

July 13, 2022

MINUTES

**REGULAR MEETING – EDEN TOWN BOARD**  
**2795 East Church Street**  
**Eden, NY 14057**  
**July 13, 2022 7:00 P.M.**

This meeting was held in-person and virtually through GoToMeeting.com. The meeting link was made available to the public prior to the meeting.

**TOWN BOARD MEMBERS PRESENT:**

MELISSA HARTMAN - SUPERVISOR  
RICHARD VENTRY - COUNCILPERSON  
SUSAN WILHELM - COUNCILPERSON  
GARY SAM - COUNCILPERSON  
MICHAEL BYRNES - COUNCILPERSON

**DEPARTMENT HEADS PRESENT:**

Dave Rice - Code Enforcement Officer  
Scott Crowe - East Eden Fire Chief  
Matthew Colvin - Eden Fire Chief

**OTHERS PRESENT:**

William Trask - Town Attorney  
Marlene Grunder - Administrative Assistant  
Lisa Winter - Bookkeeper  
Shannon Sam - Deputy Clerk

Supervisor Hartman called the Regular Meeting of the Eden Town Board to order at 7:03 P.M.

**Pledge of Allegiance**

**Approval of Minutes:**

**#138-2022: MOTION** was made by Supervisor Hartman to approve the Town Board Minutes of June 8, 2022 as presented; seconded by Councilperson Byrnes; Ayes: All; Opposed: None; Abstain: None; Motion carried.

Supervisor Hartman asked if there were any additions or corrections; there were none.

**Petitions:** Residents on Sauer Road submitted petition for request to become a water district; 14 residents on road 6 in favor.

**Budget Transfers:**

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From Account	To Account	Reason for Amendment	Amount
SW917 Water Fund Balance	SW8320.4 Water - Maintenance	Fund Balance for Emma Filing Fees and Town Water Well Taxes	\$2,008.30
SL5182.4 Street Light - Contractual	SL5182.2 Street Light - Equipment	Legal Notice and EMMA Filing for Street Light Borrowing	\$409.00
SL5182.4 Street Light - Contractual	SL.1989.4 Tax Refund to County	Correction to Account Distribution of Tax Refund to County	\$3.90
A4089 Federal Aid - Other	A6510.4 Veterans Services	ARPA Funds for Legion Roof Project as approved at	\$15,000.00
A7310.4 Youth Programs	A7110.4 Parks & Grounds - Contractual	Baseball, Lacrosse & Soccer Stipends used for Field Marking Paint	\$1,500.00

**#139-2022: MOTION** was made by Councilperson Wilhelm to approve the Budget Transfers and as presented; seconded by Councilperson Ventry; Ayes: All; Opposed: None; Abstain: None; Motion carried.

**Audit Bills:**

DESCRIPTION	VOUCHER NUMBERS	AMOUNT
General Fund	398-467	\$79,251.86
Fire Dept. Fund	129-157	\$15,293.73

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Recreation Fund	83-106	\$8,338.37
Water Fund	9-10	\$2,015.00
Street Lights Fund	23-27	\$1,251.61
Refuse Fund	12	\$47,307.77
Highway Fund	162-188	\$57,883.43
Capital Fund H8230.405 H8320.406 H8302.407	No Activity No Activity No Activity	
Drainage District SD 4	No Activity	

**#140-2022: MOTION** was made by Councilperson Ventry to approve the Audit of Bills as presented; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

**Departmental Reports:**

Department reports for the month of July 2022 were submitted by Scott Crowe, East Eden Fire Chief; Matt Colvin, Eden Fire Chief; Susan Johnson, Assessor; Greg Savage, Eden Police Chief; Emily Hawkins, Town Clerk; Dave Rice, Code Enforcement Officer; Amy Porter, Recreation Director; Nick Blaszczyk, Dog Control Officer, & Joseph Ghosen. All reports are on file in the Town Clerk's office.

**Public Comment on Agenda Items Only:** There were none.

**New and Unfinished Business:**

**1. Recognition of Robert Stickney and Ronald Salzman for 60 years of service to the Eden Fire Department:**

**RESOLUTION IN HONOR OF  
ROBERT STICKNEY**

*WHEREAS, Robert Stickney has served the Town of Eden residents as a volunteer for the Eden Fire Department for 60 years being elected to the department in August of 1962, and*

*WHEREAS, he has served our town honorably, and*

*WHEREAS, Robert has held the following positions;*

- *Trustee, 1982 - 1984*
- *Vice President, 1996 - 1998*
- *President, 1999 - 2001*
- *Vice-Chair for Board of Directors 1999 - 2010, and*

*WHEREAS, Robert became a Life Member Active Status on March 11, 1996, and*

*WHEREAS, he has served on various committees over his years with the department including the Building Committee, Fund Drive Committee, Policy Committee, Truck Committee, and the Corn Festival Committee, and*

*WHEREAS, Robert served as the Town of Eden's Disaster Coordinator from 1999 until 2020 where he assisted Emergency Services, including the Eden Fire Department during countless emergencies, storms, floods and even a pandemic, and*

*WHEREAS, he is known for his vast knowledge of the Town of Eden and even considered a "local expert" in all things Eden, and*

*WHEREAS, Robert's dedication to both his Town and Fire Department are greatly appreciated and the Town will be forever grateful for his contributions, and*

*WHEREAS, Robert was honored with a proclamation by the Eden Town Supervisor in a special ceremony on June 12, 2022 where June 13, 2022 was proclaimed as Robert Stickney Day in Eden, New York,*

**NOW, BE IT RESOLVED,** that, by act of the Eden Town Board at a meeting on July 13, 2022, recognizes and honors Robert's over 60 years of services to the Eden Fire Department and commends his contributions to his Town and the safety of its residents.

