

Board of Trustees
Village of Black River, New York



Agenda

Regular Meeting
November 5, 2018

- Call to order.
- Pledge of Allegiance.
- Approval of minutes of the 10/1/18 regular & 10/9/18 special meeting
- Public Comment.
- Code Enforcement Report & review of related correspondence.
- Superintendent's Report.
- Clerk-Treasurer's Report.
- Police Department Report.

Correspondence Received:

- | | |
|------------------------------------|----------------------------|
| A) Sally Ploof Hunter Mem. Library | Re: Facilities use request |
| B) Joseph Plummer | Re: Radio discount |
| C) Planning Board | Re: Solar energy systems |

Correspondence Sent:

New Business:

- A) James Holland – Code Enforcement Officer.
- B) Christmas decorations.
- C) Relevy unpaid village taxes.

Unfinished Business:

- A) Sewer rate increase.
- Reports from Standing Committees.
- Reports from Special Meetings.
- Authorize payment of bills; adjournment.

Village of Black River
Board of Trustees
Regular Meeting
October 1, 2018

DRAFT

Mayor Carpenter called the meeting to order and led the Pledge of Allegiance at 6:00 p.m.

Present:

Mayor Leland Carpenter
Trustee Francis Dishaw
Trustee Michael Caldwell
Trustee Gary McCullough
Trustee Corey Decillis
Superintendent Steven Lillie
Clerk-Treasurer Kristin Williams
Police Chief Steven Wood

A motion was made by Trustee McCullough, seconded by Trustee Dishaw to open the public hearing regarding the proposed sewer rate increase at 6:01 p.m. The motion was carried.

A motion was made by Trustee Decillis, seconded by Trustee Dishaw to approve the minutes of the September 10, 2018 meeting. The motion was carried.

Public Comments: Lieutenant Keith Benedict was present from Fort Drum. He stated that Fort Drum is interested in forming a partnership with the surrounding communities. He stated that they would be interested in assisting in community events. Trustee Caldwell thanked Lieutenant Benedict for his service.

Code Enforcement Report: Mayor Carpenter stated that letters had been sent and that the steps and siding have been repaired at 106-108 LeRay St. Police Chief Wood stated that a letter has been sent to Mr. Walck regarding his unregistered vehicles and that he was given thirty days to respond. Mayor Carpenter stated that a steel door at 102 W. Remington St. has been pried open. He stated that he would contact Jefferson County to see who is the current owner of the property.

The board agreed that Trustee McCullough and Trustee Caldwell would interview applicants for the Code Enforcement Officer position. Applications are due by Friday, October 5th.

Superintendent's Report: Superintendent Lillie stated that the NY State Department of Environmental Conservation did an inspection of the Black Fly program, he attended the stormwater coalition meeting, East Remington St. has been paved and the work on the shoulder completed. He stated that the pickup truck should be in on October 10th. Superintendent Lillie stated that he would like to advertise for a temporary public works employee to help with garbage and recycling. The board agreed.

Clerk-Treasurer's Report: Clerk-Treasurer Williams stated that water/sewer bills have been mailed, Jon Furgison from Furgison & Co. CPA assisted her in filing the Annual Financial Report to the State Comptroller. She stated that the annual financial audit has been scheduled for mid November.

Police Department Report: Police Chief Wood stated that he attended a Jefferson County Law Enforcement meeting where there was training regarding active school shooting and that he had completed his annual certification at the range.

Correspondence Received: Alyson Baker sent a letter withdrawing her interest in the Code Enforcement Officer position.

Correspondence Sent: Vina Bonner was sent a letter regarding the steps and siding at 106-108 LeRay St., email sent to Rt. 3 Sewer Board Members regarding the budget procedure.

The board discussed the sewer board procedure and agreed to leave the public hearing open.

Matt Carpenter, Chief of the Black River Fire Department was present to discuss the results of a complaint-based inspection from the Public Employee Safety and Health Bureau (PESH). Mr. Carpenter explained the violations and dates of compliance. He stated that policies and procedures have been updated and repairs have been made in order to resolve the majority of the violations.

Mayor Carpenter stated that Stewart's Shop would be holding its grand opening on Friday, October 5th at 11:00 a.m.

Superintendent Lillie stated that Jefferson County will be offering an incentive to purchase new portable radios at a discounted rate of approximately \$500 each and stated that he would like to purchase 2. He stated that in order to get the discounted price they must be ordered by December 1, 2018. The board discussed having one for each dpw employee.

A motion was made by Trustee Decillis, seconded by Trustee McCullough to purchase four radios at the discounted rate. The motion was carried.

A motion was made by Trustee Dishaw, seconded by Trustee Decillis to adopt the following resolution:

Resolved, that the following abstracts of audited vouchers be approved: interim abstract dated 9/27/28 in the amount of \$12,726.04 (General Fund: \$6,108.90 Water Fund: \$50.44 Sewer Fund: \$6,566.70) and regular monthly abstract dated 10/1/18 (General Fund: \$32,340.63 Water Fund: \$8,729.43 Sewer Fund: \$512.50). The motion was put to a vote as follows:

Mayor Carpenter	Yes
Trustee Dishaw	Yes
Trustee Decillis	Yes
Trustee Caldwell	Yes
Trustee McCullough	Yes

The motion was carried and the resolution duly adopted.

A motion was made by Trustee McCullough, seconded by Trustee Decillis to adjourn the meeting at 7:27 p.m. The motion was carried.

