1.7 Islands (I)
- 2.1.8 Municipal (M)

2.2. Adoption of Town of Cape Vincent Zoning Map:

The boundaries of each district established by this Law are delineated by the map entitled, "Zoning Map, Town of Cape Vincent, New York," dated with the effective date of this Law and filed with the Town Clerk. The Map may use the district abbreviations as shown in Section 2.1, "Districts." This map is hereby adopted and declared to be part of this Law. (Appendix 1, Zoning Map.)

2.3. Interpretation of Zoning District Boundaries:

Where uncertainties exist as to the boundaries of districts shown on the zoning map, the following rules apply:

1. Boundaries on streets and roads shall be construed to follow the center lines of the municipal streets and roads.
2. Boundaries along lot lines shall be construed to follow the lot lines.
3. Boundaries indicated to follow shorelines of streams, river fronts and lake fronts shall be construed to follow the natural occurring mean high-water elevation of 247.30 feet above sea level as determined by US Army Corps of Engineers based on 1985 International Great Lakes Datum. For purposes of this Law, artificially constructed harbors, docks, and boat slips are not naturally occurring.
4. Where a zoning district boundary splits a lot of record, each portion of the lot shall be controlled by the regulations of the district in which it resides.
5. Where uncertainty exists with respect to the exact location of the boundary of a district as shown on the map, the Town Zoning Enforcement Officer shall determine said boundary.

3. **DISTRICT REGULATIONS**

3.1 **Lake Front District (LF)**

1. Intent:
The Town recognizes that one of its most valuable, natural, and developed resources is its waterfront along Lake Ontario and the mouth of the Saint Lawrence River. To protect this land from development, other than residential, to promote and attract more high-quality residential development, and to preserve the natural and scenic environment in these areas, the Town has established a Lake Front District.

2. Lot Requirements: **(Table No.1)**

Table 1	Area Minimum	Frontage Minimum	Setbacks Minimum			Height Maximum	Open Space Minimum
			Front	Side	Rear		
USE							
Permitted	One (1) Acre	100'	40'	15'	25'	35'	35%
Multi-family	20,000sq.ft./Unit	200'	40'	50'	25'	35'	35%
Other Site Plan	One (1) Acre	100'	40'	25'	25'	35'	35%

3. Waterfront Lot:
Any waterfront lot must have a minimum of 100' of water frontage and 100' of rear lot width and deeded or Home Owners' Association access to be considered a buildable lot.
4. Lot Utilization Area:
This area, bounded by the setback lines, is the only area on a lot that may be built upon. All use requirements, such as lighting etc., are measured/confirmed at the boundary of this area.
5. Lot Exclusion Area:
This area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping and screening, and ingress and egress driveways. No structures or paved parking are permitted within this area.
6. Lot Uses:
The allowable uses for lots in the Lake Front District are shown in Table No. 8.

3.2 **Lake Recreation District (LR)**

1. Intent:
The area from Mud Bay south to the Town line is occupied by marinas, manufactured (mobile) home parks, residential structures of all types, a restaurant, and safe harbors for fishing and boating enthusiasts. The Town recognizes the need for a district along the lake front for recreational, commercial, and various types of residential uses with less development restrictions than the remainder of the lake front. The shorelines of this area are nearly 100 percent developed. The number of dwelling units, lot

sizes, manufactured (mobile) home parks, and commercial development is of concern due to the shallow waters and shallow soils. Therefore, in addition to permitted uses, Site Plan Review and Special Use Permit uses have been established to ensure that any further development or redevelopment in this District will not cause undesirable environmental impacts.

2. Lot Requirements: **(Table No. 2)**

Table 2 USE	Area Minimum	Frontage Minimum	Setbacks Minimum			Height Maximum	Open Space Minimum
			Front	Side	Rear		
Permitted	One (1) Acre	100'	40'	15'	25'	35'	35%
Multi-family	20,000sq.ft./Unit	200'	40'	50'	25'	35'	35%
Commercial	One (1) Acre	200'	40'	50'	25'	35'	35%
Other Site Plan	One (1) Acre	100'	40'	25'	25'	35'	35%

3. Waterfront Lot:

Any waterfront lot must have a minimum of 100' of water frontage and 100' of rear lot width and deeded or Home Owners' Association access to be considered a buildable lot.

4. Lot Utilization Area:

The area, bounded by the setback lines, is the only area on a lot that may be built upon. All use requirements, such as lighting etc., are measured/confirmed at the boundary of this area.

5. Lot Exclusion Area:

The area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping and screening, and ingress and egress driveways. No structures or paved parking are permitted within this area.

6. Lot Uses:

The allowable uses for lots in the Lake Recreational are shown in Table 8.

3.3 River Front District (RF)

1. Intent:

The Town recognizes that New York State Route 12E along the St. Lawrence River is a major route in the Town and is designated as a scenic byway (Seaway Trail) and provides immediate visual and physical access to the river front. The Town wishes to provide opportunities for both commercial and residential development in this district; however, commercial development must be of high-quality design and is, therefore, subject to Site Plan Review procedures. Any residential development should have a permanent year around appearance along this major tourist route. Manufactured (mobile) homes will be provided for in manufactured (mobile) home parks, which will be controlled through Site Plan Review procedures.

2. Lot Requirements: **(Table No. 3)**

Table 3 USE	Area Minimum	Frontage Minimum	Setbacks Minimum			Height Maximum	Open Space Minimum
			Front	Side	Rear		
Permitted	One (1) Acre	100'	40'	15'	25'	35'	35%
Multi-family	20,000sq.ft./Unit	200'	40'	50'	25'	35'	35%
Commercial	One (1) Acre	300'	40'	50'	25'	35'	35%
Other Site Plan	One (1) Acre	100'	40'	25'	25'	35'	35%

3. Waterfront Lot:

Any waterfront lot must have a minimum of 100' of water frontage and 100' of rear lot width and deeded or Home Owners' Association access to be considered a buildable lot.

4. Lot Utilization Area:

The area, bounded by the setback lines, is the only area on a lot that may be built upon. All use requirements, such as lighting etc., are measured/confirmed at the boundary of this area.

5. Lot Exclusion Area:

The area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping and screening, and ingress and egress driveways only. No structures or paved parking are permitted within this area.

6. Lot Uses:

The allowable uses for lots in the River Front District are shown in Table No. 8.

3.4 Agricultural Residential District (AR)

1. Intent:

The large, open spaces in the central area of the Town are primarily used for agriculture of various types, rural residential, and several non-agricultural businesses. This area lends itself to various types of future development. The Town wishes to promote active farming and other development in this area that preserves the District's rural character.

2. Lot Requirements: **(Table No. 4)**

Table 4 USE	Area Minimum	Frontage Minimum	Setbacks Minimum			Height Maximum	Open Space Minimum
			Front	Side	Rear		
Permitted	One (1) Acre	100'	40'	15'	25'	35'	35%
Multi-family	20,000sq.ft./Unit	200'	40'	50'	25'	35'	35%
Commercial	One (1) Acre	300'	40'	75'	25'	35'	35%
Other Site Plan	One (1) Acre	200'	40'	50'	25'	35'	35%

3. **Lot Utilization Area:**
This area, bounded by the setback lines, is the only area on a lot that may be built upon. All use requirements, such as lighting etc., are measured/ confirmed at the boundary of this area.
4. **Lot Exclusion Area:**
This area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping and screening, and ingress and egress driveways only. No structures or paved parking are permitted within this area.
5. **Lot Uses:**
The allowable uses for lots in the Agricultural Residential District are shown in Table No.8.

3.5 Light Manufacturing District (LM)

1. **Intent:**
The Town recognizes a need to attract business that would create a high number of jobs relative to the amount of space needed for development. Examples of light manufacturing businesses are similar to those in industrial parks that exist in Jefferson County and the City of Watertown, NY. The location of this District is convenient to transportation routes and municipal water. Therefore, the permitted uses in this District are more extensive than those in other districts resulting in a more efficient permitting process.
2. **Lot Requirements: (Table No. 5)**

Table 5	Area Minimum	Frontage Minimum	Setbacks Minimum			Height Maximum	Open Space Minimum
			Front	Side	Rear		
USE							
Permitted	Two (2) Acres	250'	50'	50'	50'	35'	35%
Special Permit	One (1) Acre	100'	50'	25'	50'	35'	35%

3. **Heights:**
Heights in excess of 35 feet in the Light Manufacturing District require an area variance.
4. **Lot Utilization Area:**
This area, bounded by the setback lines, is the only area on a lot that may be built upon. All use requirements, such as lighting etc., are measured/ confirmed at the boundary of this area.
5. **Lot Exclusion Area:**
This area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping and screening and ingress and egress driveways only. No structures or paved parking are permitted within this area.

6. Lot Uses:
The allowable uses for lots in the Light Manufacturing District are shown in Table No. 8.

3.6 Retail/Professional District (RP)

1. Intent:
The Town recognizes the potential for retail/professional development from the Village line south along New York State Route 12E and a need to enable development without negatively impacting scenic views. New York State Route 12E is a designated scenic byway (Seaway Trail), portions of which provide visual and physical access to the Saint Lawrence River. The Retail/Professional regulations will allow development without significantly impacting the scenic byway.
2. Lot Requirements: **(Table No. 6)**

Table 6 USE	Area Minimum	Frontage Minimum	Setbacks Minimum			Height Maximum	Open Space Minimum
			Front	Side	Rear		
Retail/Professional	Two (2) Acres	300'	75'	75'	75'	35'	35%
Other Site Plan	One (1) Acre	100'	75'	25'	75'	35'	35%
Special Permit	One (1) Acre	100'	75'	25'	75'	35'	35%

3. Lot Utilization Area:
This area, bounded by the setback lines, is the only area on a lot that may be built upon. All use requirements, such as lighting etc., are measured/ confirmed at the boundary of this area.
4. Lot Exclusion Area:
This area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping and screening and ingress and egress driveways only. No construction of sheds, outbuildings or parking is permitted within this area.
5. Lot Use:
The allowable uses for lots in Retail/Professional are shown in Table 8.

3.7 Islands District (I)

1. Intent:
The Islands District consists of five islands within the boundaries of the Town of Cape Vincent. They include Grenadier, Little Grenadier, Fox, Carleton, and Linda Islands. Carleton and Grenadier Islands have historic areas of interest as confirmed by the New York State Office of Parks, Recreation, and Historic Preservation. As such, land use on or near any area of historic interest will be taken into consideration during the approval process. This district represents the most distinctive land-use zone within the Town. Residents of the Islands District have a unique property and living arrangement; one that is both unconventional and

independent. Residents do not want or need elaborate infrastructure development. The land-use plan for this District is focused principally on encouraging quality residential development with some capacity for limited, controlled commercial development, for example, restaurant, hotel, bed and breakfast.

2. Lot Requirements: **(Table No. 7)**

Table 7	Area Minimum	Frontage Minimum	Setbacks Minimum			Height Maximum
			Front	Side	Rear	
USE						
Permitted	Five (5) Acres	300'	200'	50'	50'	35'
Special Use Permit	Five (5) Acres	300'	200'	50'	50'	35'

3. Lot Utilization Area:
This area, bounded by the setback lines, is the only area on a lot that may be built upon. All use requirements, such as lighting etc., are measured/ confirmed at the boundary of this area.
4. Lot Exclusion Area:
This area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping and screening, and ingress and egress driveways. No structures or paved parking are permitted within this area.
5. Lot Uses:
The allowable uses for lots in the Islands District are shown in Table No. 8.
6. Boathouses:
Boathouses shall be a maximum of one story, 15 feet in height.
7. Telecommunications Tower:
Subject to the regulations of the Federal Communications Commission (FCC) the maximum height for a telecommunications tower is 50 feet.

3.8 Municipal District:

1. Intent:
Throughout the Town there are properties used for municipal or governmental purposes. In that these properties are located within the boundaries of established zoning district, the Town recognizes that applicants should be made aware of the location of these properties to eliminate any confusion about land uses on municipal properties. Private development is prohibited in the Municipal District unless under certain unusual and/or unavoidable circumstances development on municipal sites would be in the best interest of the health, safety, and welfare of the Town's residents. In such cases, a variance would be required from the Zoning Board of Appeals.

4. LOT USES

4.1 Use Per Lot:

Only one principal use per lot shall be permitted in all districts. Accessory uses must be compatible with the principal use.

4.2 District Uses:

Allowable uses shall be as shown in **Table No 8.**

LF – Lake Front

LR – Lake Recreation

RF – River Front

AR – Agricultural Residential

LM – Light Manufacturing

RP – Retail/Professional

I – Islands

M – Municipal

Table No. 8

P–Permitted (Zoning Permit May Be Required)
X–Not Allowed

S–Site Plan Review **SU**–Special Use Permit

DISTRICT	LF	LR	RF	AR	LM	RP	I	M
Adult Use	X	X	X	X	SU	X	X	X
Agricultural	S	S	S	P	S	S	P	X
Agricultural/NYS Certified District	P	P	P	P	P	P	P	X
Animal (Concentrated) Feed Lot	X	X	X	SU	X	X	X	X
Automobile Service/Repair	X	X	SU	SU	SU	SU	X	X
Automobile Sales	X	X	X	S	S	S	X	X
Bar/Tavern	X	S	S	S	S	S	SU	X
Bed and Breakfast	S	S	S	S	X	S	SU	X
Boathouse	S	S	S	X	X	X	SU	X
Cemetery	S	S	S	S	X	X	S	X
Commercial	X	S	S	S	S	S	SU	X
Correctional/Detention Facility	X	X	X	S	S	X	X	X
Daycare Facility (Adult or Child)	S	S	S	S	X	S	SU	X
Dock (Covered)	S	S	S	X	X	X	S	X
Education Facility	X	SU	SU	S	S	S	SU	X
Electrical Power Transmission Tower	SU	SU	SU	SU	SU	SU	SU	X
Commercial Animal Slaughtering/Rendering	X	X	X	SU	SU	SU	X	X
Government Facility	X	X	X	X	X	X	X	P
Healthcare Facility	S	S	S	S	S	S	X	X
Home Occupation	P	P	P	P	P	P	P	X
Hostel	S	S	S	S	X	X	SU	X
Hotel/Motel/ Rental Dwelling Unit	X	S	S	S	X	SU	SU	X
Kennel	X	X	X	S	X	X	X	X
Manufactured Homes (Mobile)	X	P	P	P	X	X	X	X
Manufactured (Mobile) Home Park (Seasonal)	X	X	S	S	X	X	X	X
Manufactured (Mobile) Home Park (Permanent)	X	X	X	S	X	X	X	X
Manufacturing – Light	X	X	X	S	S	X	X	X
Marina	X	SU	SU	X	X	X	X	X
Meteorological Tower	X	X	X	SU	X	X	X	X
Mining/Quarry Operation	X	X	X	SU	X	X	X	X
Modular Home	P	P	P	P	P	X	P	X
Multi-Family/Household Dwelling	S	S	S	S	X	S	SU	X
Nursery	X	X	X	P	X	S	X	X
Office – General	X	X	P	P	P	S	X	S
Recreational Resort	X	SU	SU	SU	X	X	SU	X
Recreational Vehicles	X	P	P	P	X	X	X	X
Religious Use	S	S	S	S	X	S	S	X
Residential Garage	P	P	P	P	P	P	P	X

DISTRICT	LF	LR	RF	AR	LM	RP	I	M
Restaurant/Inn	X	S	S	S	S	S	SU	X
Retail	X	S	S	S	S	S	SU	X
Salvage/Scrap Yard	X	X	X	S	SU	X	X	X
SECS – Ground Based 100 sq. ft. max.	SU	SU	SU	SU	SU	SU	SU	X
SECS – Ground Based over 100sq. ft.	X	X	X	SU	SU	X	X	X
SECS – Roof Top	P	P	P	P	P	P	P	P
Self-Storage Facility	X	X	X	S	S	S	X	X
Single-Family/Household Dwelling	P	P	P	P	P	X	P	X
Storage Shed	P	P	P	P	P	P	P	X
Telecommunication Tower(s)	X	X	X	S	S	X	SU	X
Utility	SU	SU	SU	SU	SU	SU	SU	X
Veterinary Practice	X	S	S	S	X	S	X	X
WECS – Industrial > 50kw	X	X	X	SU	X	X	X	X
WECS – Industrial > 10 to < 50kw	X	X	X	SU	X	X	SU	X
WECS – Residential < 10kw	SU	SU	SU	SU	SU	SU	SU	X
Workshop/Studio Building	P	P	P	P	P	P	P	X

P–Permitted (Zoning Permit May Be Required) **S**–Site Plan Review **SU**–Special Use Permit
X–Not Allowed

4.3 Prohibited Uses:

In order to protect the scenic beauty of the Town and the safety, health, and welfare of its residents, the following uses are prohibited:

1. Water-based, floating uses such as, but not limited to, casinos and/or floating domiciles. This does not include yachts or houseboats moored in established marinas.
2. The manufacture and storage of hazardous materials in commercially saleable quantities is prohibited. The classes of materials prohibited are but not limited to:
 - a. Manufacture of explosives, including fireworks.
 - b. Manufacture of pyrophoric powder metals.
 - c. Manufacture of toxic gases, such as acetylene, ammonia, chlorine.
 - d. Manufacture or storage of corrosive and toxic chemicals in commercial saleable quantities. This category includes but is not limited to: strong acids (sulfuric, nitric, hydrochloric, hydrofluoric, etc.), bases (caustic soda, etc.)
 - e. Landfills, dumps and trash/refuse Incinerators are prohibited unless leased, owned, or operated by the Town or operated pursuant to license or other agreement with the Town.
 - f. Reclamation and treatment of industrial waste.

- g. Exploration and extraction of gaseous and liquid hydrocarbons. This includes, but is not limited to, hydraulic fracturing or current state-of-the-art extraction processes.
- h. Junkyards.

5. ADMINISTRATION AND ENFORCEMENT

5.1 Zoning Permits:

1. Intent:
Permits are required to ensure that the Zoning Laws are followed for the health, safety, and welfare of the residents of the Town.
2. No building or structure shall be erected, enlarged, or land use initiated until a Zoning Permit and required county, state, and/or federal permits have been issued. The exterior structure area of a building shall not be enlarged until a Zoning Permit has been issued.
3. Zoning Permit applications may be obtained from the Town Clerk or the Zoning Enforcement Officer. (Appendix 3, Zoning Permit Application.)
4. A Zoning Permit shall not be required for:
 - a. Construction of a structure with a floor area of one-hundred (100) square feet or less. Such structures are required to comply with the dimensional and use regulations for the district in which they are located.
 - b. Interior structural alterations.
 - c. Routine maintenance and improvements where the exterior dimensions of the structure are not changed. Examples include: new roof, window replacement, siding replacement, etc.
 - d. Chimneys, placements of posts, fences, and similar ancillary uses. However, fences shall adhere to the regulations of Section 6.5, Fences.
5. When measuring to establish proper siting within the lot utilization area, the extremities of the structures shall be used. This includes cornices, eaves, overhangs, carports, garages, decks, porches, etc.
6. No Zoning Permit or Certificate of Zoning Compliance shall be issued for any project that is not in compliance with the provisions of this Law.
7. A Zoning Permit shall expire 12 months from the date of issue unless substantial progress has been made toward carrying out the terms of the Zoning Permit. The applicant shall have two years to complete the terms of the Zoning Permit or all work shall cease at the site. An extension may be allowed by the Zoning Enforcement Officer upon proof of necessity submitted by the applicant due to conditions unusual or beyond the control of the applicant.

8. Applications for Zoning Permits shall be submitted to the Zoning Enforcement Officer or the Town Clerk and shall include two (2) copies of a drawing (layout or lot plan) showing the lot to be built upon, Lot Utilization Area, and the size and location within the Lot Utilization Area of the current and proposed structures. The drawing shall be to scale, neat, legible, and shall include actual dimensions, right-of-ways, streams, power lines, and other unique features of the lot. This information together with a completed Zoning Permit Application shall be forwarded to the Zoning Enforcement Officer.
9. Temporary Permits:
 - a. Intent: The Town recognizes a need to enable short-term uses that do not conform to this Law such as but not limited to: temporary field construction offices, construction material storage structures, construction material lay-down areas, or shelter needs resulting from emergencies. Applicants should not expect repeated renewal of temporary permits unless it can be proved that the need could not have been avoided.
 - b. Temporary Permits may be issued by the Zoning Enforcement Officer, upon approval by the Planning Board for a period not to exceed six months, for conforming and nonconforming uses. Such Temporary Permits are conditioned upon agreement by the owner or operator to remove the nonconforming structures or equipment upon expiration of the Temporary Permit or to bring the use into compliance by the specified time. Temporary Permits may be renewed upon approval of the Planning Board.