**RESOLUTION IN HONOR OF  
RONALD SALZMAN**

*WHEREAS, Ronald Salzman has served the Town of Eden residents as a volunteer for the Eden Fire Department for 60 years being elected to the department in May of 1962, and*

*WHEREAS, he has served our town honorably, and*

*WHEREAS, Ronald has held the following positions;*

- *2<sup>nd</sup> Lieutenant, 1968-1969; 1<sup>st</sup> Lieutenant, 1970; Captain, 1971*
- *2<sup>nd</sup> Assistant Chief, 1972-1974; 1<sup>st</sup> Assistant Chief, 1975-1977*
- *Chief, 1978-1980*
- *Trustee, 1981-1983; Vice President, 1990-1992; President 1993-1995 and 2011-2013, and*

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*WHEREAS, Ronald became a Life Member Active Status on April 20, 2002, and*

*WHEREAS, he has served on various committees over his years with the department including the Building Committee, Chicken BBQ Committee, Fund Drive Committee, Policy Committee, the Selden "Antique" Fire Truck Committee, the Corn Festival Committee Chairman to assist with the success of the Eden Fire Department's largest annual fundraiser and*

*WHEREAS, while Ronald served as Chief, he recognized a great need to improve fire calls and so oversaw the transition from Angola Fire Dispatch to Hamburg Dispatch, and*

*WHEREAS, he is known to not only have served on various roles within the Eden Fire Department, he is noted to have served with great importance, enthusiasm and commitment, and*

*WHEREAS, Ronald's many contributions to the Town of Eden including the Eden Fire Department are greatly appreciated, and*

*WHEREAS, Ronald was honored with a proclamation by the Eden Town Supervisor in a special ceremony on June 12, 2022 where June 12, 2022 was proclaimed as Ronald Salzman in Eden, New York,*

**NOW, BE IT RESOLVED**, that, by act of the Eden Town Board at a meeting on July 13, 2022, recognizes and honors Ronald's over 60 years of services to the Eden Fire Department and commends his contributions to his Town and the safety of its residents.

The Eden Town Board publicly recognized both Robert Stickney and Ronald Salzman for their honorable services and many contributions. Both men have served the Town of Eden residents as volunteers for the Eden Fire Department since 1962.

## **2. Proposed Local Law – Regulating Land Use in the Town of Eden, Amending the Eden Zoning Law:**

Supervisor Hartman read the SEQRA Notice, Lead Agency Designation and Determination of Significance for Town of Eden Code Amendments. This negative declaration is related to agenda items 2 through 6.

### SEQRA NOTICE LEAD AGENCY DESIGNATION AND DETERMINATION OF SIGNIFICANCE FOR TOWN OF EDEN CODE AMENDMENTS

**Whereas**, the Eden Board is the responsible authority for amendments and changes to the Town Code, including zoning; and

**Whereas**, an internal Town committee, in conjunction with the Town's Planning Consultant, CPL (the "Consultant"), has developed amendments to the zoning code in accordance with the Town's Comprehensive Plan, **Cultivate Eden**; and

**Whereas**, the proposed amendments have been developed in line with funding provided by Erie County as part of a 2020 Agricultural Protection program; and

**Whereas**, the amendments have been referred to the Planning Board for review pursuant to §225-48 of the Town Code and comments have been received and incorporated accordingly; and

**Whereas**, in accordance with the provisions of 6 NYCRR Part 617 (SEQRA), the project is determined to be a Type 1 Action and the Eden Board intends to serve as Lead Agency to determine if the proposed action will have a significant effect on the environment; and

**Whereas**, the Eden Board previously adopted a resolution declaring its intent to act as Lead Agency for the review of this Type 1 Action and no Involved Agencies challenged the Lead Agency status of the Eden Board.

**Now Therefore Be It Resolved** that based upon examination of the Environmental Assessment Form (EAF), its own independent analysis of the Proposed Action, and comparison with the criteria for determining significance under 6 NYCRR 617.7, the Eden Board finds that the Proposed Action will not have a significant environmental impact and hereby issues a Negative Declaration; and

**Be it Further Resolved** that this determination is based on the facts and conclusions as noted in the attached EAF.

**#141-2022: MOTION** was made by Supervisor Hartman approve resolution as presented; seconded by Councilperson Ventry; Ayes: all; Opposed: None; Abstain: None; Motion carried.

**#142-2022: MOTION** was made by Supervisor Hartman to adopt the Local Law Regulating land use in the Town of Eden amending Chapter 225 Zoning of the Town of Eden; seconded by Councilperson Ventry; Ayes: all; Opposed: None; Abstain: None; Motion carried.

\*\*The Local Law in its entirety can be found in the Eden Town Code: <https://ecode360.com/ED1729>

## **3. Proposed Local Law – amending town of Eden Code Chapter 184 (Subdivision of Land):**

### **§ 184-22 Clustered Development.**

A. **Purpose.** A cluster (or conservation) development is a subdivision development approach in which building lots may be reduced in size and building units sited closer together, usually grouped into various cluster areas, provided that the total development density does not exceed that which could be constructed on the site if the land were subdivided into lots conforming to the minimum lot size and density requirements of Chapter 225 (Zoning). This type of development is intended to several one or

more of the following:

- (1) Better protection of natural and scenic resources identified in the Master Plan and/or Chapter 225 (Zoning), than would be provided by a conventional subdivision plan;
- (2) Compatibility with surrounding land uses and the Town's traditional land use pattern of open space and farmlands with development encouraged in the hamlets;
- (3) Provision of adequate buffers for adjoining properties;
- (4) Contribution to Town-wide open space planning by creating a system of permanently preserved open spaces, both within large parcels of land and among such parcels throughout the Town, providing linkages between existing open space areas and, where appropriate, linkages to hamlet areas;
- (5) Provision of a broader range of housing types and potentially lowering housing prices by reducing the length of roadways and other critical infrastructure costs;
- (6) Preservation of land suitable for agriculture, particularly where development involves or borders active agricultural land or land with prime or important agricultural soils;
- (7) Greater flexibility and creativity in the design of residential subdivisions, provided that the overall density of development is no greater than what is normally allowed in the district.