Respectfully submitted,

Kristin Williams
Clerk-Treasurer

Village of Black River
Board of Trustees
Special Meeting
October 9, 2018

DRAFT

Mayor Carpenter called the special meeting to order at 5:30 p.m.

Present:

Mayor Leland Carpenter
Trustee Francis Dishaw
Trustee Michael Caldwell
Superintendent Steven Lillie
Clerk-Treasurer Kristin Williams

Absent:

Trustee Corey Decillis
Trustee Gary McCullouch

Brian Nutting from the Development Authority of the North Country was present to explain the Route 3 Sewer Board budget.

Trustee Decillis entered at 5:37 p.m.

The board discussed the proposed sewer rates and the budget procedure.

The board discussed the Code Enforcement Officer position. Mayor Carpenter stated that we had only received one resume for the position.

A motion was made by Trustee Caldwell, seconded by Trustee Decillis to adopt the following resolution:

Resolved, that James Holland be hired for the position of part time Code Enforcement Officer with the salary of \$8,000 per year with a one-year probationary period. The motion was put to a vote as follows:

Mayor Carpenter	Yes
Trustee Caldwell	Yes
Trustee Decillis	Yes
Trustee Dishaw	Yes
Trustee McCullouch	Absent

The motion was carried and the resolution duly adopted.

Clerk Treasurer Williams stated that the state has provided a sexual harassment policy that must be adopted by all employers in New York state immediately and that training must be provided within a year and annually thereafter.

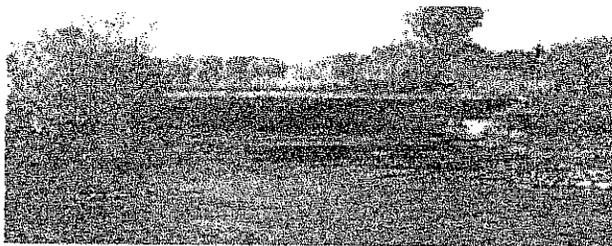
A motion was made by Trustee Caldwell, seconded by Trustee Dishaw to adopt the sexual harassment policy. The motion was carried.

A motion was made by Trustee Dishaw, seconded by Trustee Caldwell to adjourn the meeting at 6:18 p.m. The motion was carried.

Respectfully submitted,

Kristin Williams
Clerk-Treasurer

Board of Trustees
Village of Black River, New York



November 2, 2018

IBC Holdings Group LLC.
PO Box 306
Evans Mills, New York 13637

Sent Regular mail and Certified
Return Receipt Requested

RE: 102 W. Remington St, Black River, parcel number 15.00-5-2

To Whom It May Concern:

This letter is in reference to the above referred address and parcel number and a complaint that the Village has received regarding the property.

By receipt of this letter I must inform you that you are in violation New York State Property Maintenance Code. The property is in violation of Sections 304.2 and 304.15. The following violation exists at the property.

The metal on the door has not been maintained and is partially removed. This condition is no longer providing adequate security for the building. This door must be repaired or replaced so that it is providing security to your property.

These are violations of the Village of Black River Code and NYS Property Maintenance Code and you are hereby ordered to take corrective action immediately upon receipt of this letter. Failure on your part to make the repairs and correct the violations will result in the Village seeking legal action in your name in a court of competent jurisdiction.

If you should have any questions or concerns regarding this matter, please feel free to contact me at the Village Office.

Sincerely,

James Holland
Code Enforcement Officer

CC: United Realty and Development
Mayor and Village Board of Trustees

107 Jefferson Place
Black River, NY 13612

www.blackriverny.org

(315) 773-5721 Phone
(315) 773-5726 fax

Black River/Evans Mills Police Department



September 24, 2018

William Walck
152 Maple St.
Black River, NY 13612

Bill,

I've been tasked by the Village Board to address unregistered and junk vehicles throughout the village. I have been advised that you have a vehicle on your West St property.

Under section 128-5. paragraph F it states that "No owner or occupant of any property shall permit the storage of any junk vehicle(s) on his or her property, unless a permit for such storage has been issued by the Code Enforcement Officer". The vehicles if given such a permit must be in the rear of property and for no longer than 60 days. To my knowledge the vehicle on West St, a dump truck has been on property for an extensive amount of time.

If the situation is not remedied within 30 days of the date of this letter you may be issued an appearance ticket. Please note if you are found to be in violation by a court of competent jurisdiction you may be fined \$250 each week until the violation is corrected.

Thank you for your cooperation in this matter.

Sincerely,



Steven Wood
Police Chief

Black River/Evans Mills Police Department



October 25, 2018

William Walck
152 Maple St.
Black River, NY 13612

Bill,

This is a second notice in reference to your 119 West St address and the unregistered dump truck therein. On September 24, 2018 a letter was sent by this office in reference to an unregistered dump truck.

As of today's date the truck remains and no contact has been made to my office on the matter.

Under section 128-5. paragraph F it states that "No owner or occupant of any property shall permit the storage of any junk vehicle(s) on his or her property, unless a permit for such storage has been issued by the Code Enforcement Officer". The vehicles if given such a permit must be in the rear of property and for no longer than 60 days. To my knowledge the vehicle on West St, a dump truck has been on property for an extensive amount of time.

If the situation is not remedied within 30 days of the date of this letter you may be issued an appearance ticket.

Please note if you are found to be in violation by a court of competent jurisdiction you may be fined \$250 each week until the violation is corrected.