5.2 Zoning Enforcement Officer:

1. This Law shall be enforced by the Zoning Enforcement Officer, who shall be hired by the Town Board.
2. The Zoning Enforcement Officer shall be the initial point of contact for all zoning matters and the Officer's authorities shall include but are not limited to:
 - a. Approve, reissue, and/or deny zoning permits.
 - b. Issue and/or withhold Certificates of Zoning Compliance.
 - c. Revocation of a Zoning Permit where there is false, misleading, or missing information.
 - d. Revocation of a Certificate of Zoning Compliance when the work performed was not as specified or proposed in the Zoning Permit.
 - e. The Zoning Enforcement Officer shall be responsible for enforcement pursuant to Section 5.8, Violations and Penalties, of this Law.

- f. The Zoning Enforcement Officer shall submit a report with the number of Zoning Permits and Certificates of Zoning Compliance issued, fees collected, and complaints received at each regular Town Board Meeting.
 - g. The Zoning Enforcement Officer shall attend all Zoning Board of Appeals meetings and, when requested, Planning Board meetings.
 - h. A complaint resulting from an action by the Zoning Enforcement Officer should be submitted to the Town Board in writing.
3. Instructions to Applicant: Appendix 2, Instructions to Applicant, as prescribed from time to time by the Town Board and/or the Planning Board.

5.3 Zoning Board of Appeals:

- 1. Creation, appointment, and organization:
The Zoning Board of Appeals shall consist of five (5) regular members and two (2) alternate members. The Town Board shall appoint the members of the Zoning Board of Appeals on a staggered basis in conformance with the Town Law. The Town Board shall appoint the Chair. In the absence of a Town Board decision, the Zoning Board of Appeals shall elect a Chair and Vice-Chair. The Planning Board shall establish and abide by By-laws.
- 2. Powers and Duties:
The Zoning Board of Appeals shall have all the powers and duties prescribed by Sections 267A and 267B of the Town Law and by this Law.
 - a. Authority:

Hearing Appeals: Unless otherwise provided by local law or ordinance, 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, requirements, decision, interpretation, or determination made by the administrative official charged with the enforcement of any ordinance or local law adopted pursuant to this article. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board, or bureau of the Town.

The Zoning Board of Appeals is empowered to interpret and rule on all requests from elected and appointed Boards of the Town regarding the Zoning Law.

b. Use Variance:

1) Intent:

To authorize a use of the land which otherwise would not be allowed or would be prohibited by the terms of the local law.

2) The Zoning Board of Appeals, on appeal from the decision or determination of the Zoning Enforcement Officer, shall have the power to grant Use Variances.

3) No such variance shall be granted by the Zoning Board of Appeals without the applicant showing that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that:

[a] The Applicant cannot realize a reasonable return on his/her investment as demonstrated by competent financial evidence;

[b] That the hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;

[c] That the requested Use Variance, if granted, will not alter the essential character of the neighborhood; and

[d] That the hardship has not been self-created.

4) The Zoning Board of Appeals, in granting a Use Variance, shall grant the minimum variance that it shall deem necessary and adequate to address the hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and health, safety, and welfare of the community.

c. Area Variance:

1) Intent:

The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Zoning Enforcement Officer, to grant an Area Variance from the area or dimensional requirement of this Law.

2) In making its determination, the Zoning 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 by granting such variance. In making such a determination, the Board shall also consider:

- [a] Whether an undesirable change will be produced in the character of the neighborhood or create a detriment to nearby properties by granting the Area Variance.
- [b] Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an Area Variance.
- [c] Whether the requested Area Variance is substantial.
- [d] Whether the proposed Area Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- [e] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the Area Variance.
- [f] The location, size, and flow direction of existing sewers, water supply lines and culverts, major electric gas, and telephone lines.

3) The Zoning Board of Appeals, in granting Area Variances, shall grant the minimum variance that it deems necessary and adequate, and at the same time, preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

d. Imposition of Special Conditions:

The Zoning Board of Appeals shall, in granting any type of variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

3. **Special Use Permit:**

a. Intent:

The intent of the Special Use Permit is to set forth additional requirements which shall apply to certain land uses and activities which, due to their characteristics or the special characteristics of the area in which they are to be located, require special consideration so that they may be properly located and planned with respect to the objectives of this chapter and their effect on the surrounding properties and community character.

- b. Compliance:
All applications must comply with the following conditions. Additional requirements for certain uses that require a Special Use Permit are found in Table 8.
- c. Purpose of Review:
The primary purpose of Special Use Permit review is to assess the long-term impact of the proposed use on the area and the Town and to ensure compatibility of the use with the surrounding area and consistency with "A Joint Comprehensive Plan for the Village and Town of Cape Vincent."
- d. Special Use Permit Application Procedure:
A Special Use Permit review and approval shall be undertaken by the Zoning Board of Appeals. The Zoning Board of Appeals may seek an advisory opinion and site specific recommendations from the Planning Board.
- e. Issuance:
The Zoning Board of Appeals shall approve a Special Use Permit if it determines the proposed use will satisfy the standards set forth herein. In approving a Special Use Permit, the Zoning Board of Appeals may require conditions of, and/or modifications to, the project. Such conditions must relate to the impact of the project. If the Zoning Board of Appeals does not make a positive finding in support of the Special Use Permit, it shall deny the Special Use Permit.
- f. Standards of Review:
The record of the Zoning Board of Appeals must address the standards outlined below and include the facts and reasons upon which such approval or denial was based:
 - 1) The proposed use must not be more objectionable to nearby properties by reason of noise, odors, vibration, dust, illumination, or other potential nuisance than the operation of any allowed use in the particular district.
 - 2) Compatibility of the proposed use with adjoining properties and with the natural and man-made environment. When reviewing business uses, the relationship of the size of the parcel to the intensity of the commercial use and the size of the building shall be a relevant consideration.
 - 3) Adequacy of parking, vehicular circulation, and infrastructure for the proposed use, and its accessibility to fire, police, and emergency vehicles.
 - 4) Restrictions and/or conditions on design of structures or operation of the use, including hours of operation and noise, necessary either to ensure compatibility with the

surrounding uses or to protect the natural or scenic resources of the Town.

- 5) Compatibility with the traditional or historic character and use of the structure or structures and the traditional or historic character of the site and the surrounding area.
- 6) Consistency with the requirements for site plan approval.
- 7) Site Plan Approval Procedure:
The Site Plan Review shall comply with Section 5.4 of this Law.
- 8) Limitations:
A Special Use Permit shall authorize only the particular special use or uses specified therein.
- 9) Expiration:
A Special Use Permit will expire if the applicant fails to obtain a building permit or fails to comply with the conditions of the Special Use Permit (unless other provisions are set forth by the Planning Board in connection with its approval) within one (1) year after approval.
- 10) Revocation:
A Special Use Permit will expire if the special use or uses shall cease for any reason for more than 18 consecutive months.
- 11) Enforcement:
A Special Use Permit may be revoked by the Zoning Enforcement Officer if, after notice to the holder of the permit and an opportunity for hearing, it is determined that the conditions of the Special Use Permit are violated.

Any violation of the conditions of a Special Use Permit or a violation of any applicable performance criteria of this Section shall be deemed a violation of this Law and shall be subject to enforcement action as provided therein.

- 12) Transferability:
All Special Use Permits shall run with the land and will be transferred to successive property owners provided the permit has not expired and/or it is not revoked for failure to meet the permit conditions.

4. Procedure:

- a. Meetings, minutes, records:
Meetings of the Zoning Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers' Law. The Zoning Board of Appeals shall keep minutes of its proceeding showing the vote of each member upon every

question, or if absent or failing to vote indicating such fact, and shall also keep records of its examinations and other official actions.

The original copy of all minutes and records shall be retained in the Town offices. This retention may be either hard copy or electronic. In either case, they shall be held in a secure place and shall be readily accessible to authorized personnel.

- b. **Filing Requirements:**
Every rule, regulation, amendment, or repeal thereof, and every order requirement, decision, or determination of the Zoning Board of Appeals shall be filed in the office of the Town Clerk within five (5) business days of the action.
- c. **Assistance to the Zoning Board of Appeals:**
The Zoning Board of Appeals shall have the authority to call upon any department, agency, or employee of the town for such assistance as shall be deemed necessary. Subject to budgetary allocations adopted by the Town Board, the Zoning Board of Appeals shall have the power and authority to employ experts, clerks, and a secretary and to pay for their services.
- d. **Hearing Appeals:**
The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Enforcement Officer, or to grant a Use Variance or Area Variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board, or bureau of the Town.
- e. **Appeal Procedure:**
Any appeal shall be taken within sixty-two (62) days after the filing of any order, requirement, decision, interpretation, or determination of the Zoning Enforcement Officer or Planning Board may be appealed to the State Supreme Court pursuant to Article 78 of the CTLR.
- f. **Stay Upon Appeal:**
An appeal shall stay all proceedings in furtherance of an action appealed from, unless the Zoning Enforcement Officer, from whom the appeal is taken, certifies to the Zoning Board of Appeals, after the notice of appeal shall have been filled with the Zoning Enforcement Officer, that by reason of facts stated in the certificate a stay, would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise that a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Zoning Enforcement Officer from whom the appeal is taken and on due cause shown.

- g. Hearing an Appeal:
The Zoning Board of Appeals shall hold a public hearing within sixty-two (62) days from the official submission date of the appeal.
- h. Notice of Public Hearing:

 - 1) At least five (5) and no more than ten (10) days in advance of the public hearing, the following notifications shall be made:

 - [a] The Notice of Hearing shall be published in the official newspaper and posted on the Town Office public bulletin board and on the Town's official web site.
 - [b] The appellant/applicant shall send a notice containing copies of the variance application and the public hearing notice, via certified mail to all owners of abutting properties, including properties immediately across the road. The names and addresses of these property owners shall be supplied to the applicant by the secretary of the Zoning Board of Appeals. Proof of certified mailing must be submitted to the Zoning Board of Appeals secretary.
- i. Agency Notifications:
The Town Board, Planning Board, or Zoning Board of Appeals shall refer all amendments, site plans, special use permits, and variances that fall within those areas specified under General Municipal Law, Article 12-B, Section 239m to the County Planning Board prior to the local Boards' vote thereon. This includes actions that fall within five hundred (500) feet of the boundary of the Town, a state or county park or recreation area, a state or county highway or expressway, a state or county owned drainage channel, Agricultural District, and state or county land where a public building or institution is located.
- j. Time of Decision:
The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days after the hearing has been completed. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
- k. Filing of Decisions and Notices:
The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy mailed to the applicant and a copy submitted to the Board chair.

5.4 Planning Board:

1. **Creation Appointment and Organization:**

The Planning Board shall consist of five (5) regular members and two (2) alternate members. The Town Board shall appoint the members of the Planning Board on a staggered basis in conformance with the Town Law. The Town Board shall appoint the Chair. In the absence of a Town Board decision, the Planning Board shall elect a Chair and Vice-Chair. The Planning Board shall establish and abide by By-laws.
2. **Powers and Duties:**

The Planning Board shall have the following powers and duties in accordance with Section 5.4.6, Site Plan Review.

 - a. Approval or disapproval of the site plans in accordance with Site Plan Review.
 - b. Submittal of an advisory opinion, when requested to do so by the Zoning Board of Appeals in cases of Special Use Permits.
 - c. Submittal of an advisory opinion to the Town Board for proposed amendments of this Law.
 - d. Approval and renewal of temporary permits in accordance with Section 5.1.9, Temporary Permits. Such approval or renewal may be given at a regular meeting of the Planning Board without the requirement for a public hearing.

The Planning Board recognizes a need to enable short-term uses that do not conform to this Law such as but not limited to: temporary field construction offices, construction material storage structures, construction material lay-down areas, or shelter needs resulting from emergencies. Applicants should not expect repeated renewal of temporary permits unless it can be proved that the need could not have been avoided.
 - e. Approval of subdivisions. Refer to separate the current version of the Town of Cape Vincent Subdivision Law.
3. **Procedure:**

The Planning Board shall act in strict accordance with the procedure specified by this Law. All applications shall be made in writing on forms prescribed by the Town. Every decision of the Planning Board shall be made by resolution which shall contain a full record of the findings in the case.
4. **Meetings, minutes, records:**

Meetings of the Planning Board shall be open to the public to the extent provided in Article 7 of the Public Officers' Law. The Planning Board shall keep minutes of its proceeding showing the vote of each member upon

every question, or if absent or failing to vote indicating such fact, and shall also keep records of its examinations and other official actions.

The original copy of all minutes and records shall be retained in the Town offices. This retention may be either hard copy or electronic. In either case, they shall be held in a secure place and shall be readily accessible to authorized personnel.

5. Filing of Decisions and Notices:

The decision of the Planning Board on an application shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy mailed to the applicant and a copy submitted to the Board chair.

6. **Site Plan Review:**

Intent:

The purpose of the Site Plan Review Procedure is to allow the Planning Board to attach safeguards and conditions to those uses which might otherwise produce deleterious effects on the unique features, environment, rural and scenic character of the Town, neighborhood character, or the Town residents' health, safety, and welfare. Furthermore, it is the purpose of the Site Plan Review Procedure to authorize the Planning Board to disapprove a plan for any use, the deleterious effects of which cannot be mitigated because of the particular conditions on the site it is to occupy.

Scope:

- a. In addition to the regulations which apply in each district, (Sections 3, 5, 6) Site Plan Review shall also be controlled by the regulations of this Section.
- b. No Zoning Permit shall be issued for any Site Plan Review use until the use has been granted Site Plan Review approval by the Planning Board.
- c. The Planning Board shall review and approve, approve with conditions, or disapprove Site Plan for all uses described in Section 4, Lot Uses.

Application for Site Plan Review:

- a. All application forms and associated fee schedule for Site Plan Review may be obtained from the Town Clerk's office. Completed forms and appropriate fees together with copies of any agreements affecting the use of the subject land shall be submitted to the Planning Board.
- b. Pre-submission Conference:
If the applicant requests, a pre-submission conference between the applicant and the Planning Board shall be held to review the proposed development in light of existing conditions and to determine the information submitted is according to the guidelines of Section 5.3,

Zoning Board of Appeals. A pre-submission conference enables the Planning Board to revise the list of application requirements and review criteria to match the specifics of a given project thus making it easier for the applicant to prepare a plan. The Planning Board has the option of changing or eliminating review criteria that may not be applicable for a given project.

c. Application Requirements:

If no pre-submission conference is held, then all of the following shall be included in the Site Plan Review application.

- 1) Completed application form. (Appendix 10, Site Plan Review Application Form and Appendix 11, Sample Site Plan Review Drawing.)
- 2) Completed Environmental Assessment form (Appendix 4, Short EAF) or a State Environmental Quality Review (SEQR) under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617, of the New York Code of Rules and Regulations.
- 3) Preliminary Illustrative Site Plan (Appendix 5, Illustrative Site Plan). Site Plan must be done to scale showing the necessary details for the project.
- 4) If requested by the Planning Board, professional engineered plans may be required. Site Plan drawings prepared by licensed professionals (engineers/surveyors) must be stamped with the responsible person's seal and signature. Professionals must comply with New York State Education Law, Article 145, and 7209 Special Provisions. The Planning Board may require elevation drawings of the project.
- 5) Photographs of the site are required.
- 6) Existing Natural Features and Infrastructure: The application shall include:
 - a) the existing geologic features;
 - b) topographic features, including a map showing existing contour at ten (10') foot intervals;
 - c) soil characteristics, if applicable;
 - d) hydrologic features including drainage, runoff pattern, flood hazard areas, wetlands, and depth to ground water;

- e) the location, size, and flow direction of existing sewers, water supply lines and culverts, major electric, gas, and telephone lines;
 - f) the existing use of adjacent property including any parking and loading areas, fences, trees, and landscaping;
 - g) the location of any New York State Certified Agricultural Districts; and
 - h) Town of Cape Vincent critical environmental areas shall also be shown.
- 7) Proposed Project: The proposed site plan application shall show:
- a) all proposed grading including drainage plans;
 - b) the location and proposed use of buildings and other structures including their proposed height; location, proposed use, design, and construction materials of improvements not requiring structures such as parking lots, loading and outdoor storage areas;
 - c) the location and arrangement of site ingress and egress, walkways and paths for vehicular and pedestrian traffic;
 - d) location and size of proposed water and sewer lines;
 - e) location, design, and construction materials of all energy distribution facilities;
 - f) location and design of all outdoor lighting;
 - g) the location, design and size of proposed signage;
 - h) a general landscaping plan and planting schedule; and
 - i) estimated project construction schedule with any phasing plan for large projects shall also be included.

d. Once an application has been accepted as complete by the Planning Board, the Board shall have a maximum of sixty-two (62) days to hold a public hearing and another sixty-two (62) days in which to render their decision. However, the time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.

- 1) Within sixty-two (62) days from the completed application date, the Planning Board shall hold a public hearing on the

proposal to entertain public comments. At least ten days in advance of the public hearing the following notifications shall be made:

- 2) The notice of the hearing shall be published in the official newspaper, and posted on the Town Office public bulletin board, and on the Town's official website.
 - 3) The appellant/applicant shall send a notice containing copies of the Site Plan Review application and the public hearing notice, via certified mail to all owners of abutting properties, including properties immediately across the road. The names and addresses of these property owners shall be supplied to the applicant by the secretary of the Planning Board. Proof of certified mailing must be submitted to the Planning Board secretary.
- e. The final decision of the Planning Board must be made within sixty-two (62) days following the public hearing, in writing, specifying any conditions that may be attached to the approval, the reasons that the Planning Board approved or denied the proposal and the motions/votes by the Planning Board members. All decisions shall be filed in the Office of the Town Clerk and a copy mailed to the applicant.
 - f. Application for variance: Notwithstanding any provision of Law to the contrary, where a proposed site plan contains one or more features which do not comply with the Law, the Planning Board shall request an interpretation by the Zoning Board of Appeals.
 - g. The Planning Board shall refer all site plan matters that fall within those areas specified, under General Municipal Law, Article 12B, Section 239-M to the County Planning Board prior to their final vote thereon. All filing of provisions General Municipal Law Article 12 B, Sections 239-B shall be adhered to. (Appendix 6, SEQRA Flow Chart)
4. Review Criteria:
Planning Board's review of the Site Plan application shall include, where appropriate, the following considerations:
- a. Status of any federal, state, or county permits required.
 - b. Compliance with the provisions of the Environmental Assessment and State Environmental Quality Review (SEQRA) Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617 of the New York Code of Rules and Regulations.

- c. Environmental impact on the unique features, community and adjacent areas, including physical, scenic views as seen from roadways or waterways, social and economic.
 - d. Location, arrangement, size, design, and general site compatibility of buildings, lighting, and signs.
 - e. Adequacy and arrangement of vehicular and pedestrian traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, traffic controls.
 - f. Location, arrangement, appearance, and sufficiency of off street parking and loading.
 - g. Adequacy of storm water and drainage facilities, water supply and sewage disposal facilities, and the proper use of retention basins.
 - h. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting visual and/or noise buffer between the applicant's and adjoining lands, including maximum retentions of existing vegetation.
 - i. Adequacy of fire lanes and other emergency zones.
 - j. Conformance with all other provisions of this Law.
5. Additional Conditions:
The Planning Board may attach safeguards and conditions to any site plan that include, but not limited to, approval of any required federal, state, or county permits, redesign of building access, parking, pedestrian path location or arrangement, additional landscaping or screening, protections of natural, scenic, and cultural resources as defined by "A Joint Comprehensive Plan for the Village and Town of Cape Vincent."
6. Installation:
In order that the Town has the assurance that the construction and installation of improvements such as storm sewers, water supply, sewage disposal, landscaping, road signs, sidewalks, parking, access facilities, ingress and egress areas, and road surfacing will be constructed, the Planning Board may require that the applicant complete one of the following agreements:
- a. Furnish bond executed by a surety equal to the cost of construction of such improvements as shown on the plans and based on an estimate furnished by the applicant and approved by the Planning Board. Such bond shall require the approval of the Town Board and the Town Attorney as to form, sufficiency, and manner of execution and surety.
 - b. In lieu of the bond, the applicant may deposit cash, certified check, an irrevocable bank letter of credit, a certificate of deposit, or other form of financial security acceptable to the Town Board

and Town Attorney and shall be kept on deposit with the Town for the duration of the bond period.