**B. Authority.** Authorization for such type of development is granted to the Town of Eden Planning Board in accordance with §278 of New York State Town Law to vary the zoning requirements as to lot use, lot width, yard and other bulk requirements as requested by an applicant in connection with a proposed subdivision plat. Such variations shall result in a cluster subdivision and may be applied in any zoning district. The Planning Board is further authorized under §278 of the New York State Town Law to require the use of the cluster concept when it finds that the intention of this chapter and Chapter 225 (Zoning), to preserve significant open space resources and protect important natural resources, will be accomplished. The Planning Board may require the use of the cluster concept when one or more of the following conditions exist:

- (1) Important ground or surface waters, wetlands, floodplains, steep slopes, unique or locally important natural or historical areas exist on the parcel.
- (2) The number or length of new roads or driveways obtaining access from existing roads will be reduced.
- (3) Agricultural soils of state or local importance exist on the parcel.
- (4) An active agricultural operation or cropland exists on the parcel.
- (5) Preservation of important views or community open space will be ensured.
- (6) The land to be developed is contiguous to a recreational area(s), parkland or permanently protected open space or has the potential to be converted to such uses.
- (7) The specific goals and policy recommendations of the Master Plan will be accomplished.
- (8) Significant environmental impacts identified through the State Environmental Quality Review Act (SEQR) may be mitigated.

**C. Number of dwelling units permitted.** The maximum permitted number of dwelling units and/or building lots shall be determined by dividing the land area of the subject property by the normal minimum required lot area for dwellings for said district. In circumstances where the building plan falls within two or more zoning districts with differing density requirements, the Planning Board may approve in any one such district a cluster development representing the cumulative density as derived from the summing of all units allowed in all such districts. However, prior to determining the number

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of dwelling units and/or building lots, the parcel to be developed shall be adjusted as follows:

- (1) Lands utilized by public utilities or structures or recorded easements or rights-of-way shall be subtracted from the total gross area.
- (2) Water bodies, marsh areas, designated wetlands, alluvial, poorly drained, very poorly drained, unstable soils and floodplains shall be subtracted from the total gross area in accordance with the definition of "lot area" in Chapter 225, Zoning, § 225-4.
- (3) Any other areas deemed unfavorable (unusable/unbuildable) by the Planning Board because of topographic, geologic or hydrological characteristics and slopes in excess of 15% shall be subtracted from the total gross area.
- (4) For the purpose of providing land for public streets, after deductions have been made in accordance with Subsection C(1), (2) and (3) above, 10% of the remaining area shall be subtracted from the total gross area.
- (5) The adjusted total gross area of the parcel, as determined in Subsection C(1), (2), (3) and (4) above, shall then be used to compute the maximum number of dwelling units and/or building lots permitted.
- (6) In the Agricultural Priority (AG), Parkland (PK), and Creekside Open Space Overlay Districts, the Planning Board shall require that 75% of the land area obtained after the deductions in accordance with Subsection C(1), (2), (3) and (4) of this section shall be maintained as open space. In all other districts in which residential subdivisions are permitted, the relevant percentage shall be 50%. The developer will propose the area to be maintained as open space, subject to the approval of the Planning Board.

**D. Types of dwelling units permitted.** The type of dwelling unit permitted within a cluster development shall be that which is permitted according to zoning regulations. The Planning Board may require perspective drawings of all proposed structures to ensure innovation and variety in the design and layout of dwellings.

**E. Permitted reductions.**

- (1) After deductions have been made in accordance with Subsection C(1), (2), (3) and (4) and after the deduction for open space has been made, the resulting area shall be divided by the number of permitted building lots to obtain the average building lot size. No lot in the subdivision shall be less than 80% of the average clustered building lot size. Front yard setback requirements and side and rear yard requirements may be reduced up to 50%. Lot width may be reduced up to 50%. In no case shall a lot be less than 60 feet in width.
- (2) Lots for attached dwellings, semiattached dwellings, townhouses and multiple dwellings shall not be reduced for cluster development.
- (3) Lots may be reduced to no smaller than the minimum required by Erie County Health standards for private septic systems if no public sewer is available unless alternative options are pursued, such as, but not limited to, package treatment facilities or community wastewater systems.

**F. Ownership of entire area required.** The area for cluster development shall be in a single ownership or under unified control throughout the review process, inclusive of filing the Map Cover in the Erie County Clerk's Office.

**G. Service by sewer and water systems required.** Within a cluster subdivision, water supply and sewage disposal shall be provided as follows:

- (1) All buildings with plumbing fixtures shall be serviced by a public sanitary sewer or, when approved by the authority having jurisdiction, a private sewage disposal system.
- (2) All buildings with plumbing fixtures shall be provided with potable water from a public water

supply system or an approved source of private water supply.

**H. Areas of open space.**

- (1) All land within a cluster development which is not designed to serve as residential areas, roads or for other public/private utility needs shall be set aside and form part of the common open space, recreational land, and/or protected agricultural land. Resubdivision and/or development of such areas shall be prohibited. These areas shall be identified on the plat.
- (2) Areas deducted from total gross area pursuant to § Subsection **C(1), (2) and (3)** shall also form part of the common open space.
- (3) Adequate active year-round recreation facilities, such as tennis courts, swimming pools, play lots and fields, or accessible trails, may be required if deemed necessary by the Planning Board during the course of site plan and/or subdivision review. The extent and type of facilities will depend upon the size and nature of the development. The applicant shall also be responsible for a recreation fee as determined by the Town's Recreation Fee Schedule.
- (4) Subject to Chapter **225, Zoning, § 225-33**, common open space or recreation land shall be deeded to a Homes Association responsible for the continued ownership, use and maintenance of all common lands. Such deeds shall be reviewed by the Town Attorney and approved by the Planning Board. Lands set aside to be utilized for continued agricultural use shall be protected through a conservation easement and may include an option to be converted to other open space or recreational uses, subject to Town Attorney review.
- (5) The conditions to be met relative to a Homes Association to be approved by the Town Board and Town Attorney are stated in Chapter **225, Zoning, § 225-33, Clustered open space.**

**I. Road frontage clusters.** Developers of road frontage lots should also strongly consider the usage of cluster-type development guidelines. This will help to preserve the rural character of the Town and important environmental and scenic features. These road frontage cluster developments can take place without the construction of roads, but can use creative lot layouts to achieve the preservation of rural character and of important town resources (see Town Master Plan and Natural Resource Inventory). This is especially important in the development of the frontage lands along the Town's highways.