Thank you for your cooperation in this matter.

Sincerely,

Steven Wood
Police Chief

Board of Trustees
Village of Black River, New York



FACILITIES USE APPLICATION

Name Marylouise Hunt Today's Date 10/9/18
Organization Sally Ploof Hunter Memorial Library
Telephone # 315-773-5163 Date & Hours Requested Dec 8 - 3:00-7:00

Check Facility (ies) Requested:

Municipal Offices Meeting Room () Maple Street Park (✓)
Maple Street Recreation Building (✓)
Maple Street Pavilion ()

Other () (Please Specify) _____
*Certificate of Insurance provided? () Yes () No On file

Please give a brief description of planned activity: Cool Yule - Horse +
Wagon Rides, Santa, Cookies + Drink
(No Chili or Mac + Cheese) Trying to simplify
event

Statement of Responsibility

I/We agree to assume responsibility for the facility/grounds requested above. I/We will ensure that all buildings and/or grounds are clean, neat, and returned to the physical condition in which they were found. **No alcoholic beverages or glass containers are allowed on the premises.**

Marylouise Hunt
Signature

OFFICE USE ONLY

Approved () at the _____ Village Board Meeting
Disapproved () at the _____ Village Board Meeting
Reason for disapproval _____
Signature _____ Date _____

Any person with a disability who may need to make special arrangements to use the above facility (ies) may do so by calling the Black River Village Office at 773-5721 during business hours at least three days in advance of the planned activity.

Thank you.

107 Jefferson Place
Black River, NY 13612

www.blackriverny.org

(315) 773-5721 phone
(315) 773-5726 fax

Kristin Burroughs

From: Joseph Plummer <josephp@co.jefferson.ny.us>
Sent: 10 October, 2018 11:36 AM
To: Jefferson County Board of Legislators; firechiefs@co.jefferson.ny.us; Judy Brenon; Ginger Hall; Marty Morrison; Town Supervisors; Village Mayors
Cc: Mark Favret; Mike Ricci
Subject: [Village Mayors] Extension of System Discount on purchase of new radios

Good news to all.

I have been able to negotiate with Motorola to extend the system discount on the radios for new system. As I have put out there, radios needed to be ordered by December 1, 2018. The system discount has now been extended until June 30, 2019 which will allow for more agencies to attempt to budget for the radios.

All radios will be purchased through Wells Communications and please contact Mark Favret at 315-775-2026 or mfavret@wellscomm.com

You can also contact myself with any questions you have.

Joe

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Joseph D. Plummer
Director
Jefferson County Fire and Emergency Management
753 Waterman Dr.
Watertown, NY 13601
Office: 315-786-2654

Village of Lowville, NY
Monday, March 12, 2018

Chapter 201. Zoning

Article VI. Solar Energy Systems

§ 201-605. Small solar energy systems.

Small solar energy systems are permitted as an accessory use in all zones, in accordance with state and local building, electric and fire code requirements. A combined zoning, building and electrical permit may be issued for grid-tied solar electric systems that meet the requirements of the New York State unified solar permit. Small solar energy systems that do not meet those requirements shall require a zoning permit as well as all other applicable permits.

- A. A system is considered a small solar energy system only if it supplies electrical or thermal power primarily for on-site use, except that when a property upon which the facility is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company. The owner of the small solar energy system shall provide written confirmation with the application that the public utility company has been informed of the customer's intent to install an interconnected customer-owned generator and also approves such connection. Off-grid systems shall be exempt from this requirement.
- B. Any upgrades, modifications, or changes that materially alter the size or placement of an existing solar energy system shall comply with the provisions of this chapter.
- C. Design and installation.
 - (1) The design and installation of small solar energy systems shall conform to the existing industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratory (UL), the American Society for Testing and Materials (ASTM), New York State Energy Research and Development Authority (NYSERDA), or other similar certifying organizations, and shall comply with the Uniform Building and Fire Code and with all other applicable fire and safety requirements. The manufacturer's specifications shall be submitted as part of the application.
 - (2) All exterior electrical and/or plumbing lines must be buried below the surface of the ground and placed in a conduit unless the panels for electrical or thermal are installed on a structure that is either the main structure or a structure attached to the main structure which is receiving the benefit from the panels.
 - (3) Small solar energy systems shall be designed and located in order to prevent reflective glare toward any inhabited structure on adjacent properties as well as adjacent public streets, roads and highways.
- D. Height restrictions. Solar energy systems must meet the following requirements:
 - (1)

Building- or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zone. For purposes of height measurement, solar energy systems other than building integrated systems are considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices.

- (2) Ground- or pole-mounted solar energy systems shall not exceed 20 feet.
- E. Setback. Solar energy systems must meet the accessory structure setback requirement for the zone in which the system is located. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. Ground- or pole-mounted solar energy systems shall not be located in front yards.
- F. Plan applications. Plan applications for small solar energy systems shall be accompanied by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mounted system, including the property lines. Applicants must identify a qualified installer or provide proof that the system they propose to install has been designed as a so-called "plug and play" system so that the applicant can plug the system into an existing PV circuit.
- (1) Pitched-roof-mounted solar systems. For all roof-mounted systems on pitched roofs, the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted. Roof-mounted system applications shall include a roof load analysis performed by a structural engineer.
 - (2) Flat-roof-mounted solar systems. For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof. Roof-mounted system applications shall include a roof load analysis performed by a structural engineer.
- G. Utility notification. The owner of the small solar energy system shall provide written proof that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator and also that the utility approves of such connection. Off-grid systems shall be exempt from this requirement.