- c. The bond may at the discretion of the Planning Board be reduced after all of the infrastructure has been completed, inspected, and accepted for dedication to the Town, but in all events, the bond or other security shall not be reduced or released below twenty percent (20%) of the original amount for a period of two (2) years after acceptance of the infrastructure by the Town.

7. Acceptance of Roads and Facilities:

When the Town Highway Superintendent and Town Zoning Enforcement Officer, following final inspection of the improvements, certify to the Town Board that all infrastructure installations and improvements have been completed in accordance with the Town approvals, the Town Board may, by resolution, proceed to accept the facilities for which the bond had been posted or check deposited.

8. Decommissioning:

There are uses/projects permitted in this Law which if not decommissioned/ removed at the end of their useful life could be extremely detrimental to the Town and its citizens' health, safety and welfare. They include, but are not necessarily limited to, cell towers, radio antenna transmission towers, wind energy generating structures and other like equipment. Because of the possible size and complexity of these uses/projects, the following requirements may be imposed on the applicant:

- a. The anticipated life of the structure must be determined during any municipal review process.
- b. The estimated decommissioning cost in current dollars.
- c. How said estimate was determined, including the amount that the decommissioning cost may be offset by the salvage value of the structure.
- d. A letter of credit or cash deposit will be the required method for ensuring that the funds will be available for decommissioning and restoration of the site serving the structure.
- e. A method shall be determined by the Planning Board, such as an annual estimate by an independent licensed professional engineer or qualified estimator approved by the Town, in order that the decommissioning costs will be kept current.
- f. The manner in which the structure will be decommissioned and the site restored, which shall include the following:

- 1) Removal of structure and associated ancillary equipment including transmission lines.
 - 2) Removal of substations and associated ancillary equipment.
- g. Removal of the concrete base of the structure to a minimum of five feet below the preconstruction grade and restoration of affected land to the preconstruction grade.
 - h. Removal of buried cables if less than five feet in depth.
 - i. A pre-decommissioning survey to be performed by an independent third party of roads, culverts, bridges, and affected land.
 - j. Removal of access roads and restoration of affected land.
 - k. Widening of roadways, if necessary, for heavy equipment and final restoration of all roadways used during removal.
 - l. Restoration of vegetation (consistent and compatible with surrounding vegetation) less any fencing or minor improvements requested by the landowner.
9. All "Decommissioning Fund" balances shall be deposited with the Town Clerk and shall be maintained in separate accounts. The fund balance shall be reimbursed to the Applicant/Owner/Operator upon final removal of the structure and certification by the Zoning Enforcement Officer that the required restoration of the site has been completed.

5.5 County Planning Board:

The Town Board, Planning Board, or Zoning Board of Appeals shall refer all amendments, site plans, Special Use Permits, and variances that fall within those areas specified under General Municipal Law, Article 12-B, Section 239m to the County Planning Board prior to the local Boards' vote thereon. This includes actions that fall within five hundred (500) feet of the boundary of the Town, a state or county park or recreation area, a state or county highway or expressway, a state or county owned drainage channel, Agricultural District, and state or county land where a public building or institution is located.

1. If the County Planning Board does not respond within thirty (30) days from the time it received a full statement on the referral matter, then the local Board may act without such report
2. The local Board must report to the County Planning Board on its final action within seven (7) business days of the event.

5.6 Certificate of Zoning Compliance:

1. A Certificate of Zoning Compliance shall be issued to the applicant prior to the initiation of construction. No Certificate of Zoning Compliance will be

issued until all conditions, if any, of the Planning Board or the Zoning Board of Appeals are met.

2. No Land, building, or structure shall be occupied or used until a Certificate of Zoning Compliance has been issued by the Zoning Enforcement Officer stating that the building, structure, or proposed use thereof complies with the provisions of this Law.
3. The Zoning Enforcement Officer shall maintain a record of all Certificates of Zoning Compliance. The record shall be furnished upon request to any person intending to lease, rent, or buy the building.
4. In the absence of the Zoning Enforcement Officer, the Zoning Board of Appeals may issue a Certificate of Zoning Compliance.

5.7 Application Fees and Review Costs:

1. All applicants are required to pay an application fee to offset the administrative expenses of the Town. The application fees are set by resolution of the Town Board. Failure to pay the application fee shall constitute an incomplete application.
2. Applications for large-scale developments or developments which pose an inherent negative environmental risk may also warrant additional escrow fees to pay the fees of consultants hired as advisors to the Town. The Town Board reserves the right to retain legal and/or professional services from a range of disciplines to assist it in evaluating the complexities of proposed large-scale developments. Consequently, the Town may require that the Applicant initiate and maintain a Professional Fees account with funds sufficient to pay for fee-for-service consultation.
3. All unused funds from the Professional Fees account shall be refunded to the responsible party upon completion of the following:
 - a. Final approval or rejection of any application.
 - b. Final approval of any and all completed improvements and submission of all bills to the Town for its review of expenses incurred as a result of the applicant's proposed plan.
 - c. Resolution of all contractual obligations.

5.8 Violations and Penalties:

1. Violation Remedy Procedures:
 - a. Initiation of a Complaint – Whenever a violation of this Law occurs, the Zoning Enforcement Officer, Town official, or an aggrieved citizen may initiate a complaint. Such complaints shall be submitted to or initiated by the Zoning Enforcement Officer and it shall be in writing.

- b. Recording the Complaint – The Zoning Enforcement Officer shall accurately record the complaint and file it as prescribed in this Law.
 - c. Notice of Violation – The Zoning Enforcement Officer shall have 14 days to evaluate the validity of the complaint. If it is a valid complaint, the Zoning Enforcement Officer shall notify the landowner(s) by certified, return receipt requested mail as to the violation of the Law and the period of time granted to remedy the violation. The landowner shall have fourteen (14) days from receipt of the letter to remedy the situation or provide an acceptable timetable to remedy the situation. The Zoning Enforcement Officer may informally contact the landowner about the situation before this formal notification is made. In no case shall more than fourteen (14) days pass from the date the complaint is recorded to the date that the written notice is sent to the property owner. If the Zoning Enforcement Officer finds there is no violation of the Law, the complainant shall be notified of such in writing.
 - d. Stop Work Order – A “Stop Work Order” may be issued to the land owner. It is issued in the same manner as a “Notice of Violation.” This Order requires that all work at the site stop immediately. (Appendix 7, Stop Work Order, and Appendix 8, Notice of Violation.)
 - e. Local Proceedings – If a violation persists, the Zoning Enforcement Officer shall file an “Information and Complaint” with the Town Board
 - f. The Town Board may authorize the filing of an action or proceeding in the name of the Town of Cape Vincent in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this Law.
2. Penalties: The penalties set forth for a violation of this Law are those prescribed by Town Law, Section 268. A Violation for this Law shall be punishable by a fine not exceeding Three Hundred Fifty Dollars (\$350) or imprisonment for a period of not exceeding six (6) months, or both, for a first offense. Each week’s continued violation shall constitute a separate additional violation.

5.9 Interpretation:

Interpretation and application of the provisions of this Law shall be held to be minimum requirements, adopted for the promotion of the public’s health, safety, and general welfare. Whenever the requirements of the Law differ with the requirements of other lawfully adopted rules, regulations, or ordinances, the most restrictive or that imposing the higher standards shall govern.

6. GENERAL ZONING REGULATIONS:

6.1 Air Pollution:

1. Any activity, operation, or device which causes or tends to cause the release of air contaminants into the atmosphere shall comply with the appropriate requirements of the county, state, and federal standards.

6.2 Drainage:

1. Provisions for storm water drainage shall be designed to safely retain storm water or adequately carry away and discharge accumulated runoff into drainage channels, storm sewers, or natural watercourses so that it does not cause damage or flooding downstream.
2. The New York State Department of Environmental Conservation (DEC) regulations will control in case of a disagreement between the applicant and the Town.

6.3 Electromagnetic Frequency or Radiation Interference:

1. No activity, operation, or use shall cause electromagnetic frequency or radiation interference that:
 - a. Adversely affects persons or the operation of any equipment across lot lines.
 - b. Is not in conformance with the regulations of the Federal Communications Commission.

6.4 Erosion and Sedimentation Control:

1. The intent of this Section is to minimize any sedimentation and erosion that may be associated with any construction or grading involving land alteration.
2. The erosion and sedimentation control plan shall be prepared by a qualified person trained and experienced in erosion and sedimentation control methods and techniques.
3. The control plan shall consider all factors which contribute to erosion and sedimentation including, but not limited to, the following:
 - a) topography,
 - b) soils,
 - c) the proposed alteration to the area,
 - d) the amount of run-off from the project area and the upstream watershed area,
 - e) the staging of earth moving activities, and
 - f) temporary and permanent control measures
4. The erosion and sedimentation control shall be managed in a manner consistent with all applicable county, state and federal regulations.

6.5 Fences:

1. Agricultural fences are exempt from these regulations.
2. No fence shall exceed six feet in height from the natural grade except a fence surrounding a scrap or salvage yard which shall be a minimum of eight (8') feet in height.

The Planning Board shall have discretion to allow some other type of visual barrier for scrap or salvage yards in lieu of a fence, such as an earthen berm.

3. Fences shall not extend beyond the front set back building line of the principal building closest to the front lot line, unless the fence is open and does not block the view.
4. All fences shall be built and constructed of materials commonly used in fence construction, for example: wood, chain link, wire, or plastic components.
5. All fences must be erected within the property lines.
6. Swimming pools requiring a fence under the guidelines of the New York State Fire Prevention and Building Code shall comply with that Code.

6.6 Fire and Explosive Hazard:

1. The primary purpose of this Law is to protect the safety of the citizens and properties of the Town. Attention to the prevention of fire and explosive hazards is imperative.
2. All activities operations and uses shall be conducted in accordance with local, county, and state fire prevention codes.

6.7 Noise:

1. Intent:
Cape Vincent is a quiet area, where nighttime background sound levels are routinely less than 30dB, and it is a community that values peace and quiet, which is an important part of rural life. Loud, annoying and persistent noise is disruptive to the well-being of people living in its vicinity and is in some cases deleterious to their health. To preserve and protect peace and quiet, the Town hereby declares its intent to regulate noise in accordance with widely recognized acoustic standards.

Regulating noise requires more than preventing unnecessarily loud noise; it also recognizes that the quality and character of noise both contribute significantly to annoyance. Noises that are distinctly different from natural background sound, those with impulsive, tonal or modulating elements, are further restricted.

These regulations are intended to be used, if the need arises, for any source of loud, annoying, or unhealthy noise.

2. **Noise Sources:**
The types of sources of noise that this regulation is designed to regulate in Cape Vincent include, but are not limited to:
 - a. Mining/Quarry operations
 - b. Wind turbines
 - c. Gas, water, or other types of drilling
 - d. Blasting operations
 - e. Gas turbine electric generation
 - f. Other industrial and non-industrial sources where noise may be excessive and annoying.

3. **Exemptions to Regulations:**
The following noises are deemed beyond the scope and intent of the Town to regulate and are not subject to this Section:
 - a. Any noise intended to warn the public or indicate the existence of an emergency condition, including any warning device, siren, horn or whistle used by emergency vehicles or by any governmental agency to alert the public to an emergency or warn of a dangerous condition.
 - b. Any noise within limits set by and under the jurisdiction of any state or federal act preempting local regulation.
 - c. Mechanized noise from farming and agricultural operations.
 - d. Noise generated by or produced in association with a religious celebration or observance, parades, or other special municipal events.
 - e. Noise from gas-powered electric generators used during power outages.
 - g. Construction equipment used during daytime hours.
 - h. Non-industrial noise that is considered a part of normal personal activities, such as but not limited to motor vehicles. Boats and yard care.

4. **Requirements:**
 - a. The equivalent noise level (LEQ) generated by a noise source shall not exceed the limits listed in Table 9 when measured at the property line.

TABLE 9	Daytime 7 a.m. to 7 p.m.	Evening 7 p.m. to 10 p.m.	Nighttime 10 p.m to 7 a.m.
A-weighted (dB)	45	40	35
C-weighted (dB)	63	58	53

- b. In all cases, the corresponding C-weighted limit shall be the operable A-weighted limit (from Table 9) plus 18 dB.
 - c. In the event audible noise due to any operation that contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in Table 9 shall be reduced by five (5) dB; for impulsive noises the standards in Table 9 shall be reduced by 7 dB; and the standards shall be reduced by 12 dB for highly impulsive noise (ANSI S12.9 Pt. 4).
5. Predicting Noise Impacts:
At the discretion of the Planning Board an application shall include certification by an independent acoustical engineer as to the predicted A- and C-weighted sound levels at potentially impacted residential property lines. The firm with which the engineer is associated shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the independent acoustical engineer shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA. The predicted noise levels shall then be reviewed by the Town's consulting engineer, or their agent, to establish the validity of the predicted impacts.
6. Enforcement:
- a. Enforcement shall be by measurement and not subject to the timing constraints. The Town, using the services of the Town Engineer, shall be responsible for and shall contract for any enforcement measurements. The Town's engineering contractor shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the consultant's project leader shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA. The following protocol may be modified as certain situations may require by the acoustical engineer as long as modifications are in general conformance with the procedure described below.
 - b. Initially a preliminary study shall be conducted for a period of 30 minutes. During the thirty- (30) minute period, the equivalent level (LEQ) generated by the noise source shall be measured. The measurement location shall be on complainant's property line, nearest the noise source. Measurements shall be entirely within the appropriate time period, e.g., during nighttime for nighttime enforcement, and the noise source shall operate continuously (if normal operation) during the thirty- (30) minute measurement.
 - c. If the noise source is intermittent or if the noise is not present at the time of the preliminary enforcement survey, a more extensive and detailed survey shall be undertaken to monitor noise levels over a longer period. The applicant shall fully cooperate with

Town officials and their agents to ensure accurate measurements, including turning on and off as required.

- d. For both types of surveys, the microphone shall be situated between 4 and 4.5 ft above the ground. Measurements shall be conducted within the general provisions of ANSI S1.13-2005, and using a meter that meets at least the Type 2 requirements of ANSI S1.4 and S1.4A-1985 (R2006). The instrument noise floor shall be at least 10 dB below the lowest level measured.
- e. A calibrator shall be used as recommended by the manufacturer of the sound-level meter. The fundamental level of the calibrator and the sensitivity of the sound-level meter shall be verified annually by a laboratory using procedures traceable to the National Institute of Standards and Technology.
- f. A wind screen shall be used as recommended by the sound-level meter manufacturer.
- g. An anemometer shall be used and shall have a range of at least 5 to 15 miles per hour (2.2 to 6.7 meters per second) and an accuracy of at least ± 2 miles per hour (± 0.9 meters per second).
- h. For the detailed, long-term study a compass shall be used to measure wind direction to at least an 8-point resolution: N, NE, E, SE, S, SW, W, NW. Measurements shall be A-weighted, or, alternatively, in one-third-octave bands. For A-weighted measurements, the uncertainty (tolerance) of measurements shall be 1 dB for a type 1 meter and 2 dB for a type 2 meter. For one-third-octave-band measurements, the meter shall meet the type 1 requirements of ANSI S12.4 and S12.4a-1985 (R2006), and the uncertainty of measurements shall be 5 dB in each and every one-third-octave band.
- i. For all measurements, the surface wind speed, measured at a 1.5-m height, shall be less than 5 m/s.
- i. The report shall include a sketch of the site showing distances to the structure(s), to the property line, etc., and several photographs showing the structure(s), the property, and the acoustical instrumentation. All instrumentation shall be listed by manufacturer, model, and serial number. This instrumentation listing shall also include the A-weighted and C-weighted noise floor due to weather or other natural phenomena and the one-third octave band noise floors, if utilized, for each sound-level meter used.

7. Complaint Resolution Process:
 - a. All complaints shall be directed to the Town Zoning Enforcement Officer who will respond to the complainant within five (5) business days after receipt of such complaint. The Town Zoning Enforcement Officer shall keep a log of any such complaints received.
 - b. Any complaints which cannot be resolved during the initial response shall be subsequently directed to the Town Engineer for investigation, and any such investigation shall be undertaken with the full cooperation of the person/ applicant/ operator and in accordance with Section 6.7.6, Enforcement.
 - c. If the complaint includes the character or quality of noise, then any subsequent investigation shall use best practices to evaluate the overall level, tonal, and/or temporal nature of the noise prompting the complaint. As outlined in Section 6.7.6, Enforcement, the noise source will be shut down as may be needed to properly assess noise impacts.
 - d. Testing shall commence within ten (10) business days of the report of the initial investigation, but ultimately testing will be predicated upon conditions that facilitate adequate measurement of the noise source. Testing shall compare actual noise measurements at complainant's property line with and without noise source to confirm operation complies with noise limits established in Table 9. If sound levels of the noise source exceed sound levels with noise source off by more than 5dB, then the noise shall be deemed out of compliance with this regulation.

6.8 Odor:

1. Intent:

Odor is defined in the Environmental Protection Agency's (EPA) air pollution control rules as "the sensation resulting from stimulation of the human sense of smell." Our sensitivities and reactions to odors are influenced by personal preferences, opinions, experiences, and the varying sensitivities of our olfactory systems. These can be naturally occurring as in nature and man-made in causations.
2. No man-made odors shall be detected at the property line for more than 4 hours in a 24-hour period except those covered by regulations of other agencies.
3. Odors normally associated with agricultural activities are excluded.

6.9 Outdoor Lighting:

1. Intent:

Outdoor lighting is critical to the public safety and to provide required security. Therefore, adequate lighting should be provided on a site to ensure safe movement of persons and vehicles and for security purposes.

All outdoor lighting shall be arranged and shielded so as to prevent any undue annoyance to neighboring properties.

2. Design:

The following design standards shall be followed on all site development plans:

- a. The maximum height of free-standing lights shall be the same as the principal building but not exceeding thirty-five (35) feet.
- b. All lighting fixtures shall be placed within the Lot Utilization Area. No light fixtures may be placed in the Lot Exclusion Area except as required for personal safety.
- c. Where lights located along the utilization lines will be visible to adjacent residents, the lights shall be arranged and shielded so that no direct light will leave the Lot Utilization Area.
- d. Lighting on cartways, sidewalks, paths, and parking areas of commercial and industrial property shall be adequate to prevent injury or mishap.
- e. For residential applications, outside lighting shall not exceed 1200 lumens.
- f. Lighting within the Lot Exclusion Area for egress and ingress is allowed for safety.

6.10 Outdoor Storage:

1. Outdoor storage of materials that are not intended for sale to the general public within three (3) months, shall be screened from the road and from adjacent properties. Such storage shall not be permitted within one hundred (100) feet of the front lot line or the side Lot Utilization Area.
2. Long-term outdoor storage, in shipping containers or trailer boxes shall be fully screened from the road and adjacent properties. At an on-going construction site, shipping containers or trailer boxes shall be removed within one (1) month of completion of the construction.
3. Winter seasonal storage of boats, recreational vehicles, and motor vehicles is permitted outside. Proper precaution shall be taken to ensure that they are safely stored, supported, and are not subject to vandalism. Outside long-term, more than three (3) years, storage of boats, recreational vehicles, or motor vehicles that are not used each season is not permitted.

6.11 Parking Requirements:

The Town finds highly visible parking areas represent an objectionable aspect of commercial development by potentially harming the natural environment and visual character of the Town. However, the Town also recognizes that inadequate parking can also diminish the quality of life by creating traffic congestion, safety hazards, and inconveniences. Therefore, the location, design, and layout of parking areas shall meet the following criteria:

1. All off-street, on-site parking shall be restricted to the Lot Utilization Area and shall be ADA (Americans With Disabilities Act) compliant.
2. All parking in the Commercial/Light Manufacturing Districts shall be restricted to the Lot Utilization Area. Alternatively, parking may be on the side of the Lot Utilization Area when approved during the Site Plan Review. In this case, the parking area shall be screened from the cartway in front of the lot and adjoining lots. Parking in the Retail/Professional District shall be restricted to the Lot Utilization Area. The Lot Exclusion Area must be suitably landscape as determined by the Planning Board.
3. All uses shall be provided with off-street, on-site parking for all vehicles during typical peak use periods. Off-street parking may be located off site but must be within 300 feet of the site. Off-street loading spaces shall be provided as required in Section 6.11.8, Off-Street Loading.
4. A parking space shall not be less than nine (9) feet in width by twenty (20) feet in depth, exclusive of access ways and driveways.
5. To the greatest extent possible, the size of all parking areas, other than those for dwelling units and dwelling units with a home occupation, shall be based on Gross Leasable Area (GLA). Where GLA figures are unavailable, gross floor area figures shall be used.
6. A minimum of 8 percent of a parking area shall be landscaped with lawn, flowers, shrubs, or other plant material. Such shrubs shall not be high enough to interfere with a driver's line of site. Any parking area for greater than ten cars shall be screened (to the extent practical) from the road and adjoining properties. Such screening shall not interfere with safety standards for sight distance at road access points.
7. Required Parking Spaces: **Table 10**

Dwelling Unit	Two (2) Spaces per unit
Dwelling Unit with Home Occupation	Two (2) spaces per unit plus additional one (1) space for every 150 square feet.
General Office	One (1) space per each 200 sq. ft. GLA
Medical Office	One (1) space per each 150 sq. ft. of GLA.
Small Retail	One (1) space per 200 sq. ft. GLA
Large Retail	One (1) space per 400 sq. ft. GLA
Additional parking required for facilities with drive-up windows	Three (3), twenty-(20) ft. long x nine-(9) ft. wide waiting spaces for each drive-up lane. Where multiple drive-up windows exist, there shall be additional waiting spaces, which shall be in a common lane.
Restaurants	One (1) space per 50 sq. ft. GLA

2. Rubbish, clutter, litter, and debris: Ordinary household or commercial trash such as paper and paper products, barrels, cartons, boxes, cardboard, cans, glass, metals, machinery, plastics, rubber, crates, furniture, rugs, clothing, rags, mattresses, blankets, tires, lumber, brick, stone, and other building materials no longer intended or in condition for ordinary use, and any and all tangible personal property no longer intended or in condition for ordinary and customary use.
3. Worn out or discarded material of little or no value.