- (1) Number of dwelling units permitted. This calculation is the same as in Subsection **C** above, except that Subsection **C(4)**, the ten-percent reduction for roads, is omitted.
- (2) Subsections **D, E, F and G** (as amended) regarding clustered open space will also apply to road frontage clusters.
- (3) In laying out a cluster development for road frontage lots, the applicant must consider the preservation of the important open space, environmental and scenic qualities of the land.
- (4) Creativity and flexibility in site design shall be encouraged, including variation in building setbacks, the utilization of conservation easements, deed restrictions, flag lots, common driveways, open development area designation and others.
- (5) Refer to the Town's Rural Development Guidelines for additional direction on these types of cluster developments.

**J. Siting Guidelines.** Within a cluster development, lots shall be laid out so that dwelling units will be located in a manner that carries out the goals of the Town's Master Plan and consistent with the purpose of Chapter 225 (Zoning). The following siting guidelines are to be considered, when applicable, on a case-by-case basis by the Planning Board:

- (1) On the least fertile soils for agricultural uses, and in a manner which maximizes the usable area remaining for such agricultural uses;
- (2) Within any woodland contained in the parcel, or along the far edges of the open fields (to reduce

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impact upon agriculture, to provide summer shade and shelter from winter wind and to enable new construction to be visually absorbed by natural landscape features);

- (3) To provide permanent protection for significant natural, historic or cultural features identified on the site;
- (4) To minimize the number of driveways with access to existing roads;
- (5) In such a manner that the common boundary between the house lots and any active farmland is minimized in length (to reduce potential conflicts);
- (6) In locations least likely to block or interrupt scenic vistas as seen from the public roadway(s) or other public vantage points;
- (7) In locations where the greatest number of units could be designed to take maximum advantage of solar heating opportunities; and
- (8) In cluster developments exceeding 20 dwelling units, the Planning Board shall consider the layout of smaller groupings, each having some open space immediately surrounding it, so that large concentrations of units with little or no differentiation can be avoided, and so that cluster development will be more compatible with the neighborhood in which it is located.

**K. Procedures.** In addition to the application requirements outlined in Chapter 225 (Zoning) and Chapter 184 (Subdivisions), the applicant requesting approval for a cluster subdivision shall submit the following information to the Planning Board:

- (1) A written statement describing the open space purpose(s) to be accomplished as well as the proposed method of preservation and disposition of the open space land.
- (2) A sketch plan satisfying all of the requirements for preapplication approval of a subdivision map.
- (3) Any additional information the Planning Board deems necessary to assist in making a reasonable decision on the application.

**#143-2022: MOTION** was made by Supervisor Hartman adopt the Local Law for Subdivision of Land amending Chapter 184 of the Town of Eden Code; seconded by Councilperson Wilhelm; Ayes: all; Opposed: None; Abstain: None; Motion carried.

#### **4. Proposed Local Law – amending town of Eden Code Chapter 172 (Solar Energy Systems):**

#### **A LOCAL LAW AMENDING TOWN OF EDEN CODE CHAPTER 172 (SOLAR ENERGY SYSTEMS) TO IMPLEMENT PROVISIONS OF THE NEW TOWN OF EDEN COMPREHENSIVE PLAN**

**Be it enacted by the Town Board of the Town of Eden as follows:**

**Section 1. Chapter 172 of the Town of Eden Code (Solar Energy Systems) is hereby repealed and replaced with the following:**

#### **Chapter 172 Solar Energy Systems**

##### **§ 172-1 Purpose.**

The Town Board of the Town of Eden adopts this chapter to accommodate the use of solar energy systems and to regulate the placement of solar energy systems so that the public health, safety, natural resources, and aesthetics of the Town and its residents will not be jeopardized.

##### **§ 172-2 Findings.**

- A. The Town Board of the Town of Eden finds and declares that solar energy is an abundant, renewable and nonpolluting energy resource of the Town and that its conversion to electricity will reduce our dependence on nonrenewable energy sources. Therefore, the Town of Eden intends to accommodate the use of solar energy systems.
- B. However, regulation of the siting, installation and use of solar energy systems is necessary for the purpose of protecting the health and safety of neighboring property owners and the general public, and the aesthetics of the community. These regulations are in place to balance the need to improve energy sustainability through increased use of solar energy while preserving the public health, welfare, and safety, as well as environmental quality, visual and aesthetic values, and existing neighborhood's social and ecological stability. Further; the intent is to minimize any adverse impacts on the character of the neighborhoods, property values, scenic, traffic safety, historic and environmental resources of the Town.

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- C. In addition, solar energy systems need to be regulated for removal when they are no longer utilized or are out of compliance with the requirements of this chapter.

**§ 172-3 Definitions.**

The following definitions shall apply to this chapter:

**AGRICULTURAL DUAL-USE**

Also referred to as “dual-use” or “agrivoltaic,” this involves the practice of co-locating solar photovoltaic panels on farmland in such a manner that primary agricultural activities including animal grazing, crop or vegetable production can continue simultaneously on that farmland. Installations shall be regulated depending upon generation capacity as defined herein.

**APPLICANT**

The person or entity filing an application and seeking an approval under this chapter; the owner or operator of a solar energy system or a proposed solar energy system; or any person acting on behalf of an applicant, solar energy system or proposed solar energy system. Whenever the term "applicant" or "owner" or "operator" is used in this chapter, it shall include any person acting as an applicant, owner or operator.

**BUILDING-MOUNTED SOLAR ENERGY SYSTEMS**

A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

**COLLECTIVE SOLAR**

Solar installations owned collectively through subdivision homeowner associations or similar groups. Collective solar installations shall be regulated depending upon generation capacity as defined herein.

**FARMLAND OF STATEWIDE IMPORTANCE**

Land, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM**

A solar energy system that is affixed to the ground either directly or by support structures or other mounting devices. Said system is an accessory structure.