§ 201-610. Principal solar energy systems.

- A. A principal solar energy system shall be permitted by special use permit in the Auto Commercial (AC) and Industrial (I) Zones.
- B. Acreage. A proposed principal solar energy system may not be installed on a lot smaller than five acres.
- C. Height and setback. Panels mounted on the roof of any building will be subject to the height requirements specified for the underlying zone, but in no event shall they stand more than 10 feet above the roofline of the building. Ground- or pole-mounted solar energy systems shall not exceed 20 feet. Principal solar energy systems must comply with all minimum yard depth standards established for the underlying zone.
- D. Compliance. The construction and operation of a principal solar energy system shall comply with all applicable local, state, and federal requirements including but not limited to all safety, construction, electrical and communications requirements. All buildings and fixtures forming

part of the system shall comply with the Uniform Building and Fire Code. No principal solar energy system shall be constructed without first obtaining a building permit.

E. Application.

(1) Applicant shall provide:

- (a) A site plan showing property lines and physical features, including roads; proposed changes to the landscaping of the site, grading, vegetation clearing and planting, exterior lighting, screening, vegetation or structures; blueprints or drawings of the proposed system signed by a New York-licensed professional engineer showing the proposed layout of the system; electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices; documentation of the major system components to be used. All plans and maps shall be prepared and stamped by a professional engineer licensed in the State of New York.
- (b) Name and address of the proposed installer.
- (c) An operation and maintenance plan.
- (d) Proof of liability insurance or the ability to secure same in an amount adequate for the size, scope, and other details of the proposed project.

(2) The Planning Board may waive certain documentary requirements as it deems appropriate.

- F. Utility notification. The applicant will provide proof that the local utility company has been informed of the system owner or operator's intent to install an interconnected system. Off-grid systems shall be exempt from this requirement.
- G. Signage. The facility shall have a sign which provides a twenty-four-hour emergency contact telephone number.
- H. Utility connections. Where at all possible, utility connections and transmission lines shall be underground depending on soil conditions, topography, and requirements of the utility company permitting.
- I. Safety and environmental.
- (1) The system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request, the owner or operator will cooperate with local emergency services to develop an emergency response plan. All means of shutting down the system will be clearly marked. At all times during the life of the project, the owner or operator shall identify a responsible person for inquiries.
 - (2) Land clearing, soil erosion. Clearing of natural vegetation shall be limited to what is necessary for the construction and operation of the system or as otherwise governed by applicable law.
- J. Monitoring and maintenance. The system owner or operator shall maintain all facilities in good condition. Maintenance shall include but not be limited to painting, structural repairs, and integrity of security measures. Site access shall be maintained in an acceptable manner to local fire and emergency services departments.
- K. Abandonment or decommissioning. Any principal system which has reached the end of its useful life or has been abandoned, which shall mean failure to operate without consent of the Village Board, for more than one year, shall remove all facilities within 180 days of operations being

discontinued. Decommissioning shall consist of removal of all installations, structures, equipment, security barriers and transmission lines from the site. All solid and hazardous waste will be disposed of according to applicable law. Stabilization or revegetation of the site will be done as necessary to minimize erosion.

- L. Financial surety. Applicants shall provide prior to approval a form of surety through escrow account, bond, or otherwise in an amount sufficient to pay for removal of the installation and site remediation as set forth above in an amount and form determined to be reasonable by the Planning Board.

Town of LeRay, NY
Monday, March 12, 2018

Chapter 158. Zoning

Article XVII. Energy Systems

§ 158-127. Purpose.

The purpose of this article is to provide standards for energy systems designed for on-site home, farm, and small commercial use and that are primarily used to reduce on-site consumption of utility power. The intent of this article is to encourage the development of alternative energy systems while protecting the health, safety, and welfare of the public.

§ 158-128. Geothermal energy systems.

- A. Applicability.
- (1) Only closed-loop geothermal energy systems utilizing heat transfer fluids as defined in Article I are permitted. Open-loop geothermal energy systems are not permitted.
 - (2) Geothermal energy systems in public waters may be permitted in accordance with approval from the LeRay Town Board, subject to state and federal permits and water quality standards.
 - (3) Geothermal energy systems in water bodies owned or managed by the Town of LeRay are not permitted.
- B. Design standards.
- (1) All components of geothermal energy systems, including pumps, borings and loops, shall be set back at least five feet from side lot lines and at least 10 feet from rear lot lines.
 - (2) All borings and loops shall be set back at least 10 feet from the foundation of any structure, either on or off site.
 - (3) Aboveground equipment associated with geothermal energy shall not be installed in the front yard of any lot or the side yard of a corner lot adjacent to a public right-of-way and shall meet all required setbacks for the applicable zoning district.
 - (4) Geothermal energy systems shall not encroach on public drainage, utility roadway or trail easements.
 - (5) Geothermal heat pumps shall be screened to reduce noise levels as measured at the property boundary to 50 decibels or less.
 - (6)

In addition to screening for noise control, geothermal energy systems are considered mechanical equipment and are subject to screening by landscaping, fencing or other methods to enhance the view.