Exclusions:

1. Materials such as firewood, coal, pellets and corn intended for consumption in heating appliances.
2. Lawn, yard, or garden ornaments
3. Lawn and patio furniture
4. Operable farm, garden, and yard machinery
5. Standing fences
6. Hoses, and sprinklers used for watering lawns or gardens
7. Storage or placement and accumulation of materials in connection with a commercial operation duly conducted on the premises where such storage, placement, and accumulation is expressly permitted by the Laws of the municipality.
8. Composting of yard and kitchen vegetable waste composting is excluded.

6.13 Radiation Hazard:

Controlled radiation sources are used for many industrial and medical applications. Radiation sources should be properly overseen to ensure the safety, health, and welfare of the community. Therefore:

1. All industrial and medical radiological concerns are addressed by State Regulations 10NYCRR, Part 16.
2. Radiation hazards related to energy shall comply with the Regulations of the NRC, 10CFR-Energy.

6.14 Restoration of Land:

1. Upon completion of the project, all areas which were disturbed by the project shall be stabilized so that erosion shall be prevented.
2. Any erosion and sedimentation control facility required or necessary to protect areas from erosion during the stabilization period shall be maintained until stabilization is complete.
3. Upon completion of stabilization, all unnecessary or unusable control facilities shall be removed and the areas shall be graded and the soil stabilized.

4. In addition to compliance with the above, the requirements of the Planning Board and the requirements of the DEC shall also be complied with.

6.15 Screening:

1. Where an industrial or commercial use will be adjacent to a residential use or where a multi-family dwelling, manufactured (mobile) home park, campground, or recreational field (such as a ball field) will be adjacent to a single or two-family dwelling, the Planning Board may require that an opaque screen be provided from the ground to a minimum height of six (6) feet.
2. Such screening may be comprised of living plants, wooden walls, berms, or a combination.
3. If living plants are used, they shall provide year-round screening and placed far enough from the neighboring property line that the vegetation will not spread onto the neighboring property.

6.16 Signs:

1. Permits:
Zoning permits are required for all permanent signs.
2. All permanent signs shall meet the following requirements:
 - a. No sign shall have moving parts, lights that flash, move, or appear to move.
 - b. No sign shall be higher than the principle building to which it is attached.
 - c. The maximum height of a free-standing sign is 15 feet from the ground.
 - d. No sign shall be painted or erected on the roof of any building.
 - e. No general advertising signs unrelated to the premises or not serving as a directional sign to a business within the Town boundaries are permitted.
 - f. All existing signs, at the time this Law is adopted, if not in violation of prior laws, shall be allowed to remain as long as they are properly maintained and their use remains current.
 - g. Any business, enterprise, institution, or other advertising entity that ceases operations shall remove its sign(s) within 90 days of such cessation (an extension of 90 days may be granted upon approval of the Planning Board.)

- h. One on-site permanent sign not to exceed 32-square feet shall be permitted. Two-sided signs bearing announcements on two sides shall be considered as one sign.
 - i. Signs for historical and community-related information are allowed when approved by the Planning Board.
3. Temporary Signs:
 - a. Announcement, special event, real estate, and political signs are considered temporary and must be removed within one week after an event, project completion, sale, or election. Temporary signs must comply with all the requirements of this Section.
 4. Prohibited Signs:
 - a. Signs on the sides of unlicensed cars, vans, trucks, and trailers that are visible from any road are prohibited.

6.17 Traffic:

1. The Planning Board may request a traffic impact survey.

6.18 Road Conditions:

1. All roads including those under construction must be usable and accessible for emergency vehicles at all times.

6.19 Vibration:

1. Intent:

Mechanical equipment may cause increased vibrations in the ground. It is the intent of this requirement to control the increased vibration in an adjoining property resulting from an operation on the subject property. Examples of such an operation include, but are not limited to, mining, drilling, metal fabrication.
2. Requirement:

No use, operation or activity shall cause or create earthborn vibrations in excess of the peak particle velocities prescribed below.
3. Method of Measurement to Determine Compliance:
 - a. Compliance shall be determined by a professional vibrations engineer using standard state-of-the-art evaluation methods.
4. Vibration Standards:
 - a. Maximum permitted steady state vibration levels shall be 0.02 inches per second peak particle velocity at the lot line.
 - b. Impact vibrations shall be permitted at twice the values stated above.
 - c. Between the hours of 10 p.m. and 6 a.m., all of the permissible vibration levels (0.02) for the Agricultural Residential, Lake Front,

Lake Recreational, River Front, and Islands Districts shall be reduced to one-half (1/2) the indicated values.

- d. When the frequency of impacts does not exceed one (1) per day, the maximum vibration level, measured across lot lines, shall not exceed 0.4 inches per second.

7. SUPPLEMENTAL REGULATIONS

7.1 Adult Entertainment/ Adult Use:

1. Intent:
It is recognized that there are certain business activities which, by their nature, may have objectionable operational characteristics. Therefore, it is recognized that special regulations are necessary in order to prevent the proliferation of such businesses and to ensure that those effects will not adversely affect the health, safety, and economic well-being of the community.
2. Adult Uses may be permitted in the ~~Commercial~~/Light Manufacturing District only if the following conditions are met:
 - a. No adult use shall be permitted within 1,000 feet of a dwelling.
 - b. All building openings, entries, windows doors, etc. shall be located and covered or screened in such a manner as to prevent any view into the interior from the outside of the building. This includes a privacy panel inside any exterior door to prevent a view into the building from an exterior door.
 - c. Only one sign shall be permitted on the exterior of the building which is occupied by an adult use. This sign shall be no larger than 12-square feet of sign area. The sign shall contain plain lettering. No graphic display, such as drawings, photographs, etc. is permitted.

7.2 Automotive Service/Repair Stations:

1. All gasoline and fuel pumps shall be a minimum of 75 feet from any front or side lot line. All fuel storage and dispensing systems for automotive service stations shall be confined within the Lot Utilization Area of the property as determined with minimum setbacks of 75 feet on all sides of the lot. If county, state, or federal requirements are more stringent they shall apply.
2. All waste and servicing material shall be stored within a structure or enclosed within fencing so as not to be visible from off the property line.
3. All waste shall be stored and disposed of in accordance with applicable county, state, and federal laws.
4. Ingress and egress driveways shall not encroach on the side or rear Lot Exclusion Area.

5. Vehicle parking shall be determined by the Planning Board.

7.3 Commercial:

1. Parking areas shall be an improved area made of asphalt and suitable for vehicular and foot traffic.
2. Outside display areas shall be an improved area made of gravel or asphalt and suitable for vehicular and foot traffic.

7.4 Home Occupations:

1. Restrictions:
No Home Occupation shall be permitted that:
 - a. Generates traffic, parking, noise, sewage, or water use in excess of what is normal in a residential neighborhood;
 - b. Creates a hazard to person or property, results in electrical interference, or becomes a nuisance;
2. Permitted:
The following are permitted Home Occupations provided they do not violate any of the provisions of Section 7.4.1.
 - a. Dressmaking, sewing, tailoring.
 - b. Painting, sculpting, or writing.
 - c. Professional/Administrative/Clerical Services
 - d. Home crafts; including model making, rug weaving, lapidary work, cabinetmaking, ceramics, and similar crafts.
 - f. Tutoring
 - g. Home cooking and preserving in accordance with the New York State Department of Health regulations.
 - h. Computer programming and data processing
 - i. Beauty Shop and Barber Shop
 - j. Room rental – one room per dwelling
3. Prohibited:
The following are prohibited as Home Occupations:
 - a. Veterinary Practice /Kennel
 - b. Private Club
 - c. Restaurant
 - d. Motel /Hotel/ Rental Units
 - e. Automobile Repair or automobile paint shop

- f. Adult Entertainment as defined above
- 4. Special Use Permit:
Any proposed Home Occupation that is neither specifically permitted by Section 2 nor specifically prohibited by Section 3 shall require a Special Use Permit.
- 5. Employees:
Notwithstanding any provision of this Section, no Home Occupation will be permitted if it employs more than one non-resident of the dwelling.

7.5 Mining Operations:

Mining operations must comply with all applicable county, state, and federal regulations.

7.6 Manufactured (Mobile) Homes:

- 1. Age Limitations:
 - a. To insure that all manufactured (mobile) homes meet minimum federal standards every manufactured (mobile) home shall bear a data plate, affixed in the manufacturing facility. This plate shall show the date of manufacture and the statement, "This manufactured (mobile) home is designed to comply with the Federal Manufactured Home Construction and Safety Standards in force at the time of manufacture.
 - b. Because it cannot be reliably verified that manufactured (mobile) homes manufactured before June 15, 1976, were manufactured/constructed of materials that are considered to be technically sound engineering materials and that materials typically used prior to this date have been shown to have caused safety problem, these manufactured (mobile) homes shall not be brought into the Town of Cape Vincent nor shall they be moved or relocated within the Town.
- 2. Skirting:
 - a. Every manufactured (mobile) home shall have continuous skirting to screen the space between the manufactured (mobile) home and the ground.
 - b. Such skirts shall be of permanent, rigid, material: such as but not limited to, metal, wood, plastic, and fiberglass. The skirting shall provide a finished, neat appearance when completely installed.
- 3. Installation:
All manufactured (mobile) homes shall be installed in accordance with all applicable county, state, and federal codes. Pad sites shall be poured concrete with load bearing capacity of not less than 1500 pounds per square foot and the homes shall be secured by the tie downs, per Code.
- 4. Additions:

Additions shall not be structurally supported by or attached to a manufactured (mobile) home unless certified engineering calculations are submitted to substantiate any proposed structural connection.

7.7 Manufactured (Mobile) Home Parks:

1. Park Location and Conditions:

a. The site of a proposed manufactured (mobile) home park:

- 1) Shall have generally level to gently rolling topography over an area of sufficient size to allow development of the manufactured (mobile) home park without significant alterations or disturbances of existing natural topography or features such as stands of mature trees, stream courses, shorelines, wetlands, or bedrock outcroppings.
- 2) Shall be essentially free from adverse, unsafe or unhealthy conditions including but not limited to flooding, ponding, poor drainage, erosion, slumping, or other soil instability, breeding areas for insects or rodents, smoke, noise, odors, heat, glare, or toxic or volatile substances.
- 3) Shall be such that no manufactured (mobile) home site or park activities would be within 50 feet from the park lot line.
- 4) Shall be adequately screened from adjacent residential activities as determined by the Planning Board during Site Plan Review or Special Use Review.
- 5) Shall be divided (exclusive of internal roads, open space, or common areas) and marked off into manufactured (mobile) home sites numbered consecutively, the number being conspicuously posted on each lot with such number to correspond to the lot shown on the site plan submitted.

2. Park Design:

1. Access:

Each manufactured (mobile) home park shall provide for safe, legal means of access from one or more public roads as follows:

- a. access roads shall meet the public roads at right angles and at compatible grades;
- b. entrances shall be located directly opposite or at least 200 feet from the nearest intersection of public road, if any, and at least 150 feet from any other entrances to the manufactured (mobile) home park, if any;
- c. entrances shall have sufficient width to allow reasonable turning movements of vehicles with manufactured (mobile) homes attached and of service or delivery vehicles;

- d. entrances shall be located to allow safe line-of-sight distances to and from their points of intersection with the public road;
- e. at least one (1) common entrance and access road shall be required to serve any manufactured (mobile) home park having 3 through 19 manufactured (mobile) homes;
- f. at least two independent entrances and access roads shall be required to serve any manufactured (mobile) home park having 20 or more manufactured (mobile) homes;
- g. intersections with public roads shall meet the standards of the governing body having jurisdiction over the public road; and
- h. all access road intersection shall be located in a manner and be of sufficient size to accommodate emergency vehicles.

3. Internal Roads:

- a. Internal roads may be privately owned and maintained and shall provide for:
 - 1) the safe operation of emergency vehicles;
 - 2) the safe and convenient movement of vehicles, with or without manufactured (mobile) homes attached;
 - 3) all manufactured (mobile) home sites shall face on and be serviced by such internal roads;
 - 4) all roads shall be designed, graded, and leveled as to permit the safe passage of emergency and other vehicles;
 - 5) straight, uniform gridiron road patterns should be avoided unless they can be relieved by manufactured (mobile) home clustering, landscaping, and an open space system;
 - 6) cul-de-sacs shall be provided with a turnaround having an outside roadway diameter of at least 90 feet; and
 - 7) all internal roads shall have a minimum of 30 feet of clearance and be made of all-weather material, e.g. gravel, paved, etc.

4. Parking:

- a. Each manufactured (mobile) home shall be provided with at least one off-street parking space adjacent to the manufactured (mobile) home.

- b. At least one additional off-street parking space for every two manufactured (mobile) home sites in the park shall be provided.
 - c. Each parking space shall measure at least 9 feet by 20 feet or be capable of being adapted in order to meet ADA requirements.
 - d. Recreational Area and Open Space:
Easily accessible and usable open spaces shall be provided in all manufactured (mobile) home parks. Such open spaces shall have a total area equal to at least 35 percent of the gross land area of the park and shall be fully maintained by the park owner.
5. Garbage and Refuse:
It shall be the responsibility of the park owner to ensure that garbage and rubbish shall be collected and properly disposed of outside of the manufactured (mobile) home park. Exterior property areas shall be maintained free from organic and inorganic material that might become a health, accident, or fire hazard.
6. Telephone, Electric, and Cable TV Services:
When telephone, electric and/or cable TV service is provided to the manufactured (mobile) home site, the distribution system shall be placed underground.
7. Park Office and Storage Facilities:
The owner or manager of a park shall maintain an office in the immediate vicinity of the park.
8. Service Buildings:
 - a. Service buildings, if provided, housing sanitation and/or laundry facilities shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations, plumbing and sanitation systems
 - b. All service buildings and the grounds of the manufactured (mobile) home park shall be well lighted and maintained in a clean and sightly condition.
9. Fire Protection:
 - a. Open fires shall be permitted only in areas designated by the park owner.
 - b. The use of outdoor grills for the preparation of food is permitted.
 - c. The burning of refuse is not permitted.
10. Responsibilities of Park Owner(s) and Park Occupants:
 - a. The park owner, whom a permit for a manufactured (mobile) home park is issued, shall operate the park in compliance with the standards set forth in this local law and shall provide adequate supervision to maintain the park, its common grounds, streets,

facilities, and equipment in good repair and in clean and sanitary condition. The park owner will be responsible for correcting any violation of this Law occurring within the owner's park.

- b. The park owner shall supervise the placement of each manufactured (mobile) home on its manufactured (mobile) home base which includes ensuring the stability of all tie-downs and utility connections.
- c. The park owner shall maintain a register containing the names of all occupants and the make, year, and serial number, if any, of each manufactured (mobile) home. Such register shall be available to any authorized person inspecting the park.
- d. A park occupant shall be responsible for the maintenance of his/her manufactured (mobile) home and any appurtenances thereto and shall keep all yard space on his/her site in a neat and sanitary condition.
 - 1) A list of owner and occupant responsibilities shall be posted in the park offices and be available upon request.
 - 2) The park owner and its occupants shall make every attempt to minimize smoke, noise, odors, heat, glare, or toxic or volatile substances.

7.8 Manufactured (Mobile) Home Park--Seasonal:

- 1. Requirements:
Seasonal manufactured (mobile) home parks shall meet the requirements of this Section and Section 7.7, Manufactured (Mobile) Home Park.
- 2. Manufactured (Mobile) Home Site Size:
Each manufactured (mobile) home site shall satisfy the following requirements:
 - a. Minimum site size shall be 5,000 square feet.
 - b. Minimum site width shall be 50 feet.
 - c. Minimum site length shall be 100 feet.
- 3. Setbacks:
 - a. All manufactured (mobile) homes, including patios, porches, or garages, office building, dwelling and ancillary use buildings associated with the manufactured (mobile) home park be contained within the Lot Utilization Area.

For manufactured (mobile) home parks this area is defined by the greatest of the following boundaries:

- 1) The front lot setback line for the district or a minimum of 150 feet from the center line of any public road.

- 2) The side yard setback line for the district or a minimum of 10 feet from the side yard lot line, whichever is greater.
 - 3) The rear yard setback line for the district.
4. Spacing:
 - a. All manufactured (mobile) homes, patios and ancillary use structures including but not limited to: garages storage sheds, located on the same site shall be within the site utilization area. The site utilization area is defined as the area within the site bounded by the following:
 - b. Front site utilization line shall be a minimum of 30 feet from the centerline cartway on which it is located.
 - c. The side site utilization lines shall be a minimum of 10 feet from the site side line.
 - d. The rear site utilization line shall be a minimum of 20 feet from the rear site line.
 5. Parking spaces:
Parking areas may be grass or all-weather material, e.g. gravel, paved, etc.
 6. Recreational vehicles
Recreational Vehicles are allowed in seasonal manufactured (mobile) home parks.
 7. Landscaping:
The Lot Exclusion Area shall be a green zone and landscaped with grass, shrubs, and trees and maintained to provide visual screening from adjacent properties and public roads.

7.9 Manufactured (Mobile) Home Park--Year-Round:

1. Requirements:
Year-round manufactured (mobile) home parks shall meet the requirements of this Section and Section 7.7, Manufactured (Mobile) Home Park.
2. Manufactured (Mobile) Home Site Size:
Each manufactured (mobile) home site shall satisfy the following requirements:
 - a. The minimum site size shall be 7,500 square feet.
 - b. The minimum site width shall be 75 feet.
 - c. The minimum site length shall be 100 feet.
3. Park Setbacks:
 - a. All manufactured (mobile) homes, including patios, porches, or garages, office building, dwelling and ancillary use buildings

associated with the manufactured (mobile) home park be contained within the Lot Utilization Area. For manufactured (mobile) home parks this area is defined by the greatest of the following boundaries:

- b. The set back line for the park shall be a minimum of 150 feet from the center line of any public road.
4. Site Spacing:
 - a. All manufactured (mobile) homes, patios and ancillary use structures including but not limited to: garages storage sheds, located on the same site shall be within the site utilization area. The site utilization area is defined as the area within the site bounded by the following:
 - b. Front site utilization line shall be a minimum of 30 feet from the centerline of the road on which it is located.
 - c. The side site utilization lines shall be a minimum of 20 feet from the site side line.
 - d. The rear site utilization line shall be a minimum of 20 feet from the rear site line.
 5. Parking:

All parking spaces or areas in year-round parks shall be made of all-weather material, e.g. gravel, paved, etc.
 6. Recreational Vehicles:

Recreational vehicles shall not be placed on a site in year-round manufactured (mobile) home parks.
 7. Landscaping:

The Lot Exclusion Area shall be a green zone and landscaped with grass, shrubs, and trees and maintained to provide visual screening in accordance with Section 6.15, Screening, from adjacent properties and public roads.

7.10 Marinas:

1. Location and Conditions:
 - a. The site of a proposed marina shall not make significant alterations or disturbances of existing natural topography or features such as stands of mature trees, stream courses, wetlands, or inland bedrock outcroppings.
 - b. The marina shall be adequately screened from adjacent uses as determined by the Planning Board during Special Use.