**ROOFTOP-MOUNTED SOLAR ENERGY SYSTEM**

Any solar energy system that is affixed to the roof or top surface of a building or is wholly contained within the limits of the roof or top surface, including roofing materials such as shingles and tiles.

**NATIVE PERENNIAL VEGETATION**

Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

**POLLINATOR**

Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

**PRIME FARMLAND**

Land, designated as “Prime Farmland” or “Prime if drained” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

**SOLAR ENERGY SYSTEM**

Solar-energy-producing structures, equipment or devices used for the production of heat, light, cooling, electricity or other forms of energy, and which may be attached to or separate from the principal structure on a lot. For the purposes of this chapter, a solar energy system does not include any solar energy system of four square feet in size or less.

**SOLAR PANEL**

A photovoltaic device capable of collecting and converting solar energy into electricity.

**UTILITY-SCALE SOLAR ENERGY SYSTEM**

Any solar energy system that is capable of producing greater than 25kw of electricity per hour.

**§ 172-4 Use districts where allowed.**

Subject to the provisions of this chapter, solar energy systems shall be allowed as follows:



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- A. All solar energy systems capable of producing 25kw of electricity per hour or less are permitted in all zoning districts in the Town.
- B. Utility-scale solar energy systems are only permitted in an Agricultural Priority (AP), Rural Residential (RR), and Light Industrial (LI) District; provided, however, that no utility-scale solar energy system is permitted on any property in the MS4, floodplain or creekside overlay areas.
- C. Any inconsistent provisions of the Zoning Law which purport to or may be interpreted to allow solar energy systems in other districts are hereby superseded.

**§ 172-5 General regulations.**

The placement, construction, and major modification of all solar energy systems within the Town of Eden shall be permitted only as follows:

- A. All solar energy systems require a building permit.
- B. Utility-scale solar energy systems shall be permitted only by special use permit by the Town Board of Eden in use districts where allowed, in accordance with the criteria established in this chapter, after compliance with SEQRA, upon concurrent site plan approval issued by the Town of Eden Planning Board, and upon issuance of a building permit by the Town of Eden Building Department, and shall be subject to all provisions of this chapter.
- C. All solar energy systems existing on the effective date of this chapter shall be allowed to continue usage as they presently exist. Routine maintenance shall be permitted on such existing systems. New construction other than routine maintenance shall comply with the requirements of this chapter.
- D. No solar energy system shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with this chapter.
- E. Any applications (including variance applications) pending for solar energy systems on the effective date of this chapter shall be subject to the provisions of this chapter.
- F. This chapter shall take precedence over any inconsistent provisions of the Town of Eden Code.

**§ 172-6 General criteria.**

- A. All solar energy systems shall comply with all applicable federal, state, county and Town of Eden laws, regulations and building, plumbing, electrical and fire codes. In addition, all solar energy systems shall be labeled with a permanent four-inch-by-six-inch red sign with white lettering next to the electric meter stating, "Solar on Site." The Code Enforcement Officer shall notify the Fire Departments of all solar energy system permits.
- B. Building Integrated solar energy systems. These systems shall be shown on the plans submitted for the building permit application for the building containing the system.
- C. Rooftop-mounted solar energy systems shall not exceed a maximum height of two feet from the existing roof or top surface of a building. There shall be a minimum three (3) foot wide clear access pathway from the eave to the ridge on each roof slope (pitched), between the solar panels and roofline (flat), between solar panels and roof-mounted mechanical equipment, and along the roof ridge for smoke ventilation.
- D. Ground-mounted solar energy systems capable of producing 25kw of electricity per hour or less shall be subject to the following requirements:
  - (1) They shall be located only in a side or rear yard, and if located in a side yard shall not be closer to the street than the primary building on the lot;
  - (2) They shall only be permitted on lots three acres or larger;
  - (3) They shall be placed no closer than two times the standard setback requirements for an accessory structure of the zoning district in which they are located;
  - (4) The height of said solar energy system shall not exceed 12 feet when oriented at maximum tilt; and
  - (5) The total surface area of said solar energy system on a lot shall not exceed that allowed for accessory structures or combinations of accessory structures where permitted.

(See § 172-8 for criteria for utility-scale ground-mounted systems.)

- E. Solar storage batteries. When solar storage batteries are included as part of any solar energy system, they shall be placed in a secure container or enclosure meeting the requirements of the New York State building and fire codes.
- F. Approval for placement and use of any solar energy system under this chapter is not a guarantee of solar skyspace access. If a solar energy operator needs or desires solar skyspace access across the property of another it may negotiate for an easement or other written agreement containing such terms as the parties may mutually agree. The

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provisions of the Chapter do not require any property owner to relinquish solar skyspace access to benefit a solar energy system, however.

- G. All solar collectors and structures and devices used to support solar collectors shall be nonreflective and painted a subtle or earth-tone color.
- H. The design, construction, operation and maintenance of any solar energy system shall demonstrably prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads and public parks. If the solar energy system creates an adverse impact to the public or neighboring properties, the owner of the system will be required to take measures to mitigate the impact. Failure to take appropriate action will be considered a violation.
- I. The development and operation of any solar energy system shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town or federal or state regulatory agencies.
- J. Artificial lighting of any solar energy system shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads and public parks.
- K. If the use of any approved solar energy system is discontinued, the owner or operator shall notify the Code Enforcement Officer within 30 days of such discontinuance. If a solar energy system is to be retained and reused, the owner or operator shall further inform the Code Enforcement Officer of this in writing at such time and obtain any necessary approvals within one year, otherwise it shall be automatically deemed abandoned.
- L. All solar energy systems shall be installed using an engineered mounting structure.