- C. Standards and certifications. Geothermal energy systems shall be certified by Underwriters' Laboratories, Inc., and shall meet the requirements of the New York State Building Code as adopted by the Town of LeRay.
- D. Abandonment.
 - (1) If a geothermal energy system remains nonfunctional or inoperative for a continuous period of 12 months, the system shall be deemed to be abandoned and shall constitute a public nuisance.
 - (2) Upon notice to the owner by the Zoning Enforcement Officer, within 180 days the owner shall remove the abandoned system at his/her expense after a hearing by the LeRay Town Board, in accordance with the following:
 - (a) The heat pump and any external mechanical equipment shall be removed.
 - (b) Pipes or coils below the land surface shall be filled with grout to displace the heat transfer fluid. The heat transfer fluid shall be captured and disposed of in accordance with applicable regulations. The top of the pipe, coil or boring shall be uncovered and grouted.
 - (c) Geothermal energy systems shall be completely removed from the bottom of any water body.
- E. Permits.
 - (1) A building permit shall be obtained from the Jefferson County Fire Prevention and Building Codes Department for any geothermal energy system prior to installation.
 - (2) Borings for vertical systems are subject to any and all required approvals and permits from the NYSDEC Division of Waters the New York State Department of Health.

§ 158-129. Small wind energy conversion systems (WECS).

- A. Applicability.
 - (1) Small WECS may be used primarily to generate on-site power or to reduce the off-site supply of electricity.
 - (2) Freestanding small WECS shall only be permitted in AR Zoning Districts upon issuance of a special use permit.
 - (3) Building-mounted and freestanding small WECS with a rotor swept area of 20 square feet or less and a height of 35 feet or less shall be permitted in CC, MU, MED, and AR Districts upon issuance of a special use permit.
- B. Approval. No small WECS shall be erected, constructed, installed or modified without first receiving a special use permit from the Planning Board, as outlined in Article XVI. All small WECS installed prior to the enactment of this article are exempt from the conditions herein; provided, however, that:
 - (1)

Any such preexisting small WECS which does not provide energy for a continuous period of 12 months shall meet the requirements of this section prior to recommencing production of energy.

- (2) No modification or alteration to an existing small WECS shall be allowed without full compliance with this section.
- (3) Wind energy facilities are an accessory use. A different existing use or an existing structure on the same site shall not preclude the installation of a small WECS or a part of such facility on such site.
- (4) Small WECS constructed and installed in accordance with this section shall not be deemed expansions of a nonconforming use or structure.

C. Procedure for review.

- (1) An application for a special use permit and site plan review for freestanding small WECS shall include the following requirements, in addition to those requirements pursuant to Articles XVI and XX:
 - (a) Ownership and land use information within a radius of 1,000 feet of the location proposed for each tower to be shown on the site plan.
 - (b) Location of the proposed small WECS, foundations, guy anchors, and associated equipment to be shown on the site plan.
 - (c) Location of important bird areas as identified by New York Audubon Society, other recognized habitats such as any nearby New York State wildlife management areas, any locally recognized priority habitat areas such as those set aside for bats, and any areas considered "sensitive." This may include but not be limited to areas such as bird conservation areas or areas covered under mitigation for species such as grassland birds and state-identified wetlands to be shown on the site plan.
 - (d) Setback requirements as outlined in this chapter to be shown on the site plan.
 - (e) Small WECS specifications, including manufacturer, model, rotor diameter, tower height, and tower type (freestanding or guyed).
 - (f) If the small WECS will be connected to the power grid, documentation shall be provided regarding the notification of the intent with the utility regarding the applicant's installation of a small WECS.
 - (g) Tower foundation engineering drawings stamped by a professional engineer licensed to practice in the State of New York.
 - (h) Sound level analysis prepared by the wind turbine manufacturer or qualified engineer.
 - (i) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code (usually provided by the manufacturer).
 - (j) Estimated costs of physically removing the small WECS to comply with safety standards.
 - (k) Evidence of compliance or nonapplicability with Federal Aviation Administration requirements.
 - (l)

The site plan must be stamped by a professional engineer licensed to practice in the State of New York.

- (2) An application for a special use permit and site plan review for building-mounted small WECS shall include all the requirements of Subsection C(1) above, except Subsection C(1)(g), and the following:
 - (a) Building connection details and engineering drawings stamped by a professional engineer licensed to practice in the State of New York.
 - (3) Prior to issuance of a special use permit, the applicant shall provide the Town proof of a level of insurance to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility.
- D. Application review process.
- (1) Applications for small WECS are deemed unlisted projects under SEQRA. The Planning Board may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said communities shall be part of the record of the Planning Board's proceedings.
 - (2) An application under this section is not deemed complete until a properly completed environmental assessment form (EAF) under the State Environmental Quality Review Act^[1] (or successor provision) has been submitted to the Planning Board, and:
 - (a) Lead agency has been established pursuant to the Environmental Conservation Law;
 - (b) A negative declaration or conditional negative declaration has been filed pursuant to the Environmental Conservation Law; or
 - (c) If it has been determined that the project may have a significant effect on the environment, a draft environmental impact statement has been accepted by the lead agency.