2. Marina Design:
 - a. The front setbacks of the District do not apply for typical marina activities such as, pump-out facilities, docks, gas pumps, boat hoist, dockside supply facilities, or bathhouse.
 - b. All other setbacks apply to additional activities of the property.
3. Access and Parking:
 - a. The marina shall provide for safe, legal means of access from one or more public roads as per the requirements of Special Use.
4. Service Buildings:
 - a. Service buildings housing sanitation and/or laundry facilities shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations, plumbing and sanitation systems.
5. Fire Protection:
 - a. Open fires shall not be permitted.
 - b. The use of outdoor grills for the preparation of food is permitted.
6. Boat Sales and Storage:
 - a. The area should be described in detail on the Special Use application and is subject to Planning Board approval.
 - b. If vertical storage is allowed, it must be perpendicular to the shoreline.

7.11 Modular Homes:

1. Modular homes must comply with county, state, and federal regulations.

7.12 Recreational Resorts:

1. Intent:
In order to take maximum advantage of the unique characteristics of this area, a designation of Recreational Resorts is established for campgrounds and RV parks.
2. The term Recreational Resort shall be construed to include all related functions normally associated with transient resorts, such as, but not limited to:
 - a. Tent camping sites
 - b. RV camping sites
 - c. Seasonal motor home sites
 - d. Cabins, motel units
 - e. Bathhouse, restroom facilities
 - f. Marinas
 - g. On-site convenience stores
 - h. On-site laundromat

- i. Swimming pools
 - j. Swimming beaches
 - k. On-site recreation such as golf
 - l. Restaurant
3. All applicable local, county, and state regulations shall be followed.

7.13 Recreational Vehicles:

1. A single recreational vehicle, located on an owner's premises shall be allowed provided the following conditions are met:
 - a. Adequate water supply.
 - b. Adequate sewage disposal, in accordance with county and state codes.
 - c. Lot Size and Lot Utilization Area shall comply with the requirements for a single-family dwelling in the district where the recreational vehicle is located.
2. Recreational vehicles in seasonal manufactured (mobile) home parks are exempt from Section. 7.8.2 Manufactured (Mobile) Home Site Size.
3. Recreational vehicles are not permitted for use as a storage container.

7.14 Rental Dwelling Units:

1. The gross lot density shall not exceed one unit per 3,000 square feet of lot area.
2. The minimum distance between building units shall be 15 feet.
3. There should be 1½ parking spaces per dwelling unit and an improved parking area that complies with the requirements of the District that the units are located.
4. Access for emergency vehicles must be ensured at all times.
4. Sale of any individual rental unit and associated land requires approved subdivision by the Planning Board.

7.15 Solar Energy Conversion Systems – (SECS)

1. Intent:

The growing demand for renewable energy systems has inspired designers to invent lower cost and higher efficiency Solar Energy Conversion Systems (SECS). This trend is expected to continue to a point that solar systems are affordable for home use and for large capacity systems capable of generating adequate amounts of energy for both residential and commercial purposes. The Town recognizes that SECS can be designed to impart a minimum impact on the health, safety, and

welfare of the citizens and minimal impact on the natural resources and view shed than any other type of renewable energy. Thus, the Town permits their use as follows as Roof-Mounted (RMSECS) and Ground Mounted (GMSECS), both large and small. The regulations for these systems are detailed below.

2. Roof-Mounted Solar Energy Conversion Systems (RMSECS)
 - a. Roof-mounted SECS are the preferred type of residential SECS.
 - b. The primary energy output from the RMSECS shall be used in the primary use structure. Excess energy may be sold to the "power company."
 - c. The total height including the RMSECS unit of any structure, either primary or accessory, on which the unit is mounted, shall not exceed 35 feet.
 - d. The RMSECS units shall not overhang the roof of the structure.
 - e. All electrical components of the RMSECS shall comply with local, county, state and federal regulations.
3. Residential Ground-Mounted Solar Energy Conversion Systems (RGMSECS)
 - a. Individual array shall not exceed 100-square feet per array.
 - b. One array per 10,000 sq. ft. of lot.
 - c. Are to be mounted on a concrete base on the ground. They are not to be mounted on structures.
 - d. The maximum height of the RGMSECS shall be ten (10) ft.
 - e. All RGMSECS shall be located within the Lot Utilization Area and in the rear yard or side yard behind the front of the line house.
 - f. The primary energy output from the RGMSECS shall be used in the primary use structure. Excess energy may be sold to the "power company."
 - g. All setback for RGMSECS shall be a minimum of the "total height (feet) of the unit plus five feet" inside the Lot Utilization Area.
4. Commercial Solar Energy Conversion Systems (CSECS):

CSECS are a preferred form of commercial renewable energy in the Town; however, attention should be paid as to how they located on a lot in the districts where they are permitted.

 - a. The total height of the solar array shall not exceed 25 feet.
 - b. All electrical components of the CSECS shall comply with local, county, state, and federal regulations.

- c. Reflection from a solar panel shall not interfere with the activities of an adjoining residence or motor vehicle traffic.
- d. Project applications shall include a map showing all existing adjoining properties and must show potential reflective light overlay areas over a 12-month period.
- e. All setbacks for CSECS shall be a minimum of the "total height (feet) of the unit plus five feet" inside the Lot Utilization Area.

7.16 Tall Structures Applications:

1. Intent:

The Town's Joint Comprehensive Plan for the Village and Town of Cape Vincent 2012 specifically discourages: *"Any industrial, commercial, or utility development whose influence would have a negative impact on health, safety, scenic and natural resources, property values, recreational opportunities, and tourism assets."* It more specifically discourages: *"Tall structures, including telecommunication towers, FM Broadcast towers and industrial wind turbines."*

Over the course of the last two decades there has been a build-out of two FM broadcast (279 ft. and 289 ft. heights) and three wireless telecommunication facilities (less than 200 ft.) within the Town of Cape Vincent. There is also a fourth telecommunication antenna located in the Town of Lyme, which abuts the Town of Cape Vincent Boundary line on NYS Route 12E and also provides additional telecommunication coverage for the Town. Therefore, any additional demand for future development should follow Jefferson County Planning policy directives, which encourages co-location of antennas, e.g., placing new communication equipment on existing antennas.

Current industrial Wind Energy Conversion Systems (WECS) are now more than 400 feet in height with some exceeding 500 feet. These structures will have far greater impact on rural, scenic vistas, and view sheds than existing telecommunication towers, not only because of their greater height and numbers, but also because of their movement, which attracts viewer attention. Turbine height, movement, and the numbers of turbines also pose a risk to avian species moving along the Town's Coastal Migratory Corridor. Moreover, industrial WECS operation have health and safety impacts on people that must be addressed with adequate setbacks for ice throw, rotor failure, shadow flicker, and noise.

2. Applicability:

This Law shall apply to all of the land located within the Town of Cape Vincent. This Section governs the development and structures over 60 feet high and associated land including, but not limited to, non-municipal water towers, FM broadcast towers, telecommunication towers, wind energy conversion systems (WECS), interconnecting and transmission systems. No building, structure, or land shall be used, occupied or

altered, and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered, unless in conformity with all the provisions of this Law and all other applicable regulations, except as otherwise provided by this Section.

3. Exceptions:
Specific structures, including church steeples, silos, tower, or poles used to support utility lines are excluded from these regulations. Only federal, state or county law shall override these requirements.
4. General Requirements:
 - a. Each type of tall structure has specific location limitations and requirements. These limitations and requirements are related to the purpose and height of the tall structure and are detailed in the paragraphs dealing with the specific type of tall structure.
 - b. Tall structure height is measured from the lowest adjacent grade to the highest point of the structure, including any attachments, such as a lightning protection device, or a turbine rotor, or tip of the turbine blade when it reaches its highest elevation.
 - c. The diameter of the tall structure is determined at the extremity of the structure, including foundations, producing devices, turbine blades, etc.
 - d. Unless specifically required by other regulators, a tower shall have a finish (either painted or unpainted) that minimizes visual impact.
 - e. Ancillary structures shall maximize the use of building materials, colors and textures that blend with the natural surroundings.
 - f. Unless required by the Federal Aviation Administration, no night lighting of towers for the personal wireless facilities is permitted, except for manually operated emergency lights for use only when operating personnel are on site. In instances when night lighting is required by law and, in which case, such lighting shall be of such type as to minimize glare.
 - g. Visual/Aesthetic:
Towers shall, when possible, be sited where their visual impact is least detrimental to highly rated scenic and historic areas, including the Seaway Trail and properties listed in the State and Federal Registers of Historic Places.

A visual impact assessment which shall include:

- 1) A zone of visibility map that illustrates the entire area from which the tower will be visible.
- 2) Pictorial presentations of a large balloon or other object fixed at the height and location of the proposed

telecommunication tower. The balloon or other object shall be of such a size, color and shape as to be visible from all locations within a three- (3) mile radius of the facility site from which the proposed tower will be visible. The photographs shall be taken from a reasonable number of key viewpoints within the Town, specified by the Planning Board (after consultation with the applicant, preferably prior to the application), including, but not limited to, state highways and other major roads, state and local parks, preserves and historic sites and other locations where the site is visible to a large number of residents, visitors, or travelers.

3) Applicants will fly a balloon or other device at the maximum height of the proposed tower for three (3) days prior to the first public hearing, and for four (4) days immediately following the first public hearing held on the proposal to aid residents in visualizing the height of the proposed tower.

h. Environmental Degradation:

Towers shall, when possible, be sited to avoid affecting the avian migratory corridor rare or endangered flora or fauna. They should also be sited, when possible, away from wetland area.

i. Existing Vegetation:

Existing on-site vegetation shall be preserved to the maximum extent possible.

j. Road/Access:

For all tower sites, the roads or other means of access leading to and from same shall be inspected and approved by the Town Highway Superintendent before any Certificate of Compliance is issued for the construction of the tower. All roads leading to the tower shall be adequate for access for emergency and service vehicles on a year-round basis. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads as required by the Town. The road grade shall closely follow the natural contour so as to assure minimal visual disturbance and reduce soil erosion potential.

k. Parking:

Parking that assures adequate spaces for emergency and service vehicles shall be provided. The Planning Board shall determine the number of required spaces based on a recommendation from the applicant.

l. Fencing and Physical Protection:

The tower and any ancillary structure shall be adequately enclosed by a gated fence, and other appropriate physical protection as required by the Planning Board.

- m. Notification:
An applicant proposing a new telecommunications tower shall mail notice of the filing of the application and all public hearings directly to all landowners whose property is located wholly or in part within 500 feet of the property line of the facility site. Notification in all cases shall be made by certified mail, return receipt requested, at least ten (10) days prior to the scheduled Planning Board meeting. Documentation of the foregoing notification shall be submitted to the Planning Board prior to the public hearing.
- o. Decommission Plan:
The applicant shall submit a decommissioning plan for all structures per Section 5.4.8 together with a proposed financial budget intended to fund all such decommissioning costs and expenses.
- p. Decommission Fund: Upon approval of the Decommissioning Plan by the Planning Board, the funds so required for the decommission fund shall be deposited in a separate interest bearing account with the Town Clerk. Said funds may be increased as a condition of approval in order to address potential increased costs of a Decommissioning Project.
- q. Permit Revocation:
Each tall structure shall be maintained in operational conditions at all times, subject to reasonable maintenance and repair outages. Should a violation of the Zoning Permit occur, remedial action will be in accordance with Section 5.8, Violations and Penalties, of this Law.

5. Classification of Tall Structures:
The four classes of tall structures are:

- a. Elevated Water Storage and Pressure Regulating Facilities (EWSPR) – Section 7.16.6
- b. Telecommunication Towers (TT) – Section 7.16.8
- c. Meteorological Towers – Section 7.16.9
- d. Wind Energy Conversion Systems (WECS and RWECS) – Section 7.16.10

6. **Elevated Water Storage and Pressure Regulation Facilities (EWSPR)**

- a. The town recognizes that manufacturing facilities have needs for constant water pressure and/or constant water volume. If those needs are not available from a Town water district source, the manufacturer would have no choice other than to build a privately owned EWSPR. Due to the potential impact on neighboring properties and safety, the following regulations apply.

- b. **Additional Information:**
In addition to the requirements for a Special Use Permit and Site Plan Approval, the applicant shall provide the following information with the application.
 - c. Tower usage plan which identifies the type of use, level of use, and any characteristics of the tower which may affect the surrounding area. The tower usage plan shall also outline construction.
 - d. New towers shall be the minimum height necessary to provide adequate pressure/volume.
7. **Site Requirements:**
Towers and ancillary facilities shall be located so as to minimize potential adverse impacts as follows:
- a. **Safety:**
Towers and ancillary facilities shall be located a sufficient distance from adjoining property lines and adjoining structures so as to safeguard against damages from ice fall or debris from structural damage.
 - b. **Visual/Aesthetic:**
Towers shall, when possible, be sited where their visual impact is least detrimental to highly rated scenic and historic areas, including the Seaway Trail and properties listed in the State and Federal Register of Historic Places.
 - c. **Setback:**
Tower setback should be the greater of two times the height of the tower or the recommended setback by the designer of the tower.
8. **Telecommunication Towers (No Rotating Parts)**
- a. **Intent:**
The purpose of this section is to regulate the construction of telecommunication towers and related uses consistent with applicable federal and state regulations; to minimize the total number of telecommunication towers in the Town by encouraging shared-use of existing and future towers; and to minimize the adverse visual effects of towers by requiring careful siting, visual impact assessment, and appropriate landscaping in order to protect the natural scenic features, such as the Seaway Trail, rolling farm land, wetlands, property values, and the aesthetic character of the Town of Cape Vincent. These provisions are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall they be used to

unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

b. Applicability:

No new telecommunication towers may be built nor any existing telecommunication towers modified except in accordance with this Section.

c. Additional Information:

In addition to the requirements for a Special Use Permit and Site Plan Approval, the applicant shall provide the following information in connection with its application:

- 1) A site plan that shows all existing and proposed structures and improvements, including antennas, roads, buildings, guy wires and anchors, parking, and landscaping and grading plans for new facilities and roads. Any methods used to conceal the modification of an existing facility shall be indicated on the site plan.
- 2) Tower usage plan which identifies the type of use, level of use, and any characteristics of the tower which may affect the surrounding area. The tower usage plan shall also outline construction methods and removal plans in the event the tower usage is discontinued.
- 3) A map of areas of telecommunications coverage already in place within the Town, demonstrating through overlay zones the technological necessity of the proposed tower at the site to provide the type of service.
- 4) A letter of intent committing the tower owner and his/her successors in interest to notify the Chair of the Planning Board within fifteen (15) days of the discontinuation of use of the tower.

d. Shared Use of Existing Towers:

The Town is strongly in favor of minimizing the degradation of the visual environment caused by telecommunications towers. At all times, use of existing towers and existing sites shall be required under the following guidelines:

- [1] In all cases where an application has been made for the construction of a new tower, an applicant shall present an adequate report inventorying why existing towers cannot be used.
- [2] In the case of new towers, the applicant shall submit a report documenting capacity for future shared use of the proposed tower.

[3] An applicant intending to share use of an existing tower shall document approval from an existing tower owner to shared use.

e. New Tower Design:

The design of a new tower shall comply with the following:

- a. Any new tower shall be designed to accommodate additional shared use by other telecommunications providers.
- b. New towers shall be below the height requiring FAA lighting.
- c. All lighting should be the most advanced technology to minimize impact.

d. Site Requirements:

Telecommunications towers and ancillary facilities shall be located so as to minimize potential adverse impacts as follows:

1) Safety:

Telecommunication towers and ancillary facilities shall be located a minimum of two times the tower height from adjoining property lines and adjoining structures so as to safeguard against damages from ice fall or debris from structural damage.

2) Screening:

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

3) Inspections and Tower Use Reports:

An agent of the Town shall be entitled to inspect the telecommunication tower and ancillary facilities upon completion of construction and at least one time annually thereafter. The owner/applicant shall deliver to the Planning Board, as a condition of site plan approval hereunder, written permission for access to the facility and such tower to inspect the tower and determine compliance with the tower usage plan, as well as its structural integrity at any time.

g. Decommissioning:

Prior to being granted site plan approval, the applicant shall submit to the Planning Board an acceptable Decommissioning Plan that is in accordance with this Section and Section 5.4.9. Said document will also authorize the Town to enter on to the landowner's property in the event the tower is not removed in accordance with the provisions of this Law and authorize the

Town to proceed with the removal of the telecommunications towers and ancillary facilities.

1) Any telecommunications on which the telecommunication device ceases to operate continuously for one year shall be removed. "Cease to operate" is defined as not performing the normal functions associated with operation for a period of one year.

2) In the event the telecommunications tower ceases to operate, the owner of the structure(s) shall forthwith notify the Code Enforcement Officer and shall remove said structure(s) and ancillary facilities from the site within sixty (60) days.

9. **Meteorological Towers:**

1. Intent:

Meteorological towers may be allowed through a Special Use Permit in the Agricultural District of the Town as long as they comply fully with requirements of this Law. It is the intent of this Law that Meteorological Towers are temporary structures.

2. Applications for temporary permits for Meteorological Towers subject to this Law may be jointly submitted with the application for a WECS.

3. Meteorological Tower Requirements:

a. The distance between a Meteorological Tower and the property line shall be at least two (2) times the total height of the tower.

b. Meteorological Towers shall be below the height requiring FAA lighting.

10. **Wind Energy Conversion Systems (WECS)**

Intent:

The Town Board of the Town of Cape Vincent recognizes the increased demand for alternative energy throughout the State. Although the Town's preferred alternative energy technology is solar, the purpose of this Section is to protect citizens from any potential negative impacts associated with WECS and also to protect the Town's highly valued properties along the Lake and River from property devaluation associated with proximity to WECS. Restricting WECS away from waterfront locations will also help protect the important avian migration corridor along the Town's lake and river waterfronts.

a. Applicability:

This Section shall apply exclusively to Wind Energy Conversion Systems (WECS), Small Wind Energy Conversion Systems

(SWECS) and Meteorological Towers proposed, operated, modified, or constructed within the municipal boundaries of the Town. No new WECS, SWECS or Meteorological Tower may be built nor any existing WECS modified except in accordance with this Section. Any new WECS development shall also comply with all regulations and restrictions within this Section as well as Noise regulations, Section 6.7, Noise.

- b. Site Plan Review:
WECS, SWECS, or Meteorological tower shall be constructed, reconstructed, modified, operated, or replaced in the Town by first obtaining Site Plan approval of the Planning Board and a Special Use Permit from the Zoning Board of Appeals.

- c. Specific Site Plan Review Application Requirements:
A complete Site Plan Review application for a WECS, SWECS, Telecommunication Tower, or a Meteorological Tower shall include:
 - 1) A description of the project, including the number, model, specifications, and maximum rated power output capacity of each unit.
 - 2) For each WECS proposed, a plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:
 - [a] Property lines and physical dimensions of the site.
 - [b] Location, dimensions, and types of existing structures and uses on site, public roads, and adjoining properties within a 3,000-foot radius of the proposed WECS.
 - [c] Location and ground elevation of each proposed WECS.
 - [d] Location of all existing above and below ground electric utility lines on the site and all related transformers, power lines, interconnection points with transmission lines, communication lines, and other ancillary facilities or structures.
 - [e] Location and size of structures above 35 feet within a 3,000-foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas, and slender or open-lattice towers are considered structures.
 - [f] Location of all existing gas, water, and sewer lines.
 - [g] To demonstrate compliance with the setback requirements of this Law, circles drawn around each proposed tower site having a radius equal to:
 - A. Six (6) times the total height of the proposed WECS.