**§ 172-7 Utility-scale solar energy systems/applications.**

A special use permit is required to place, construct or make a major modification to a utility-scale solar energy system within the Town. The applicant shall submit 12 sets of the following information to the Code Enforcement Officer, who shall first present it to a professional engineer or consultant for an initial review and then present it to the Planning Board for its review and recommendation to the Town Board. The Planning Board may make such additional referrals as it deems appropriate. No such application shall be deemed filed until any required application fee has been paid. The following information shall be contained in the application:

- A. A completed State Environmental Quality Review Act (SEQRA) environmental assessment form (EAF), with the Town of Eden Planning Board designated as lead agency for the SEQRA process.
- B. Necessary permit information.
  - (1) Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include the name, address, and telephone number of the applicant and written permission signed by the property owner authorizing the applicant to represent the property owner; and
  - (2) Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc; and
  - (3) Utility interconnection data and a copy of written notification to the utility of the proposed interconnection, including the CESIR (Coordinated Electric System Interconnection Review) report application submitted to the local utility; and
  - (4) One- or three-line electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all disconnects, and over-current devices.
- C. A site plan in accordance with the Town of Eden's site plan requirements, and in sufficient detail as follows:
  - (1) Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposal layout of the entire solar energy system, with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved, and utility lines, both above and below ground, on the site and adjacent to the site; and
  - (2) Property lot lines and the location and dimensions of all existing structures and uses on site within 500 feet of the solar panels; and
  - (3) Proposed fencing and/or screening for said project; and
  - (4) Clearing, grading, stormwater (including a stormwater management and/or pollution prevention plan) and erosion control.
  - (5) Before the Town of Eden shall issue a clearing, grading, stormwater or building permit for a utility-scale solar energy system, the applicant shall submit a stormwater and erosion control plan to the Town's professional engineer or consultant for its review and approval, and the plan shall minimize the potential adverse impacts on wetlands and Class I and II streams and the banks and vegetation along those streams and wetlands, and shall minimize erosion or sedimentation.

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- (6) Any such additional information as may be required by the Town's professional engineer or consultant. Town Board, Planning Board, Town Attorney or Code Enforcement Officer.

**§ 172-8 Special use permit criteria for utility-scale solar energy systems.**

Special use permits issued for utility-scale solar energy systems shall meet the following criteria:

- A. Any utility-scale solar energy system shall be placed a minimum of 200 feet from all adjacent property lot lines. Such setbacks from property lines will not apply if the application is accompanied by a legally enforceable written agreement that runs with the property for a period of 25 years or the life of the special use permit, whichever is longer, stating that the adjacent landowner(s) agrees to the elimination or reduction of the required setbacks. The setback requirements in this section can only be varied by written agreement(s) with adjoining landowner(s), and not by a variance from the Zoning Board of Appeals (ZBA). Otherwise, the ZBA is hereby authorized to review and approve use and area variances from the requirements contained in this Chapter or in Chapter 225, Zoning. Any agreement to reduce property line setbacks shall not constitute the reduction or elimination of required setbacks from structures; setbacks from structures, for safety reasons, shall not be reduced or eliminated.
- B. The maximum height of a utility-scale solar energy system shall not exceed 20 feet when oriented at maximum tilt.
- C. All transmission lines and wiring associated with a utility-scale solar energy system shall be buried to the power grid connection (including along any roads or highways) and include necessary encasements in accordance with the National Electric Code and Town requirements. The applicant is required to show the locations of all proposed underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.
- D. Any signage used to advertise the solar energy facility shall be in accordance with the Town's signage regulations.
- E. At the Town Board's discretion, a screening & landscaping plan may be required that includes a berm, landscape screen or other opaque enclosure, or any combination thereof acceptable to the Town capable of screening the site; at a minimum this may be required along any property line that abuts an existing residence or public park. The plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following any applicable rules and standards established by the Town for such elements. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. Native perennial vegetation shall be used wherever practicable.
- F. After completion of a utility-scale solar energy system, the applicant shall provide written post-construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the plans approved by the Town of Eden Planning Board and/or Town Board.
- G. A bond or other appropriate form of security shall be required to cover 150% times the cost of the removal and site restoration as determined by the Town's professional engineer or consultant, as noted in §172-9.D(2), and proof of such bond or security shall be filed prior to construction and on an annual basis with the Town Clerk.
- H. The applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local regulatory agencies having jurisdiction over utility-scale solar energy systems.
- I. The special use permit may be granted or denied, or granted with stated written conditions. Denial of a special use permit shall be by written decision based upon substantial evidence considered by the Board. Upon issuance of a special use permit, the applicant shall seek a building permit for the utility-scale solar energy system.
- J. Host Community Agreement. To ensure that solar energy projects adequately benefit the overall community and that solar energy resources are used to support and mitigate the costs and impacts the solar development will have on the community, applicants for utility-scale solar energy systems shall enter into a Host Community Agreement (HCA) with the Town. The applicant or its successors shall be required to pay the Town a mutually agreed upon Host Community Fee annually to compensate the Town for any expenses (e.g., monitoring, inspections) and environmental impacts associated with the project as may be necessary to protect the Town's and its citizens' interest. The Host Community Fee shall be in addition to any payment in lieu of taxes (PILOT) which may be authorized to be collected by the Town.
- K. Environmental Review. In addition, the Town Board shall be designated as the lead agency for the SEQRA process. A visual site assessment on public roadways and adjacent properties may also be requested subject to the discretion of the Town Board. At a minimum, a line-of-sight profile analysis shall be provided as part of the site plan review. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to be submitted by the applicant.
- L. Agricultural Assessment:
- (1) This assessment shall include the viability and suitability of the site for agricultural production (as defined by NYS Agriculture and Markets) and/or livestock grazing, with the identification and mapping of prime farm soils, farmland of statewide importance, and the extent of any agricultural activity taking place on such lands. Utility-

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scale solar energy systems shall not be installed on more than 25% of prime farm soils or farmland of statewide importance. Any prime farm soils disturbed shall remain on site and may be stockpiled for future reclamation.

- (2) The anticipated use of any remaining lands and/or the secondary use of land within the solar energy system land area for agricultural uses, i.e., agricultural dual-use, including but not limited to, grazing, wildflowers, pollinator habitat, etc., shall be identified and mapped. A detailed plan specifying such uses, shall be included specifying seeding mix (native perennial vegetation), potential sources of local grazing, or other information as specified by the Town Board.