[1] *Editor's Note: See New York State Environmental Conservation Law § 8-0101 et seq.*
 - (3) The Planning Board will require a developer agreement for any engineering and legal review of application(s) and any environmental impact statements before commencing its review.
- E. Design standards. In addition to the special use permit review process as provided in Article XVI, the small WECS shall also be evaluated for compliance to the following standards:
- (1) Setback and area requirements.
 - (a) Freestanding small WECS shall be set back a distance, measured from the center of the tower base, at 1 1/2 times the total height of the tower from:
 - [1] Any public road right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road.
 - [2] Any overhead utility or transmission lines.
 - [3] All property lines.
 - [4] All dwellings.
 - [5] Any travel ways, to include but not be limited to driveways, parking lots, nature trails or sidewalks.

- [6] Other wind turbine towers, electrical substations, or meteorological towers.
- [7] Wind turbines shall be set back at least 1,000 feet from important bird areas, as identified by the New York Audubon Society, other recognized habitats such as any nearby New York State wildlife management areas, and any locally recognized priority habitat areas such as those set aside for bats and any areas considered "sensitive," which may include but not be limited to areas such as bird conservation areas or areas covered under mitigation for species such as grassland birds; and at least 500 feet from state-identified wetlands. These distances may be adjusted to be greater or lesser at the discretion of the reviewing body, based on topography, land cover, land uses, and other factors that influence the flight patterns of resident birds.
- (b) Guy wires used to support the tower are exempt from the small WECS setback requirements. However, the guy wires may not be located within or over a right-of-way without obtaining an easement.
- (c) No small WECS shall be installed or mounted less than 100 feet from the nearest dwelling as measured horizontally from the center of the rotor.
- (d) All small WECS shall require a minimum lot size of one acre for each turbine.
- (2) Height.
- (a) The total height for freestanding small WECS in AR Districts shall not exceed 100 feet; the total height for freestanding small WECS in the CC, MU and MED Districts shall not exceed 35 feet.
- (b) Building-mounted small WECS shall not be installed to a total height which exceeds the building height limitations for the given district.
- (3) Towers.
- (a) Freestanding wind turbines may only be attached to specifically designed and manufactured towers.
- (b) The applicant shall provide evidence that the proposed tower height does not exceed the height recommended by the manufacturer of the wind turbine.
- (c) Anchor points for any guy wires for a system tower shall be located within the property or easements that the system is located on and not on or across any aboveground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from three feet to eight feet above the ground.
- (4) Sound level. A small WECS shall be designed, installed, and operated so that noise generated by the system shall not exceed ambient (L_{90} measured with the turbine in operative) plus five decibels (dBA), as measured at the closest neighboring property line.
- (5) Safety.
- (a) To prevent harmful wind turbulence on existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a radius of 250 feet. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.
- (b)

All small WECS shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

- (c) Owners shall be instructed to provide one of the following means of access control or other appropriate method of access:
 - [1] Tower-climbing apparatus located no closer than 12 feet to the ground.
 - [2] A fence six feet high with a locking portal placed around the facility's tower base.
- (d) 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 rotating machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed in an unobtrusive manner on a system generator housing.
- (e) Any small WECS found to be unsafe by the local Zoning Enforcement Officer shall be repaired by the owner to meet federal, state and local safety standards or shall be removed within three months.
- (f) The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.
- (g) The system shall be operated such that no damage is caused by stray voltage. If it has been demonstrated that a system is causing stray voltage, the system operator shall promptly mitigate the damage or cease operation of the system.
- (6) Shadowing/flicker. Small WECS shall be sited in a manner that does not result in shadowing or flicker impacts in excess of one hour per day. The applicant has the burden of proving that this effect does not have a significant adverse impact on neighboring or adjacent uses, either through siting or mitigation.
- (7) Signs. All signs, both temporary and permanent, are prohibited on the small WECS, except as follows:
 - (a) Manufacturer's or installer's identification on the wind turbine.
 - (b) Appropriate warning signs and placards.
- (8) Code compliance. The small WECS shall comply with all applicable sections of the New York State Building Code and National Electric Code.
- (9) Agriculture and Markets compliance. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for WECS projects shall be adhered to both inside and outside of agricultural districts. This information can be found at: www.agmkt.state.ny.us, "Construction Projects Affecting Farmland."
- (10) Aviation compliance. The small WECS shall be built to comply with all applicable Federal Aviation Administration guidelines, including but not limited to 14 CFR Part 77, Subpart b, regarding installations close to airports, and the New York Aviation regulations. Evidence of compliance or nonapplicability shall be submitted with the application.
- (11)

Visual impacts. It is inherent that small WECS may pose some visual impacts due to the tower height needed to access the wind resources. The purpose of this section is to reduce the visual impacts without restricting the owner's access to the wind resources.

- (a) The applicant shall demonstrate through project site planning and proposed mitigation that the small WECS's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to, information regarding site selection, turbine design or appearance, buffering, and screening of ground-mounted electrical and control equipment. All electrical conduits shall be underground.
 - (b) The color of the small WECS shall either be the stock color from the manufacturer or painted with a white or off-white nonreflective, unobtrusive color that blends in with the surrounding environment.
 - (c) A small WECS shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small WECS.
- (12) Utility connection. If the proposed small WECS is to be connected to the power grid through net metering, the applicant shall provide written evidence that the electric utility service provider that services the proposed site has been informed of the applicant's intent to install an intermittent customer-owned electric generator.
- (13) Access.
- (a) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 - (b) All on-site electrical wires associated with the system shall be installed underground except for tie-ins to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the Planning Board if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
 - (c) Existing roads shall be used to provide access to the facility site, or, if new roads are needed, the amount of land used for new roads shall be minimized and the new roads shall be located so as to minimize adverse environmental impacts.
- (14) Approved wind turbines. The manufacturer and model of the wind turbine to be used in the proposed small WECS must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the State of New York, if available.
- (15) Clearing. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small WECS and as otherwise prescribed by applicable laws, regulations, and ordinances.
- F. Operations.
- (1) All small WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. "Operational condition" includes meeting all permit conditions.
 - (2) Should a small WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, the owner or operator shall remedy the situation

within 90 days after written notice from the Zoning Enforcement Officer to cure any deficiency.