- B. Distance associated with compliance with Noise Regulation from Section 6.7.; to include a table of predicted noise levels keyed to each property line within 1.5 miles of a WECS.
 - C. Location of the nearest residential structure on site and off site, and the distance of each from the proposed WECS.
 - D. All proposed facilities, including access roads, electrical lines, substations, temporary or permanent storage, or maintenance facilities, and fencing.
 - E. The names and addresses of all property owners within a 1.5 mile radius of each WECS, together with a description of the current use of all such property and keyed to the map and table of predicted noise levels.
 - F. Elevation drawing of the WECS showing total height, turbine dimensions, tower and turbine colors, distance between ground and lowest point of any blade, and access doors. One drawing may be submitted for each WECS of the same type and total height.
 - G. Landscaping Plan: depicting vegetation and forest cover describing the area to be cleared of vegetation and forest cover identified by species and size of specimens at installation and their location.
 - H. Lighting Plan: showing any Federal Aviation Administration (FAA) required lighting and other proposed lighting. The application should include a copy of the determination by the FAA to establish required markings and/or lights for the structure, but if such determination is not available at the time of application, no permit for any lighted facility may be issued until such determination is submitted.
 - I. Radar-Controlled Lighting: To minimize nighttime annoyance from a WECS lighting array, a radar-based activation system is required, if available.
- d. Decommissioning Plan: A decommissioning plan as specified in Section 5.4.9, General Requirements.
 - e. Complaint Resolution Plan: A Complaint Resolution Plan to address complaints within 24 hours of receipt of notice thereof by

the Owner/Operator of the WECS and to resolve any complaint in a diligent and timely manner under the circumstances. The Plan should at a minimum comply with the process described in Section 6.7, Noise.

f. Information relating to the construction/installation of the WECS as follows:

- 1) A construction schedule describing commencement and completion dates of the project and beginning and ending hours of daily construction.
- 2) A description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles must comply with New York State Department of Transportation regulations.
- 3) Completed Part I of the full Environmental Assessment Form (EAF).
- 4) For each proposed WECS, include make, model, picture, and manufacturer's specifications, including detailed estimates of sound power levels for wind speeds over the entire operational range of the WECS. Include Manufacturer's Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
- 5) If a positive declaration of environmental significance is determined by the SEQR lead agency, the following information shall be included in the Draft Environmental Impact Statement (DEIS) prepared for a WECS. If the lead agency issues a Negative Declaration of environmental significance following its review of the EAG, an amended application shall be submitted which shall include, at a minimum, the following information:
 - [a] Shadow Flicker: The applicant shall conduct a study on potential shadow flicker. The study shall identify locations where shadow flicker may be caused by the WECS and the expected durations of the flicker at these locations. For residences, the zone for predicting shadow coverage shall include the area within a 100-foot radius of the center of the residence. The study shall identify areas where shadow flicker may interfere with residences or highways and detail measures that will be taken to mitigate or eliminate such interference.

- [b] Visual Impact: Applications shall include a visual impact study of the proposed WECS as installed, which shall include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points, to include a detailed array from a number of vantage points along the Town's lake and river waterfronts. Color photographs of the proposed site from at least two locations accurately depicting the existing conditions shall be included. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.
- [c] Fire Protection/Emergency Response Plan: A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed WECS to address coordination with local emergency/fire protection providers during any construction or operation phase emergency, hazard, or other event.
- [d] Noise Study: A certified acoustical consultant shall predict Wind Turbine noise levels keyed to all residences within 1.5 miles of a WECS. The noise analysis shall comply with requirements noted in Section 6.7, Noise.
- [e] Electromagnetic Interference: An assessment of potential electromagnetic interference with microwave, radio, televisions, satellite systems, personal communication systems, and other wireless communication, weather and other radar shall be prepared. The applicant/operator is responsible for the preparation, assessment, and any correction required.
- [f] Cultural, Historical, and Archeological Resources Plan: An analysis of impacts on cultural, historical, and archeological resources shall be prepared regarding impacts anticipated during construction, modification, or operation of each WECS. This assessment shall be conducted in concert with the New York State Office of Parks, Recreation, and Historic Preservation.
- [g] Wildlife Impact: An analysis of impact on local wildlife and the Town's critical environmental areas shall be prepared to assess the anticipated impact during construction, reconstruction, modification, or operation of each WECS. Wildlife impacts to be considered shall include, at a minimum, anticipated impact on birds and

bats as well as wildlife inhabiting ground-level habitats. The scope of such assessment shall be developed in consultation with the New York State Department of Environmental Conservation and the United States Fish and Wildlife Service and shall adhere to the "USFWS Land-Based Wind Energy Guidelines, March 23, 2012" to assess suitability of the site, and, if application is approved, outline post-operational studies to assess impacts.

- [h] Operation and Maintenance Plan: An operation and maintenance plan providing for regular periodic WECS inspection, any special maintenance requirements and procedures through decommissioning, and notification requirements for restarts during icing events.
- [i] Stray Voltage Report: An assessment, pre- and post-installation, of possible stray voltage problems on the site and neighboring properties within one (1) mile of the project boundary to show what properties need upgraded wiring and grounding. The applicant/operator is responsible for assessment and any correction required.
- [l] The applicant shall, prior to the receipt of a Special Use Permit, provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and the applicable Transmission Owner. Applicant shall also provide proof of complying with Public Service Commission power purchase requirements.

g. Application Certification:

- 1) A statement, signed under penalty of law that the information contained in the application is true and accurate.
- 2) Proof of continuous liability insurance in the amount of \$5,000,000 per occurrence with a total policy minimum of \$20,000,000 per year. This shall be submitted to the Town of Cape Vincent indicating coverage for potential damages or injury to landowners.
- 3) Disclosure of Financial Interests: For any financial interest held by a Municipal Officer or his or her relative in any wind development company or its assets within ten years prior to the date of an application for a permit under this Law, the Wind Company shall disclose in a separate section of the application the Municipal Officer or his or her relative, the addresses of all persons included in the disclosure, and the nature and scope of the financial interest of each person

including total payments made to the official and his or her relative. The disclosure shall include all such instances of financial interest of which the Wind Company has knowledge, or through the exercise of reasonable diligence should be able to have knowledge, and the format of the submission shall be subject to the approval of the Town Board.

- 4) The Town shall require the applicant to fund an escrow agreement pursuant to Section 5.7.2 of this Law to cover the amount by which the Town's cost to review the applicant's applications exceed the application fees paid by the applicant. This shall include professional fees as may be required.
- 5) Copies of all applications and proposed plans should be made available to the public within seven days of receipt by the Town Planning Board and placed in the Town Library and Town Clerk's office as well as on the Town of Cape Vincent website.

h. Noise Requirements:

- 1) Any WECS or SWECS shall comply with Noise Standards described in Section 6.7, Noise.
- 2) Because low frequency WECS noise is most annoying and problematic and because larger WECS emit proportionally more low frequency noise, therefore, the rated output of any WECS shall not exceed 1.6 megawatts.

i. Application Review Process: See Sections 5.4.6, (Planning Board) Site Plan Review and 5.3, (Zoning Board of Appeals) Special Use Permit.

j. WECS Standards:

In addition to General Requirements for Tall Structures, Section 7.16.4 the following requirements shall apply to WECS only:

- 1) All power transmission lines from the tower to any building or other structure shall be located underground.
- 2) No television, radio or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the Town's Site Plan Review procedures.
- 3) Lighting of tower. No tower shall be lit except to comply with FAA requirements. Any multiple, synchronous FAA lighting shall include switching technology which activates tower lights only if there is an approaching aircraft. Minimum

security lighting for ground-level facilities shall be allowed as approved on the Site Plan.

- 4) All applicants shall use measures to reduce the visual impact of WECS to the extent possible. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Individual WECS shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the area, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
- 5) All WECS shall have stand-alone towers and no guy wires are permitted.
- 6) No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems will produce electromagnetic interference with signal transmission or reception. The applicant is required to notify all federal, state, local, and private agencies that may be impacted by their development.
- 7) In recognition of the value and importance of the Town's historical and scenic assets, WECSs shall be setback at least 1.25 miles from NY State Route 12E, the Seaway Trail and National Scenic Byway. (Appendix 9, Large Scale WECS Exclusion Map.)
- 8) To minimize potential impact on the Town's most valued property, all WECS shall be setback at least 2 miles from lake and river waterfronts. (Appendix 9, Large Scale WECS Exclusion Map.)
- 9) To protect the health and safety of all Town residents from ice throw and potential rotor failure, each WECS shall be setback a minimum of:
 - [a] Six times the total height of the proposed WECS from the nearest residence.
 - [b] Six times the total height of the proposed WECS from the nearest project boundary or property line.
 - [c] Six times the total height of the proposed WECS from any road.
 - [d] 1.25 miles from any WECS to the boundaries of the Village of Cape Vincent and from the Hamlets of

Rosiere, Millens Bay, and St. Lawrence Corners as shown on the "Large Scale WECS Exclusion Map," Appendix 9.

[e] 1.25 miles from schools. (Appendix 9, Large Scale WECS Exclusion Map.)

[f] In order to ensure that residents of adjoining Towns of Lyme and Clayton are not negatively affected by any WECS proposed in the Town of Cape Vincent, any WECS near the Town's boundaries shall comply with the Noise Standards in Section 6.7 and shall be no closer than six times the total height of the proposed WECS to that boundary.

10) A map entitled, "Large Scale WECS Exclusion Map," is attached to this Law as Appendix 9 and it delineates the areas of the Town within which WECS are excluded in conformity with the setbacks established hereinabove.

11. Small Wind Energy Conversion System (SWECS):

1. Intent:
SWECS are permitted in all zoning districts within the Town as long as they comply fully with requirements of this Law.

Type Of Small Wind Energy Facility	Description
Small system - Less than or equal to 10 kw	Intended for the generation of electricity for home use. Designed to be roof mounted. May be horizontal or vertical axis designs and may be shrouded.
Small system – Greater than 10 kw or less than 50 kw	Intended for the generation of electrical power for home and accessories such as farm operations and small businesses. Designed to be pole mounted. May be horizontal or vertical axis designs and may be shrouded.

a. Requirements:

1) The most critical aspect of the safety of these units is the proper selection, installation, and maintaining a full electrical load on the generator once in operation. Consideration should be given to allow only units manufactured with controls, braking, and a redundant fail-safe system to stop operation from ground level in the event of overspeed or other emergency condition.

- 2) All SWECS shall comply with the following requirements. Additionally, such systems shall also comply with all the requirements established by other Sections of this Law that are not in conflict with the requirements contained in this Section.
- 3) The minimum distance between the ground and any part of the rotor blade of a free-standing turbine shall be 30 feet.
- 4) Setbacks from residential property lines for SWECS shall follow Table 11 below.

Table No. 11	Minimum Setback to Property Line
Horizontal Axis	25 x tower height
Vertical Axis	1 ½ x total tower height
Horizontal Axis w/Shroud or Enclosure	1 ½ x total tower height
Roof Mounted	Must satisfy building code

- 5) Setback from property lines for agricultural business shall be six times the total height.
- 6) All SWECS tower structures shall be designed and constructed to comply with pertinent provisions of the Uniform Building Code and National Electric Code under the National Fire Protection Association (NFPA).
- 7) Exterior lighting on any structure associated with the system shall not be allowed.
- 8) All on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines. This requirement may be modified by the Town if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
- 9) At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo, or advertising shall be placed or painted on the tower, rotor, generator, or tail vane where it would be visible from the ground, except that a system or tower manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.

- 10) Any SWECS with an appearance of abnormal operation, or a complaint by a neighboring property owner/occupant, shall contact the Zoning Enforcement Officer within 24 hours.
- 11) Provide documentation that the system is equipped with manual and automatic overspeed controls. The conformance of rotor and overspeed control design and fabrication with good engineering practices shall be certified by the manufacturer.

12. Abatement:

- a. If any WECS stops converting wind energy into electrical energy and/or distribution of that energy for on-Site use or transmission onto the electrical grid for a continuous period of 12 months, the applicant/ permittee shall remove said system at its own expense following, if applicable, the requirements of the decommissioning plan required under this Section or any Permit except for good cause shown as approved by the Planning Board.
- b. Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA or by lack of income generation. The applicant shall make available to a designee (i.e. town engineer, project manager, etc.) appointed by the Town Board, all reports from the purchaser of energy from individual WECS, if requested to prove the WECS is functioning. This designee may also request periodic documentation reporting the power output generated by the WECS.
- c. If the applicant/permittee fails to remove the structure in a reasonable time, the Town may, upon notice to the applicant/permittee, use the funds reserved for decommissioning the structure and undertake to do same. The applicant/permittee shall consent to this process as a condition of any permit or approval granted by the Town.

7.17 Veterinary Practice:

1. The lot exclusion zone shall be at least 100 feet all around the lot.
2. The operation of the practice shall be controlled so as to minimize any audio, visual, or odor impact at the lot exclusion line.
3. All animals shall be kept within an enclosed area.
4. All animals shall be kept in a closed building between 8 p.m. and 6 a.m.

8. NON-CONFORMITIES

1. Intent:

The intent of this Section is to recognize certain uses, lots of record, and structures which legally existed at the time of enactment of this Law and which would be prohibited or unreasonably restrictive by the provisions, regulations, standards, or

procedures herein. This Section shall not, however be construed to perpetuate or encourage the survival or expansion of such uses, lots or structures.

2. Non-Conforming Uses: A non-conforming use or structure may be continued on the premises provided that:
 - a. Any non-conforming use which has, for any reason, been discontinued for a period of 18 months or longer, shall not be re-established and only conforming uses/structures shall be thereafter permitted.
 - b. No non-conforming use/structure may be expanded beyond the confines existing at the time of this Law's adoption.
3. Non-Conforming Lots of Record:
 - a. Any lot of record held under separate ownership prior to the enactment of the Law and having a lot width or lot depth, or both, less than the minimum area requirement set forth in this Law may be developed with any compatible use listed for the district in which such non-conforming lot is located with our requiring a variance provided that such lot:
 - 1) Does not adjoin another property held by the same owner where sufficient land could be transferred to eliminate that non-conforming dimensions; and
 - 2) Has 100 feet of road frontage and can meet the New York State Building Code for septic systems; or
 - 3) Has at least one acre of land and at least 75 feet of road frontage.
If the non-conforming lot cannot meet the required setbacks, it will be required to obtain an area variance.

4. Non-Conforming Structures

Any pre-existing structure which, by the enactment of this Law, is made non-conforming may be used for any compatible use listed for the district in which structure is located provided that it shall not be enlarged so as to increase its non-conformity in terms of Lot Utilization Area, or lot coverage.

- a. The expansion of a building which is non-conforming with respect to lot utilization area, setbacks, shall be considered an increase in non-conformance, unless the expansion itself is within the lot utilization area.
- b. Nothing under the provisions of this Law shall prevent the repair or restoration of a non-conforming structure so long as it is not enlarged or expanded as a result thereof.
- c. Changing the height of the pre-existing structure up to a height of 35 feet shall not be considered an expansion of the non-conformity.

5. Non-Conforming Manufactured (Mobile) Homes on Individual Lots
 - a. A non-conforming manufactured (mobile) home is one that does not meet the regulations of Section 7.6 at the time this Law was adopted.
 - b. Any manufactured (mobile) home that is unoccupied for 18 months must either meets the requirements of Section 7.6 or be removed from the site.
 - c. Any non-conforming manufactured (mobile) home may be replaced by a mobile home of the same or greater size, but shall meet the requirements of Section 7.6.

6. Non-conforming Manufactured (Mobile) Homes in Manufactured (Mobile) Home Parks
 - a. Any expansion of manufactured (mobile) home parks must meet the requirements of Section(s) 7.8 and/or 7.9 as appropriate.
 - b. Any change of individual manufactured (mobile) homes must meet the requirements of Section(s) 7.7, 7.8 and/or 7.9 as appropriate.

9. DEFINITIONS

Except where specifically defined herein all words used in this Law shall carry their customary meaning. Words in the present tense include the future, single numbers include the plural, and plural numbers the singular. The word "lot" includes the word "plot" and "property." Doubt as to the precise meaning of any word used in this Law shall be clarified by the Zoning Board of Appeals.

Administrative and Review Expense:

All actual expenses incurred by the Town in the review and processing of an application. Such costs may include publication costs, consultant fees covering planning, engineering, environmental analysis, legal review, and other technical services required for a proper and thorough professional review of the application

Adult Use:

Any person, establishment, business, or use of such establishment, by the nature of its operation, (excluding the sale of alcoholic beverages) is not or would not be to be open to the public generally due to the exclusion of any minor by reason of age or by operation of New York statute law. Any business involved in the dissemination of materials distinguished or characterized by the emphasis on matter depicting, describing, or relating to specific sexual activities or anatomical activities, including but not limited to adult arcades, adult bookstores or video stores, adult cabarets, adult live entertainment, adult motion picture theaters, and adult novelty stores.

Agriculture:

All activities related to the growing or raising of crops or livestock.

Agriculture & Market District:

A district, created by the County Board of Supervisors, according to Agriculture and Market Law Article 25AA.

Accessory Use:

A use customarily incidental and subordinate to the principal use of a lot or building. This use shall be located on the same lot as the principal use and shall be under the same ownership and can be conducted without any significant adverse impact on the surrounding neighborhood.

Anemometer:

An instrument that measures wind speed.

Animal Feed Lots – Concentrated:

A facility where animals are confined and fed in preparation for transportation or slaughter.

Antenna:

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

Automotive Sales:

Any commercial display, sale, or rental of motorized vehicles.

Automotive Service/Repair:

Any area of land, including structures, that is used or designed to service motor vehicles by supplying fuel (i.e. gas station) oil or other lubricants, and/or to provide other types of service such as maintenance, repair, body work, polishing, greasing, painting, or washing such motor vehicles. An establishment that satisfies this definition and also sells unrelated retail goods shall be considered to be both an automobile service station and a retail use as a convenience store.

A-Weighted Sound Level (dBA): A measure of overall sound pressure level designed to reflect the response of the human ear, which does not respond equally to all frequencies. It is used to describe sound in a manner representative of the human ear's response. It reduces the effects of the low with respect to the frequencies centered around 1000Hz. The resultant sound level is said to be "Weighted" and the units are "dBA." Sound level meters have an A-weighting network for measuring A-weighted sound levels (dBA) meeting the characteristics and weighting specified in ANSI Specifications for Integrating Averaging Sound Level Meters, 51.43-1997 for Type 1 instruments and be capable of accurate readings (corrections for internal noise and microphone response permitted) at 20 dBA or lower. In this Law dBA means LAeq unless specified otherwise.

Background Sound:

Background sounds are those heard during lulls in the ambient sound environment and represent the quietest 10% of the time, for example the quietest one minute.

Bar/Tavern: Includes all facilities whose principal business is the sale of alcoholic and other types of beverages, as well as the sale of prepared food.

Bed and Breakfast:

An owner-occupied, one-family dwelling used for providing overnight accommodations and a morning meal to not more than ten (10) transient lodgers containing one (1) but not more than five (5) rental bedrooms for such lodgers.

Blade Glint:

The intermittent reflection of sunlight off the surface of the blades of one or more wind turbines.

Boathouse:

A building, ancillary to a dwelling, containing slips used exclusively for non-commercial docking or storage of motorboats, sailboats, and similar vehicles. Not to be used as a dwelling unit.

Building:

Structure having a roof supported by columns or walls and intended for shelter or enclosure of persons, animals, or property.

Campground:

A parcel of land which is used for temporary use of tents and recreational vehicles on a commercial basis.

Cartway:

A portion of a street right-of-way, either paved or unpaved, intended for vehicular use.

Cemetery:

A plot of land used for internment of the deceased.

Commercial:

A business activity characterized by the manufacture, storage, or sale of goods or services to the customer or other business for the purpose of generating an income or profit.

Commercial Animal Slaughtering and Rendering:

A facility used for butchering of animals and/or processing of animal carcasses for commercial purposes.

Corner Lot:

A lot bounded on at least two (2) sides by roads, whenever the lines of such streets, extended, form an interior angle of one hundred thirty-five (135) degrees or less.

Correctional/Detention Facility:

A facility for the long-term incarceration of convicted felons.

Cottage:

One separate, single dwelling unit used as lodging for short-term or seasonal use.

C-Weighted Sound Pressure Level (dBC):

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

Day-Care Facility:

A facility duly permitted by New York State Department of Social Services for the care of seven or more adults or children for less than 24 hours a day.

Decibel (dB):

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

Development:

Any man-made change that modifies the prior existing state of specific real property.

Dock:

A structure for securing marine vessels.

Dwelling Unit:

Building or part thereof used as living quarters for one household. The terms "dwelling," "single-household dwelling," or "multi-household dwelling" shall not include motel/hotel, manufactured (mobile) home, bed and breakfast, inn, or lodging house.

Educational Facility:

Any school licensed by the State of New York that provides organized courses of study by or under the guidance of a teacher.

Electrical Power Transmission Tower:

A structure for the support of electrical power transmission lines.

Electromagnetic Frequency:

The measurement of electromagnetic fields which are made by the movement of electrically charged particles.

Equivalent Noise Level (Leq):

The A-weighted or C-weighted equivalent noise level (the average noise level). It is defined as the steady noise level that contains the same amount of acoustical energy as the corresponding time-varying noise.

Erosion and Sedimentation Control Plan:

A design to minimize soil erosion and sedimentation in compliance with regulations promulgated by the New York State Department of Environmental Conservation.

Farm:

Land used in agricultural production together with agricultural buildings or structures, equipment, and residential buildings.

Fence:

A continuous man-made barrier of wood, stone, plastic, wire, or other material commonly used as fencing material intended for enclosure, security, screening, or partitioning.