M. Vehicular Paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

N. Operations and Maintenance (O&M) Plan.

- (1) Plan to include a responsible entity for O&M activity, including frequency of maintenance, frequency and scope of any replacement of equipment, replacement of any fencing or screening vegetation, a safety plan that includes any special instructions to local fire agencies, and any other such information as required by the Town Board. Yearly reporting on the operations of the facility shall be provided to the Town Board. Where agricultural dual-use projects are proposed, an O&M plan shall also include an agricultural monitor, approved by the Town, to ensure that approved agricultural uses within the project area are active and maintained.
- (2) Solar energy systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the utility-scale solar energy system is located in an ambulance district, the local ambulance corps.
- (3) Utility-scale solar energy system owners shall develop, implement, and maintain native perennial vegetation to the extent practicable pursuant to a vegetation and soil management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native perennial vegetation. Such plan shall be developed in coordination with the Erie County Soil and Water Conservation District.

**§ 172-9 Completion; inspections; continued operation; removal; determination of abandonment; fees; alterations; transferability.**

- A. Time limit for completion of utility-scale solar energy systems. After the granting of a special use permit of a utility-scale solar energy system with site plan approval, a building permit shall be obtained within six months. The project shall be completed within 12 months thereafter. If not then constructed, the special use permit shall automatically expire.
  - B. Inspections. Upon reasonable notice, the Code Enforcement Officer or his or her designee may inspect any solar energy system for the purpose of compliance with this chapter. Twenty-four hours' advance notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a utility-scale solar energy system shall be inspected annually by a New York State-licensed professional engineer that has been approved by the Town or at any other time, upon a determination by the Code Enforcement Officer that damage may have occurred, or that the solar energy system is not in compliance with the requirements of this chapter. A copy of the inspection report shall be submitted to the Code Enforcement Officer. Fees or expenses associated with inspections shall be borne entirely by the permit holder.
  - C. Continued operation. All solar energy systems shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all approval requirements and conditions. Further, the Code Enforcement Officer shall have the right to require annual documentation of the on-site usage and total electricity output of any solar energy system.
  - D. Removal. All solar energy systems shall be dismantled and removed immediately, at the cost of the owner, when the special use permit or approval has been revoked by the Town of Eden Town Board, or the solar energy system has been deemed by the Code Enforcement Officer to be inoperative or abandoned for a period of more than 180 days consecutively. If the owner does not dismantle and remove the solar energy system as required, the Town may do so and shall apply the required bond to the cost, followed by a tax lien on said parcel for expenses not covered by the bond.
- (1) Decommissioning Plan. A decommissioning plan signed by the Owner/Operator of the Solar Energy System and prepared by an engineer licensed in the State of New York, shall be submitted, addressing the following:
    - a. The anticipated viable life of the solar energy system in accordance with industry standards.
    - b. The plan for the removal of all infrastructure and restoration conducted to return the parcel to its original state prior to construction. Developer shall include photo documentation of the site prior to construction to document restoration goals as part of the decommissioning plan.

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- c. The time required to decommission and remove the Solar Energy System and any ancillary structures, including repair of any damage caused to the property by the installation or removal of the Solar Energy System.
- d. An expected timeline for execution and a cost estimate for decommissioning prepared by a professional engineer or qualified contractor. Cost estimates shall take inflation into consideration and be revised every three (3) years during the operation of the system and include any salvage value, though this value shall not be included in the financial surety for decommissioning. Removal of the large-scale solar energy system must be completed in accordance with the approved decommissioning plan and the standards provided as follows:
  - i. All structures and foundations associated with the large-scale solar energy systems shall be removed, including all above and below ground improvements and equipment, structures, and foundations including, but not limited to solar electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and other associated facilities, so that any agricultural ground upon which the facility or system was located is again tillable and suitable for agricultural use;
  - ii. All disturbed ground surfaces shall be restored to original conditions, including topsoil and seeding as necessary; and
  - iii. All electrical systems shall be properly disconnected, and all buried cables and wiring shall be removed.

(2) Decommissioning Security.

- a. Amount: The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site after removal. The amount of the bond or security shall be 150% of the cost of removal of the utility-scale solar energy systems and restoration of the property with an escalator of 2% annually for the viable life of the Solar Energy System. Security shall cover the full decommissioning costs without recoverable costs from salvage value; applicant to include anticipated salvage value, but this shall not be factored into the decommissioning costs. All expenses or costs of establishing or maintaining financial assurance shall be borne solely by the applicant, or its successors or assigns. Any remaining security available after full removal and restoration of the site, to the satisfaction of the Town, will be returned to the applicant or any subsequent owner.
- b. Default: In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth herein.

E. Determination of abandonment or inoperability. A determination of the abandonment or inoperability of a solar energy system shall be made by the Code Enforcement Officer, who shall provide the owner with written notice of such determination by personal service or certified mail. The owner may appeal the Code Enforcement Officer's determination of abandonment or inoperability by written request to the Town Board filed within 30 days of the owner's receipt of the written notice from the Code Enforcement Officer. The Town Board shall hold a public hearing on the owner's appeal on not less than 10 days' written notice to said owner. Any person aggrieved by the decision of the Town Board, following such hearing may apply to the Supreme Court for review under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within 30 days after the filing of the Town Board's decision in the office of the Town Clerk.

F. Fees. Solar energy systems shall pay all applicable fees set forth in the Town's Schedule of Fees, including an application fee, special use permit fee, building permit fee and annual inspection fee.

G. Alterations. Any changes or alterations post-construction to a utility-scale solar energy system shall be done only after amendment of the special use permit and/or site plan (if required) and/or the building permit, and subject to all requirements of this chapter.

H. Transferability. Special use permits for utility-scale solar energy systems shall be assignable or transferable so long as they are in full compliance with this chapter, and the Code Enforcement Officer is notified in writing at least 15 days prior thereto. If the owner/operator of the utility-scale solar energy system changes or the owner of the property changes, the new owner/operator shall notify the Code enforcement officer of such change in ownership or operator within 30 days of the ownership change. The successor owner or operator shall assume in writing all of the

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obligations within the decommission plan. Proof of acknowledgement of the decommission plan and proof of bond may be requested by the Town at time of ownership change.