- (3) An extension of the ninety-day period may be considered, but the total period may not exceed 180 days.
- G. Bonding requirements. Whenever any small WECS facility is constructed, the operator of the facility shall obtain and keep in force a performance bond payable to the Town of LeRay to cover the cost of removal of the facility. The performance bond shall remain in force throughout the time that the facility is located on the site. The amount of the bond shall equal 150% of the estimated costs of removal, as determined by the Zoning Enforcement Officer, or \$1,000, whichever is greater.
- H. Abandonment.
- (1) At such time that a small WECS is scheduled to be abandoned or discontinued, the applicant will notify the Zoning Enforcement Officer by certified United States mail of the proposed date of abandonment or discontinuation of operations.
 - (2) Upon abandonment or discontinuation of use, the owner shall physically remove the small WECS within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Zoning Enforcement Officer. "Physically remove" shall include but not be limited to:
 - (a) Removal of the wind turbine and tower and related above-grade structures.
 - (b) Restoration of the location of the small WECS to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the after-conditions.
 - (3) In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out of service for a continuous twelve-month period. After the 12 months of inoperability, the Zoning Enforcement Officer may issue a notice of abandonment to the owner of the small WECS. The owner shall have the right to respond to the notice of abandonment within 30 days from notice receipt date.
 - (4) The Zoning Enforcement Officer shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides reasons for the operational difficulty, provides a reasonable timetable for corrective action, and demonstrates that the small WECS has not been abandoned.
 - (5) If the owner fails to respond to the notice of abandonment or if after review by the Zoning Enforcement Officer it is determined that the small WECS has been abandoned or discontinued, the owner of the small WECS shall remove the wind turbine and tower at the owner's sole expense within 120 days of receipt of the notice of abandonment.
 - (6) If the owner fails to physically remove the small WECS after the notice of abandonment procedure, the Town shall have the authority to enter the subject property and physically remove the small WECS at the owner's sole expense.
- I. Violations; prior installations.
- (1) It is unlawful for any person to construct, install, or operate a small WECS that is not in compliance with this chapter or with any condition contained in the special use permit issued pursuant to this section.
 - (2) Small WECS installed prior to the adoption of this section are exempt.
- J. Penalties.

- (1) Any person owning, controlling or managing any building, structure or land who shall undertake a small WECS in violation of this section or in noncompliance with the terms and conditions of any permit issued pursuant to this section, or any order of the Enforcement Officer, and any person who shall assist in so doing, shall be guilty of an offense and shall be subject to a fine of not more than \$350 or to imprisonment for a period of not more than six months, or to both such fine and imprisonment.
 - (2) Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties up to \$350 for each violation, and each week said violation continues shall be deemed a separate violation.
 - (3) In addition to the penalties provided above, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this chapter. The violator will be held responsible for all legal fees, engineering fees and any other cost incurred by the Town in enforcing this chapter.
- K. Waiver provisions.
- (1) The Planning Board may, after a public hearing (which may be combined with other public hearings on small WECS so long as the waiver request is detailed in the public notice), grant a waiver from the strict application of the provisions of this section if, in the opinion of the Planning Board, the grant of said waiver is in the best interests of the Town of LeRay.
 - (2) The Planning Board may consider, as reasonable factors in evaluating any waiver of the terms of this section, the impact of the waiver on the surrounding area, including:
 - (a) The potential detriment to adjoining land.
 - (b) The benefit to the applicant.
 - (c) Feasible alternatives.
 - (d) The scope of the waiver.
 - (e) Whether the waiver is consistent with the objectives of this section.
- L. Exemptions for recognized farm operations seeking placement of small wind energy conversion systems within county-adopted, state-certified agricultural districts.
- (1) Farming operations, as the same are defined by § 301, Subdivision 11, of the New York State Agriculture and Markets Law, are, by operation of § 305-a of said law, exempt from the preceding subsections of this section.
 - (2) The exemption is limited to said operations located within county-adopted, state-certified agricultural districts as defined by the New York State Agricultural and Markets Law.
 - (3) The exemption shall release such recognized farm operations from the application of the following sections of § 158-129, Small wind energy conversion systems (WECS), as enacted above, to wit:
 - (a) Farming operations, as defined above, are exempt from the requirement to provide an engineered sound analysis and an estimate of the costs of physical removal as required by § 158-129C(1)(h) and (j).
 - (b) Farming operations, as defined above, are exempt from the requirement to provide proof of insurance as required by § 158-129C(3).