FAA:

The Federal Aviation Administration or successor agency.

FCC:

The Federal Communications Commission or successor agency.

Filing:

Submission of records to the Town Clerk and/or other government entities.

Government Facility:

A building or use that is operated by a governmental unit for the general well being, health, safety, welfare, and enjoyment of the public.

Gross Density:

The number of dwelling units divided by the total acreage of the land upon which they are located, excluding any acreage used for non-residential purposes.

Gross Floor Area:

The total floor area of a building as determined by the outside dimensions of the building.

Gross Leasable Area (GLA):

The gross floor area designated for the exclusive use of tenants, clients and customers, not including public or common areas, such as public toilets, corridors, stairwells, elevators, lobbies or enclosed atria.

Hamlet: A small unincorporated village.

Healthcare Facility:

A licensed facility in which professional health services are rendered.

Height:

The vertical distance measured from the lowest elevation of the original topography of the structure's footprint to the highest point of the structure.

Home Occupation:

Any permitted use conducted within a dwelling by the residents thereof which is clearly secondary to the use of the dwelling for living purposes.

Hostel:

An inexpensive, supervised short-term lodging facility.

Hotel/Motel/Rental Dwelling Unit:

A commercial establishment offering lodging to travelers and sometimes to permanent residents and often having restaurants, meeting rooms, stores, etc., that are available to the general public.

Impervious Surface:

Any surface or structure that does not allow water to be absorbed into the underlying soil.

Impulse Noise:

A sound of short duration usually less than one second and of high intensity, with an abrupt onset and rapid decay, e.g., a gunshot or explosion.

Institutional Uses:

Any one (1) or more of the following uses, including grounds and ancillary structures necessary for their use: religious institutions, public parks, playgrounds and recreational areas, schools, public libraries, fire, ambulance, and public safety buildings, public or private meeting halls, or places of assembly not operated primarily for profit, hospitals, clinics, and transitional care facilities.

Junkyard:

An area of land with or without buildings, primarily used for the outside storage of used and discarded materials, including but not limited to waste paper, rags, metal, building materials, house furnishing, machinery, vehicles or parts thereof, including junk with or without the dismantling, processing, salvage, sale, or other use or disposition of the same. The deposit or storage of two or more vehicles as per General Municipal Law, Section 136, shall be deemed to make a lot a junkyard.

Kennel: Any commercial establishment, including cages, animal runs and structures, where animals are harbored, bred, or boarded.

Leq: Equivalent Continuous Sound Pressure Level is the constant sound level that would result in the same total sound energy being produced over a given period.

Lot (Lot of Record):

A parcel of land, the legal description of which is filed with the County Clerk occupied or designed to be occupied by one (1) principal use structure and ancillary structures or used customarily incident to it, including such open spaces as are required by this Law.

Lot Exclusion Area:

The area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping, and screening and ingress and egress driveways only. No development or parking is permitted within this area.

Lot Line - Front:

The property line separating a plot or parcel of property from a road right-of-way line. If a lot adjoins two or more roads or highways, it shall be deemed to have a front line respectively on each. Waterfront lots shall be deemed to have a front lot line on the side of the lot closest to the body of water they abut. On waterfront lots, the front lot line shall be the straight line connecting the intersections of the side lot lines with the US Army Corp. of Engineers, 1985 International Great Lakes Datum, Elevation 247.30 feet above sea level

Lot Line - Rear:

That lot line which is opposite the front lot line. A rear lot line shall not be adjacent to a front lot line. In the case of corner lots, there might be no rear lot line.

Lot Line - Side:

The line connecting the extreme ends of the front and rear lot lines.

Lot Utilization Area:

That area bounded by the setback lines is the only area of a lot on which development and parking is permitted. The lot utilization area for tall structures is defined as a circular area the radius of which is defined by the structure.

Lot Utilization Line:

This line is the setback line. The lot utilization line for tall structures is a concentric circular line around the tall structure where the tall structure is at the center. The radius of this line is dependent on both the height and the use of the tall structure.

Maintenance:

Plumbing, electrical, or mechanical work that might require a building permit but does not constitute a modification to a wind turbine or wireless telecommunications facility.

Manufactured Home (Mobile):

Manufactured housing built on a chassis. A manufactured (mobile) home shall be constructed to remain a manufactured (mobile) home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundations provided. A manufactured (mobile) home shall not be construed to be a travel trailer or other form of recreational vehicle. A travel trailer, motor home, fifth wheel, or any other type of recreational vehicle shall not be construed to be a manufactured (mobile) home.

Manufactured (Mobile) Home - Double Wide:

Any manufactured (mobile) home that is greater than 16' in width.

Manufactured (Mobile) Home - Single Wide:

Any manufactured (mobile) home which is 16' or less in width.

Manufactured (Mobile) Home Park:

A lot in which multiple manufactured (mobile) homes are located and the property is overseen and run for commercial purposes.

Manufactured (Mobile) Home Park – Seasonal:

Any manufactured (mobile) home park which is regularly closed for a period of time during the calendar year.

Manufactured (Mobile) Home Park – Permanent:

Any manufactured (mobile) home park which is in operation on a year-round basis.

Manufacturing – Light

A small scale facility that fabricates, assembles, treats, packages and/or stores products that do not emit objectionable levels of pollutants, noise, odor, or vibration.

Marina:

A waterfront facility, structure, or lot area for renting, storing, servicing, fueling, overhauling, inspection, and sales of sailboats, power boats, personal watercraft and ancillary items associated with water recreational sports and products used in water-related activities.

Meteorological Tower:

A tower used for the measurement and/or recording of meteorological data such as temperature, wind speed, and wind direction.

Mining/Quarry Operation:

A lot or parcel of land used for the purpose of extracting and processing stone, gravel, soil, or solid minerals for sale as an industrial or commercial operation.

Mining Operation, N.Y.S. Department of Environmental Conservation Regulated:

Any mining operation under the jurisdiction of Article 15, of the Environmental Conservation Law.

Modification or Modify:

Any change to a previously approved structure or other use.

Modular Home:

A dwelling, factory produced for transportation to a permanent site. The entire structure will be produced and assembled according to New York State standards for modular homes. The intent of this definition is to allow installation of modular homes constructed to standards equal to those required for on-site built dwellings. The steel undercarriage, used for transportation, is to be removed during home installation and assembly.

Multi/Household Dwelling:

A building designed for or occupied by two or more households living independently of each other.

Municipal:

Of or pertaining to the town or its local government.

National Scenic Byway: A public road having special scenic, historic, recreational, cultural, archeological, and/or natural qualities that have been recognized as such through federal and state legislation or some other official governmental declaration or designation.

NIER:

Non-ionizing electromagnetic radiation.

Noise: Any unwanted sound.

Non-Conformity:

A pre-existing lot, building, structure, or use of land legally and substantially existing at the time of enactment of this Law which does not now conform to the regulations of the district in which it is situated.

Nursery: A commercial business activity that grows, sells, or resells plants for commercial activity.

Odor:

An unwanted olfactory sensation.

Office - General:

A facility that is devoted exclusively to business, non-profit, or professional services.

Official Submission Date:

The date that all required information and fees for Site Plan Review, interpretations, or variance reviews are received by, presented to, or otherwise examined by the appropriate board at an official meeting thereof. Materials presented at a pre-submission conference for Site Plan Review shall not be considered an official submission.

One-Third Octave Band:

A band of sound covering a range of frequencies such that the highest is the cube root of two times the lowest. The one-third octave bands used in this standard are defined in ANSI Reference Standard S1.11.

Open Space:

That portion of the lot not covered by impervious surfaces or structures.

Owner:

An individual or entity having ownership of the land.

Permitted Use:

A use not requiring a Planning Board review but requiring a zoning permit to be issued by the Zoning Enforcement Officer.

Principal Use:

The main, dominant purpose for which any land or structure is used, utilized, employed, or occupied.

Project Boundary:

The external boundaries of a parcel or parcels owned by or leased by the project operator/developer. It is represented on a plot plan view by a continuous line encompassing all parcels and owners cooperating in the project.

Public Road:

State, county, or town cartway regularly traveled by the public.

Radio Frequency (RF) Radiation:

A form of electromagnetic radiation emitted by transmitting antennas.

Recreational Resort:

A facility devoted to leisure time and sporting activities.

Recreational Vehicle:

A vehicle which is built on a chassis, self-propelled, or permanently towed by a motor vehicle and is designed primarily as temporary living quarters for recreation, camping, traveling, or seasonal use, not a permanent dwelling.

Religious Use:

Includes church, temple, mosque, parish house, convent, seminary, school, and retreat house.

Rental Dwelling Unit:

A dwelling unit used for commercial purposes that is not occupied by the owner.

Residential Garage:

A structure, accessory to a dwelling unit, that is primarily used for storage of motor vehicles and personal possessions on a non-commercial basis.

Restaurant/Inn:

Any establishment, however designated, at which food and/or alcoholic beverages are sold for consumption to patrons seated within an enclosed building or on the premises. A snack bar or refreshment stand at a public function shall not be deemed to be a restaurant.

Retail:

A commercial activity characterized by the direct on-premise sale of goods and services to the customer.

Retention Basin:

A depression in the ground or a piping system designed to collect storm water allowing it to be dissipated in a controlled manner in accordance with governing regulations.

Salvage/Scrap Yard:

A commercial facility for the disassembly, warehousing, sale, and/or distribution of components from items no longer useful for their intended purpose. Only disassembled items are permitted in salvage yards.

SECS (Solar Energy Conversion System):

A system whereby energy from the sun is converted to electrical or thermal energy. These systems may be of various sizes.

Sediment:

Soils or other surface materials transported by surface water as a product of erosion.

Self-Storage Facility:

A building or group of buildings that contain private storage spaces available for rent or lease for varying periods of time.

SEQR:

State Environmental Quality Review based on the State Environmental Quality Review Act.

Shadow Flicker:

The visual effect when the blades of an operating Wind Energy Conversion System pass between the sun and an observer, casting a readily observable, moving shadow on a person or property.

Single Family/Household Dwelling:

A building designed for or occupied exclusively by one family or household.

Site:

A parcel(s) of land where a project is to be constructed and operated.

Storage Shed:

A structure, accessory to a primary use, that is used to house equipment, tools, and materials.

Structure:

Any object constructed or installed to facilitate land use and development or subdivision of land such as buildings, sheds, signs, satellite dishes, boathouses, septic systems, and any fixtures,

additions, and alterations thereto. Structures shall not include fences, landscaping, and other screens.

Tall Structure:

A structure that is taller than 60 feet and is not otherwise exempt from this Law.

Tall Structure Lot Utilization Area:

The tall structure lot utilization area shall be a circular area concentric with the radius of which depends on the application.

Telecommunications:

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

Telecommunication Tower:

A structure designed and used for the support of telecommunications equipment.

Tower:

Any structure designed primarily to support equipment.

Town Bulletin Board:

A display located at the Town Office for the placement of public notices.

Use:

The specific purpose for which land or a structure is designed, arranged, intended or for which it is or may be occupied or maintained.

Utility:

The erection, construction, alteration, operation, or maintenance by a municipal agency or public utility of energy or communication transmission lines including cable television lines, telephone equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities.

Veterinary Practice:

A licensed healthcare facility for non-human entities, not including boarding or harboring.

Waterfront:

The topographical feature defined as the naturally occurring mean high water elevation of 247.3 feet above sea level as determined by US Army Corps of Engineers based on 1985 Great Lakes Datum. For purposes of this Law, artificially constructed harbors, docks, and boat slips are not naturally occurring.

Water Structure:

Any pier, boat dock, boat ramp, boat slip, wharf, weir, boom, breakwater, bulkhead, revetment, riprap, jetty or piling.

WECS (Wind Energy Conversion System)

A machine that converts the kinetic energy of the wind into electrical or mechanical energy. These systems may be of various sizes.

Workshop/Studio Building:

An accessory structure typically used for crafts, hobbies, and arts.

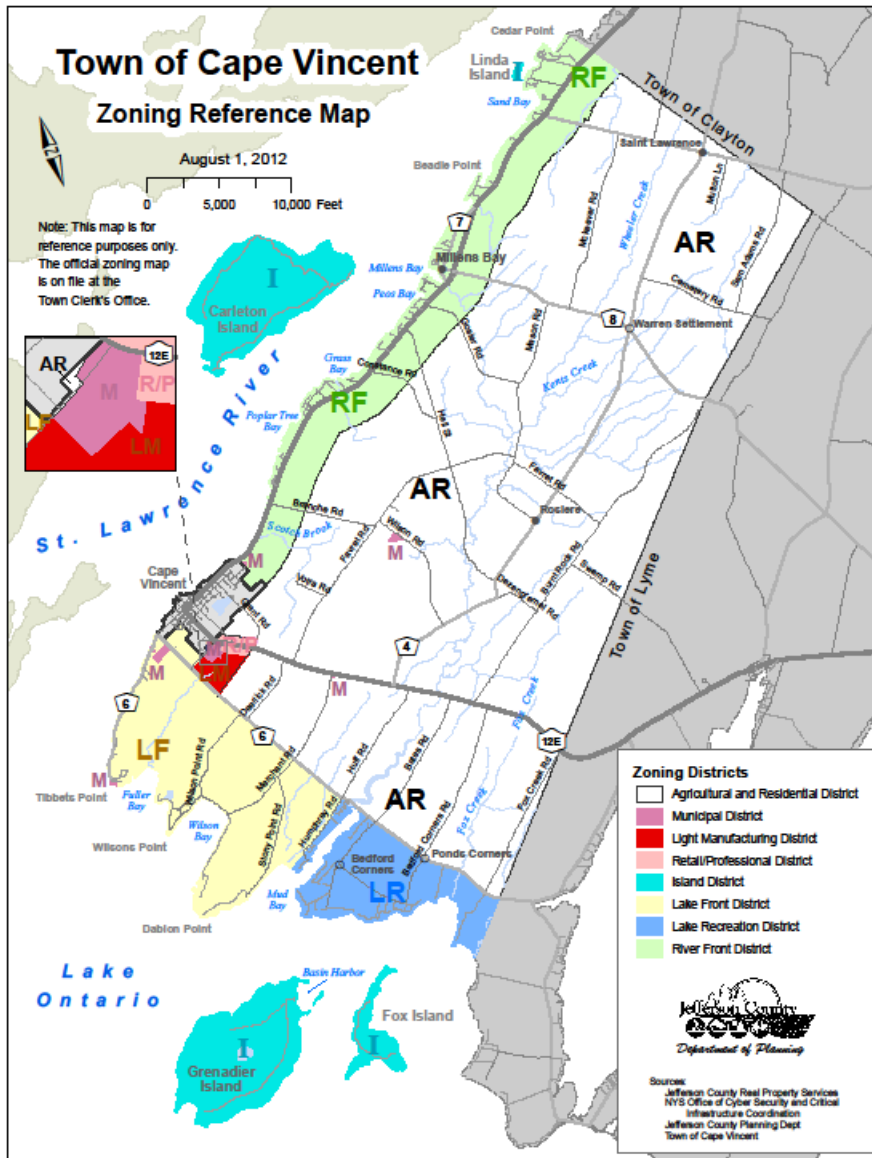
Zoning Enforcement Officer:

A person appointed/hired by the Town Board to ensure compliance with the regulations of this Law.

Zoning Permit:

A written authorization from the Zoning Enforcement Officer to proceed with a project.

Appendix No 1 Zoning Map



Appendix No. 2 Instructions to Applicant

Supervisor
ERMAN G. HIRSHBY

Town Clerk / Tax Collector
MICHAEL A. RICHARD

Councilman
MICKEY W. ORVIS
BROOKS J. DRAYSON
CLIFFORD P. SCHNEIDER
JOHN L. BYRNE III

Superintendent of Highways
DANNY P. HUBBARD

TOWN OF CAPE VINCENT

Jefferson County, New York 13618



PHONE (315) 654-3790
FAX (315) 654-3388

Assessor
ROBERT V.R. BARNARD

Historian
PETER J. MAISENEY

Planning Board Chairman
RICHARD H. MACE JERRY

Board of Appeals Chairman
R. DENNIS FALKENHAM

Zoning Enforcement Officer
EDWARD P. BENDER

INSTRUCTIONS TO APPLICANTS

1. Applicant receives zoning permit application from the Town Clerk or Zoning Enforcement Officer (ZEO)
2. Applicant submits the completed zoning permit application to the ZEO. If approved the ZEO issues the zoning permit and the applicant can apply for a building permit from the county at 175 Arsenal Street Water town, New York 13601
3. Before construction the Applicant shall contact the ZEO to inspect the property for compliance. If all is in order the zoning enforcement officer will issue a certificate of compliance.
4. If Zoning Permit is denied the Applicant may apply to the Zoning Board of Appeals (ZBA) for a variance.
5. When the Applicant has completed the variance application he may appear before the ZBA for a preliminary discussion.
6. The Applicant shall have legible drawings showing the dimensions of the lot and the location of the structure relative to side, front and rear setbacks as precise as possible.
Photographs are required in assisting the ZBA in making a decision.
The footprint of the structure should be accurately staked to show the exact location of the structure.
7. If a variance is granted by the ZBA the Applicant must obtain a Zoning Permit ZEO in order to obtain a building permit.

Appendix No. 3 Zoning Permit Application Form

TOWN OF CAPE VINCENT
Johnson County, New York 13118



Zoning Permit Application

Name of applicant: _____ Telephone: (____) - _____ - _____

Agent/Contractor: _____ Cell #: (____) - _____ - _____

Mailing Address: _____

City _____ State _____ Zip Code _____

Location by street or 911# _____

Tax Map # _____ Zoning District LF LR RF AR C RP

Nature of work: New Building Addition Installation

Dimensions of entire structure

Front _____ Rear _____ Depth _____ Maximum Height _____

Foundation Type: Concrete Masonry Steel P.T. Wood Other _____

Structure Type: Wood Stone Masonry Concrete Other _____

Structure Use: Residential Commercial Retail/Professional Agricultural

Further description of project: _____

Lot Size: Front _____ Rear _____ Depth _____ Area (sq ft) _____

Requirements:

A sketch plan must accompany this application showing the placement of the proposed structure on the lot. The drawing shall show distance between the structure and all lot lines, other structures on the lot, road right-of-way line and any other outstanding natural or man made features on or adjacent to the lot. The dimensions of the lot lines shall be noted. Such drawing shall be prepared for a change of use in an existing structure as well.

The applicant shall lay out stakes on the lot enabling the zoning officer to determine building location and lot lines.

I, the owner or agent of the proposed use for which this permit application is being made, do hereby affirm that the above information is true and accurate, and that it conforms to the Zoning Law and all other applicable laws.

Landowner of Agent Signature _____ Date _____

For Office Use Only:

Permit # _____ Appeals # _____

Approved: _____ Date: _____

Denied: _____ Date: _____

Zoning Law Section and Paragraph: _____

Site Plan Referral Date: _____

Appendix No. 4 Short EAF (Environmental Assessment Form)

617.20

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

<p>1. APPLICANT/SPONSOR Daniel and Carol Thomas</p>	<p>2. PROJECT NAME Angel Rock Waterfront Cottages - 10 Unit Expansion</p>
<p>3. PROJECT LOCATION: Municipality: Town of Cape Vincent County: Jefferson</p>	
<p>4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or route/resp) 34311 NYS Route 12E, on Tax Parcel No. 10.06-1-7.31 Site is located on the north side of NYS Route 12E, approximately 800' east of the Hell Street intersection.</p>	
<p>5. PROPOSED ACTION IS: <input type="checkbox"/> New <input checked="" type="checkbox"/> Expansion <input type="checkbox"/> Modification/Alteration </p>	
<p>6. DESCRIBE PROJECT BRIEFLY: Ten (10) Cottage Expansion of the the existing Angel Rock Waterfront Cottages. Expansion includes 8-four bedroom and 2-two bedroom cottages. Project also includes the construction of new drives, pool, water service, electric service, sanitary sewer collection, and on-site wastewater treatment systems.</p>	
<p>7. AMOUNT OF LAND AFFECTED: Initially <u>3.47</u> acres Ultimately <u>3.47</u> acres</p>	
<p>8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly </p>	
<p>9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other <small>Describe</small> </p>	
<p>10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approval: NYS DEC - Wastewater SPDIS Permit/Stormwater Permit, NYS DOH - Water/Temporary Residence Permit, NYS DOT - Work within DOT ROW </p>	
<p>11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approval: NYS DOH Temporary Residence Permit </p>	
<p>12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No To update the number of DOH permitted Temporary Residences </p>	
<p>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>Aubertine and Connor, PLLC, Matthew R. Morgio, PE</u> Date: <u>05/08/2011</u> Signature: _____ </p>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

OVER
1

Reset

Appendix No. 4 cont.
Short EAF (Environmental Assessment Form)
Page 2

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

<p>A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.2? If No, a negative declaration may be superseded by another involved agency.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING? (Answers may be handwritten, if legible)</p> <p>C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal potential for erosion, drainage or flooding problems? Explain briefly:</p> <p> </p> <p>C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources, or community or neighborhood character? Explain briefly:</p> <p> </p> <p>C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:</p> <p> </p> <p>C4. A community's zoning plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:</p> <p> </p> <p>C5. Growth, substantial development, or related activities likely to be induced by the proposed action? Explain briefly:</p> <p> </p> <p>C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:</p> <p> </p> <p>C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:</p> <p> </p>	
<p>D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, explain briefly.</p>	
<p>E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, explain briefly.</p>	

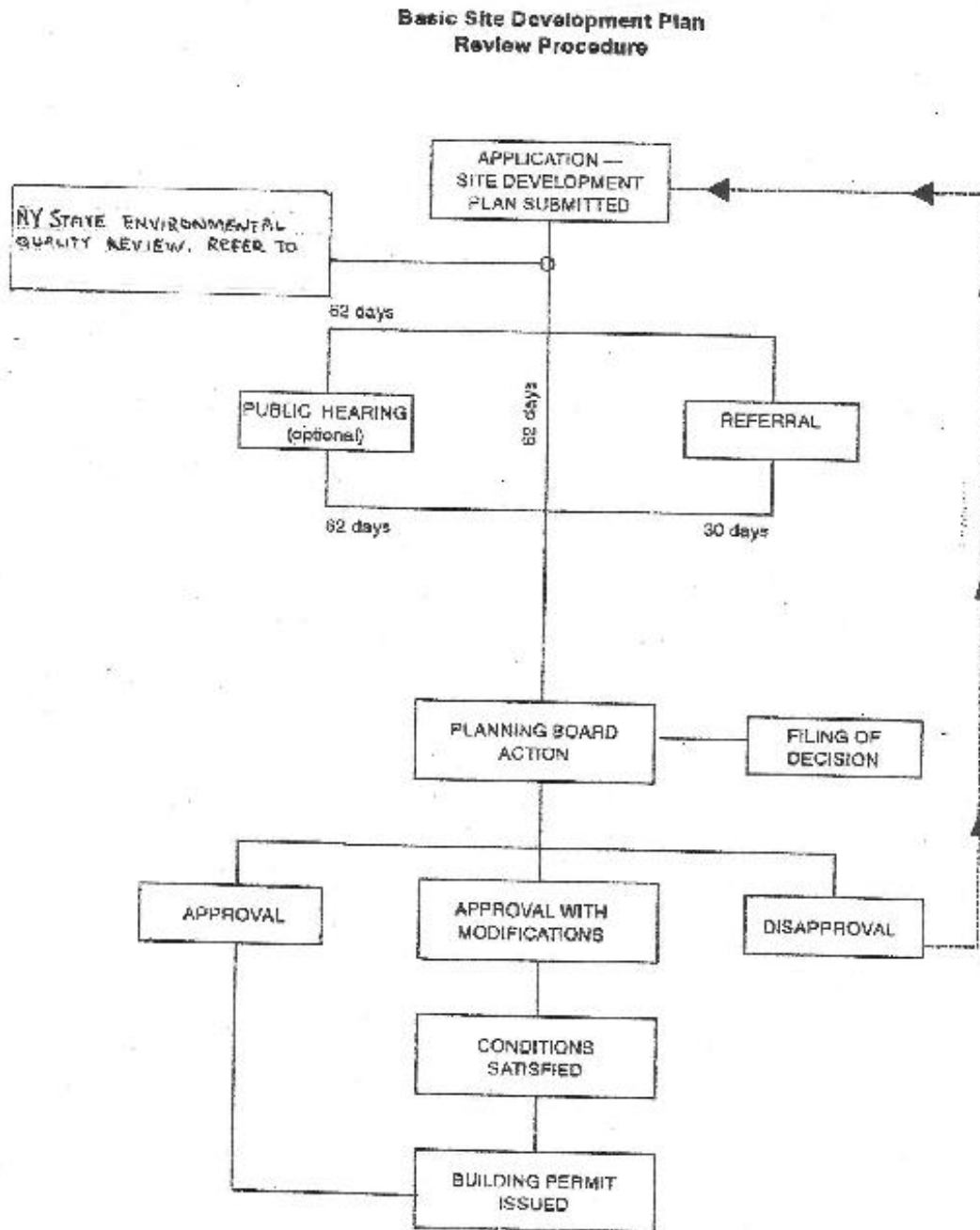
PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural), (b) probability of occurring, (c) duration, (d) irreversibility, (e) geographic scope, and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

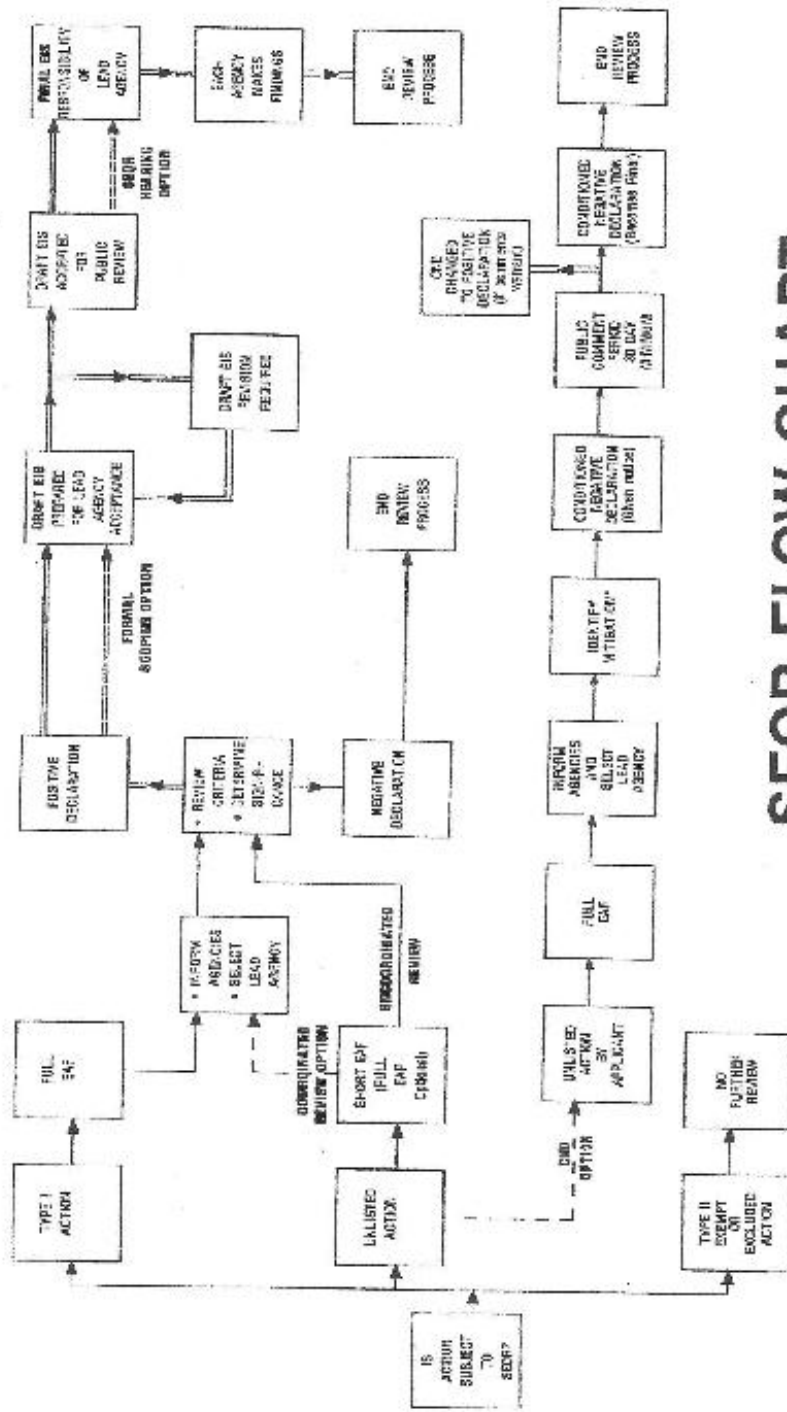
<p><input type="checkbox"/> Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.</p>	
<p><input type="checkbox"/> Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide, in all instances as necessary, the reasons supporting this determination.</p>	
<p>_____</p> <p style="text-align: center;">Name of Lead Agency</p>	<p>_____</p> <p style="text-align: center;">Date</p>
<p>_____</p> <p style="text-align: center;">Print or Type Name of Responsible Officer in Lead Agency</p>	<p>_____</p> <p style="text-align: center;">Title of Responsible Officer</p>
<p>_____</p> <p style="text-align: center;">Signature of Responsible Officer in Lead Agency</p>	<p>_____</p> <p style="text-align: center;">Signature of Preparer (if different from responsible officer)</p>

Reset

**Appendix No. 5
Basic Site Plan Review Procedure**



Appendix No. 6 SEQR Flow Chart



SEQR FLOW CHART

**Appendix No. 7
Stop Work Order**

Town of Cape Vincent
Jefferson County, NY 13618

Zoning Law

Stop Work Order

YOU WILL PLEASE TAKE NOTICE that there exists a violation of:
Section: _____, Page: _____ of the Town of Cape Vincent Zoning Law.
At the following Location: _____
Tax Map Number: _____

In that (state character of violation):

You are hereby
Directed and Ordered to Stop Work,
comply with the Law, and to remedy the condition above mentioned
On or before (date): _____

Failure to remedy the condition aforesaid and to comply with the applicable provisions of law may constitute an offense punishable by fine, imprisonment, or both.

Date

Zoning Enforcement Officer

CC: Town Clerk

**Appendix No. 8
Notice of Violation**

TOWN OF CAPE VINCENT
JEFFERSON COUNTY, NEW YORK 13612

Tax Parcel Number:	Section:	Block:	Lot:
Log No.:			

NOTICE OF VIOLATION - ORDER TO REMEDY

(date)

(name)

(address)

(city, state, zip code)

Dear _____,

You are hereby notified that you have been found to be in violation of the Zoning Law Article _____, Section _____, Subsection _____. The specific violation is: _____

as observed by the zoning enforcement officer on _____.

The following corrective measures should be taken no later than _____ or penalties may be assessed: _____

For the purposes of applying the penalties described in the Administrative Section of the Zoning Law, your first violation shall be deemed to have occurred as of _____.

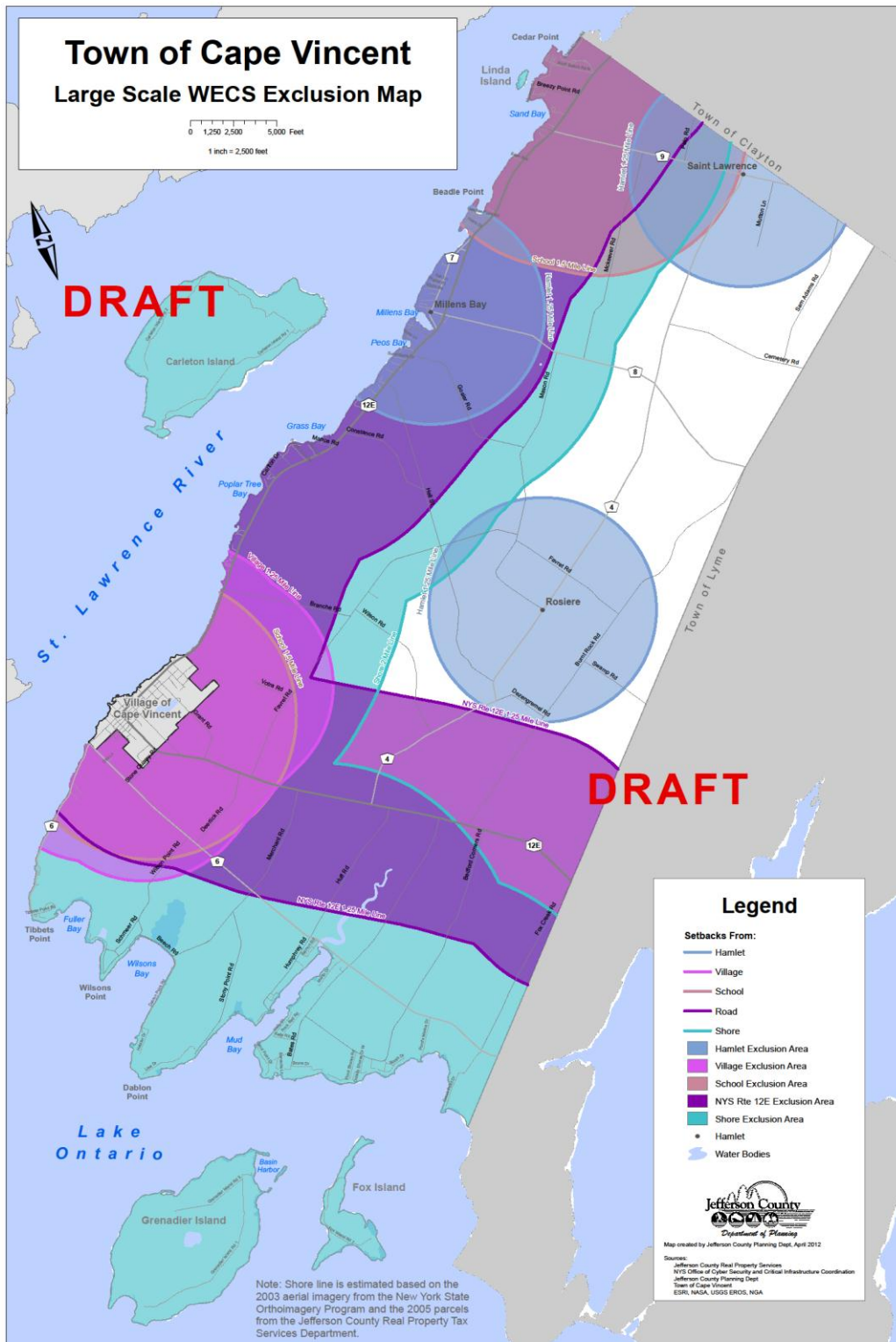
If you have questions, please contact me.

Sincerely,

Zoning Enforcement Officer

Please Note: A violation of this code is punishable by a fine not to exceed _____. Each _____ of continued violation shall constitute an additional, separate offense, after court determination.

Appendix No. 9 Large Scale WECS Exclusion Map



Appendix No. 10
TOWN OF CAPE VINCENT
SITE PLAN APPLICATION

The application for site plan approval consists of Parts A and a Environmental Assessment Form as required by the State Environmental Quality Review Act (SEQRA), an Agricultural Data Statement, and the payment of application fees, as established by Resolution of the Town Board.

Refer to the Town Zoning Law for additional information and Site Plan Review criteria

PART A: PROJECT DESCRIPTION

Provide all information requested to assure a clear understanding of the proposed project. Attach supplemental information if necessary. Incomplete information may render the application incomplete.

- 1. Applicant(s) name, address, and telephone number:**

- 2. Owner(s) name, address, and telephone number, if not the same as applicant:**

- 3. Describe the proposed use of the site:**

- 4. Project Description: (Refer to sample Site Plan Drawing) Include photographs, if applicable.**

- 5. Site location: _____**

6. Total site area (square feet or acres): _____

7. Tax Map Section _____ Block _____ Lot _____

8. List below Town, school, county, state, and federal permits/agreements i.e., road access, Department of Health, NYS Uniform Fire & Building Code, D.E.C., PILOTS.

9. Attach a copy of the above-listed permits/agreements.

10. Describe infrastructure anticipated: (For example, water, sewer, power, roads)

11. Anticipated construction schedule: _____

12. Current land use and condition of the project site (agricultural, commercial, undeveloped, residential, etc.):

13. Character of surrounding area (residential, agricultural, wetlands, etc.):

14. Anticipated number of residents, employees, shoppers, as is applicable:

15. Other project information necessary to adequately describe the project and inform the Zoning Enforcement Officer, Zoning Board of Appeals, and Planning Board:

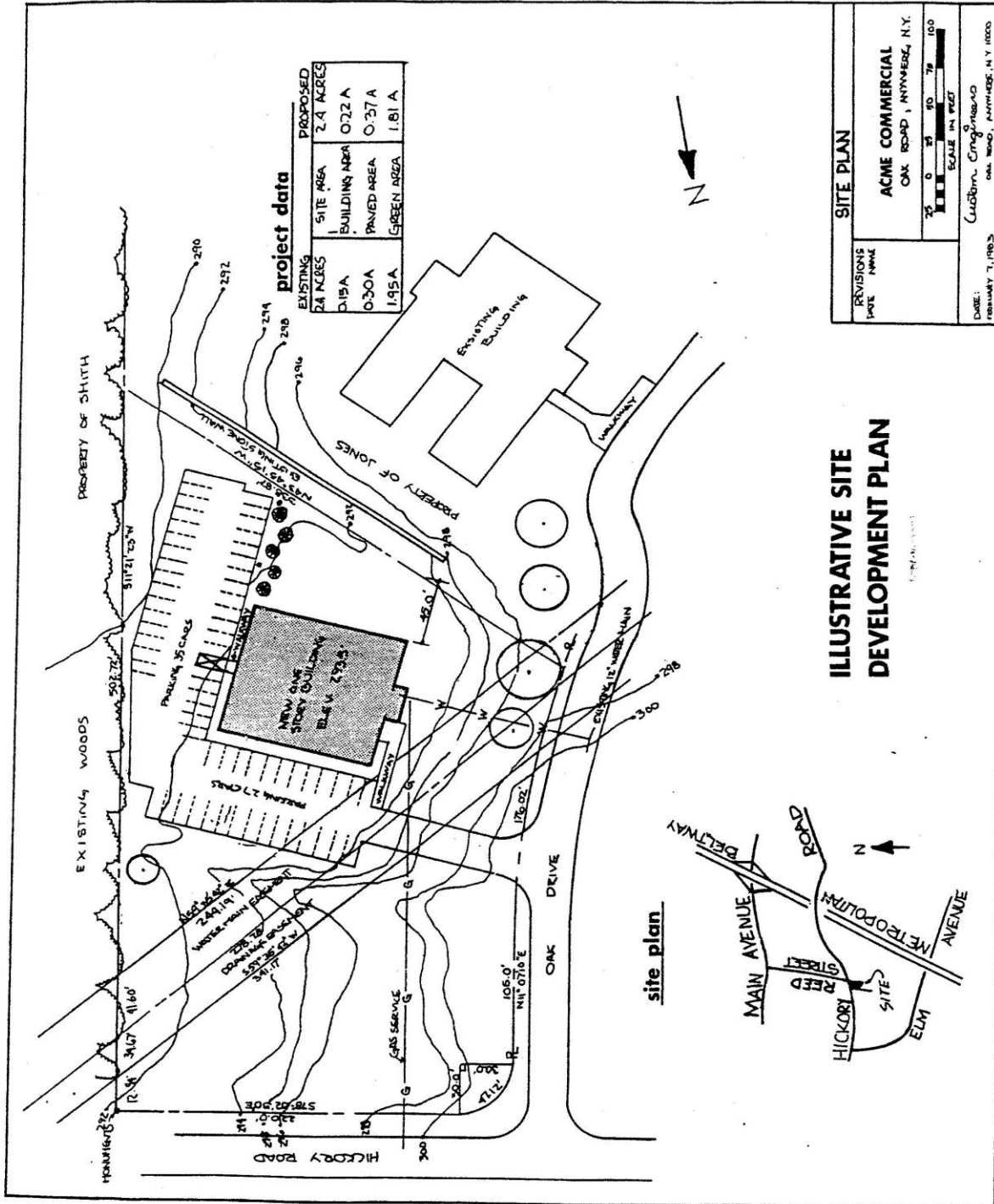
Applicant Signature

Owner Signature

Date

Appendix No 11 Sample Site Plan Review Drawing

Figure 3



SITE PLAN

REVISIONS
DATE

ACME COMMERCIAL
OAK ROAD, NYNEXB, N.Y.

SCALE IN FEET
0 25 50 75 100

DATE: February 7, 1983
CUSTOMER: Custom Commercial
OAK ROAD, NYNEXB, N.Y. 10000

**ILLUSTRATIVE SITE
DEVELOPMENT PLAN**

site plan