- (c) Farming operations, as defined above, are exempt from the requirements contained in § 158-129D in that such operations shall be considered a Type II action not subject to compliance with the State Environmental Quality Review (SEQR) nor subject to preparation of an environmental assessment form (EAF) according to guidelines published by the New York State Department of Agriculture. In addition, such operations shall be considered exempt from the requirement of developer agreement and public hearing as contained in the forenoted exempted sections.
 - (d) Farming operations, as defined above, are exempt from the requirement regarding important bird areas contained in § 158-129E(1)(a)[7].
 - (e) Farming operations, as defined above, are exempt from the requirement regarding the height requirement contained in § 158-129E(2)(b) so long as other operational standards and requirements of this section are fully met.
 - (f) Farming operations, as defined above, are exempt from the environmental review aspects (sound and visual), utility access and vegetation disturbance minimization requirements contained in § 158-129E(4), (6), (11), (13) and (15) so long as other operational standards and requirements of this section are fully met.
- M. Severability. Should any provision of this section be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this section as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 158-130. Solar energy systems.

A. Applicability.

- (1) All freestanding devices designated for direct collection of solar rays shall be required to obtain site plan approval pursuant to Article XX.
- (2) In determining compliance with these requirements, the Planning Board may be guided by other requirements of this chapter relevant to the applicable zoning district.
- (3) Passive or building-integrated solar energy systems are exempt from the requirements of this section and shall be regulated as any other building element.
- (4) Solar energy systems which occupy the lesser of one acre or 50% of the parcel area, measured by a single box bounding all system components, shall be considered solar farms and are required to obtain a special use permit pursuant to Article XVI.

B. Freestanding solar arrays.

- (1) Factors to be considered by the Planning Board in determining the siting requirements for freestanding solar installations under this section:
 - (a) The setbacks proposed and available in relation to other applicable setbacks for the zone within which the installation is proposed.
 - (b) The proposed height, width and dimensions of the installation and housing structures and whether the proposed installation is compatible with adjacent uses in terms of scale, siting, design, lighting and noise generation.
 - (c) The maximum surface area of the proposed installation in relation to the available lot size for the host parcel.

- (d) Energy load of the primary residence or buildings to be powered by the installation.
- (2) Minimum lot size for all freestanding solar arrays is 20,000 square feet.
- C. Design standards.
 - (1) Freestanding.
 - (a) All freestanding installations shall be screened with an appropriate combination of natural vegetative buffer, landscaping, or other such screening as the Planning Board shall determine, and installations shall be sited so as to minimize significant adverse visual and/or auditory impacts.
 - (b) All freestanding devices shall be in architectural harmony so that, in the opinion of the Planning Board, such devices shall not cause effects contrary to other provisions of this chapter relevant to the applicable zoning district.
 - (c) In nonagricultural zoning districts, freestanding solar energy systems are limited to the rear yard. In agricultural zoning districts, freestanding solar energy systems may be permitted in side yards on corner lots greater than 300 feet in width.
 - (d) Freestanding solar energy systems, including any appurtenant equipment, shall be set back a minimum of 15 feet from all property lines and a minimum of 30 feet from all dwellings located on adjacent lots.
 - (e) In R-1 Districts, freestanding solar energy systems shall not exceed 25% of the rear yard as measured from the rear plane of the principal structure perpendicular to the corresponding side and rear yard lot lines. In all other districts, freestanding solar energy systems shall not cause a parcel to exceed the district's maximum permitted impervious surface coverage.
 - (f) Freestanding solar energy systems shall not exceed eight feet in height.
 - (2) Building-mounted.
 - (a) Building-mounted solar energy systems shall comply with the maximum height requirements in the applicable zoning district.
 - (b) Building-mounted systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted.
 - (c) Building-mounted solar collectors shall be mounted parallel to the supporting roof or wall.
 - (d) All building-mounted solar energy systems shall use colors that blend with the color of the roof or other structure, where possible.
 - (3) Other.
 - (a) The Planning Board may require visual simulations sufficient to determine potential visual impacts during the review process, as well as other information reasonably necessary in the Board's discretion.
 - (b) Reflective angles from collector surfaces shall be oriented away from adjacent structures and roadways. Where applicable, screening may be required by the Planning Board to mitigate potential negative impacts associated with reflective glare.

- (c) The electrical collection system shall be placed underground within the interior of each parcel. The collection system may be placed overhead near substations or points of interconnection to the electric grid.
- D. Standards and certification.
- (1) Solar energy systems (photovoltaic) shall meet the minimum standards outlined by the International Electrotechnical Commission (IEC), the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE), ASTM International, British Standards Institution (BSI), International Organization for Standardization (ISO), Underwriters' Laboratories, Inc. (UL), the Solar Rating and Certification Corporation (SRCC), or other standards as determined by the Town of LeRay Town Board.
 - (2) Solar energy systems shall be certified by Underwriters' Laboratories, Inc., or the National Renewable Energy Laboratory, the Solar Rating and Certification Corporation or other body as determined by the Town of LeRay Town Board. The Town reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.
- E. Utility connection. All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect must be provided if required by the utility.
- F. Abandonment.
- (1) If the solar energy system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at his/her expense after being notified by the Zoning Enforcement Officer.
 - (2) Removal includes the entire structure including transmission equipment. Removal shall be completed within six months after notification by the Zoning Enforcement Officer.
- G. Permits. A building permit shall be obtained for any solar energy system prior to installation.
- H. Solar rights.
- (1) Pursuant to Chapter 263 of New York Town Law and Article I, § 158-3, of this chapter, all parcels within the Town of LeRay shall be permitted to enjoy access to direct sunlight.
 - (2) No structure shall be constructed or vegetation installed that limits direct solar access across more than 50% of the ground surface on adjoining lots to less than six hours per day on any day of the year.