**§ 172-10 Revocation.**

If the applicant violates any of the conditions of its special use permit or site plan approval or building permit, or violates any other local, state or federal laws, rules or regulations, this shall be grounds for revocation of the special use permit, site plan approval or building permit. Revocation may occur after the applicant is notified in writing of the violations.

**§ 172-11 Interpretation; conflict with other law; severability.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. It is not intended to interfere with, abrogate, or annul other rules, regulations or laws, provided that whenever the requirements of this chapter are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards, shall govern. If any portion of this chapter is for any reason held invalid, void, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**Section 2. This local law shall be effective upon filing with the New York State Secretary of State.**

**#144-2022: MOTION** was made by Supervisor Hartman adopt the Local Law for Solar Energy Systems amending Chapter 172 of the Town of Eden Code. seconded by Councilperson Ventry; Ayes: all; Opposed: None; Abstain: None; Motion carried.

**5. Proposed Local Law – amending town of Eden Code Chapter 217 (Wind Energy Conversion Systems)**

**A LOCAL LAW AMENDING TOWN OF EDEN CODE CHAPTER 217 (WIND ENERGY CONVERSION SYSTEMS) TO IMPLEMENT PROVISIONS OF THE NEW TOWN OF EDEN COMPREHENSIVE PLAN**

**Be it enacted by the Town Board of the Town of Eden as follows:**

**Section 1. Chapter 217 of the Town of Eden Code (Wind Energy Conversion Systems) is hereby repealed and replaced with the following:**

**Chapter 217  
Wind Energy Conversion Systems**

**§ 217-1 Purpose.**

The Town Board of the Town of Eden adopts this chapter to promote the effective and efficient use of wind energy conversion systems (WECS) and to regulate the placement of wind energy conversion systems so that the public health, safety, natural resources, and aesthetics will not be jeopardized.

**§ 217-2 Findings.**

- A. The Town Board of the Town of Eden finds and declares that wind energy is an abundant, renewable and nonpolluting energy resource of the Town and that its conversion to electricity will reduce our dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.
- B. The Town Board of the Town of Eden further finds and declares that:
  - (1) Wind turbines that convert wind energy to electricity are currently available on a commercial basis from many manufacturers.
  - (2) The generation of electricity from properly sited wind turbines can be cost effective, and in many cases existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other users.
  - (3) Regulation of the siting and installation of wind turbines is necessary for the purpose of protecting the health and safety of neighboring property owners and the general public, and the aesthetics of the community.

**§ 217-3 Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**OVERSPEED CONTROL**

A mechanism used to limit the speed of blade rotation to below the design limits of the WECS.

**SITE**

The physical location of a WECS, including the related tower and transmission equipment.

**SWEPT AREA**

The largest area of the WECS which extracts energy from the wind stream. In a conventional propeller-type WECS, there is a direct relationship between swept area and the rotor diameter.

**TOTAL HEIGHT**

The height of the tower and the furthest vertical extension of the WECS.

## **WIND ENERGY CONVERSION SYSTEM (WECS)**

A machine that converts the kinetic energy in the wind into a usable form (commonly know as a "wind turbine" or "windmill"). The WECS includes all parts of the system except the tower and the transmission equipment; the turbine or windmill may be on a horizontal or vertical axis, rotor or propeller. A WECS shall be designed and used for electricity generation to be used on the property in which it is located and not for commercial use.

## **WIND MEASUREMENT TOWER**

A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction, which may be installed prior to or in conjunction with a WECS or Windmill Farm.

## **WINDMILL FARMS**

More than one WECS (two or more wind turbines or windmills) located within one site or adjacent sites designed and used for the commercial delivery of electricity to the power grid, including all related infrastructure, collection and distribution lines, substations/transformers, access road(s), accessory structures, and related accessory equipment or facilities. May also be referred to as a "utility-scale WECS" or "wind farm."

### **§ 217-4 Requirements.**

No WECS shall be permitted in the Town of Eden unless a Special Permit has been issued by the Town Board and Site Plan Approval has been issued by the Planning Board in accordance with the provisions of this Chapter.

#### **A. Zoning district requirements.**

##### **(1) Districts permitted.**

- (a) A WECS may be allowed in the Parkland (PK), Agricultural Priority (AG), Rural Residential (RR), Neighborhood Residential (R2), and Light Industrial (LI) Zoning Districts of the Town of Eden only by special use permit, subject to the lot and setback requirements contained herein.
- (b) A windmill farm and/or wind measurement tower may be allowed in the Rural Residential (RR) and Light Industrial (LI) Zoning Districts of the Town of Eden only by special use permit subject to the lot, setback, siting, and other requirements contained herein.

##### **(2) Neither a WECS nor a windmill farm shall be allowed in the Mixed-Use 1/2 (MU-1/MU-2) Zoning Districts.**

#### **B. Application requirements. All site plan applications and special use permit applications for WECS and windmill farms shall meet the requirements of §§ 225-30 and 225-46 of the Eden Town Code and include a drawing that depicts the following additional requirements:**

- (1) Property lines and physical dimensions of the site.
- (2) Location, approximate dimensions and types of major existing structures and uses on site.
- (3) Location and elevation of the proposed WECS.
- (4) Location of all aboveground utility lines on site or within one radius of the total height of the WECS.
- (5) Location and size of structures and trees above 35 feet within a five-hundred-foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.
- (6) Show the zoning designations of the immediate and adjacent sites and the locations of any buildings or improvements that are within the fall zone of a proposed tower as set forth in Chapter 225, Zoning.
- (7) Include make, model, picture and manufacturer's specifications, including noise decibels.

#### **C. General provisions. Approval of all site plans or special use permits for the installation of a WECS or windmill farm shall comply with the following requirements:**

- (1) WECS size. This chapter covers those WECS of any size.
- (2) Water pumpers. Nonelectrical windmills used for pumping water may be exempted from the provisions of Subsection C(3) through (15), but they must be sited in such a manner as to maintain a clear fall zone of 1.5 times the height of the structure.
- (3) Compliance with Building Code.
  - (a) Building permit applications shall be accompanied by standard drawings of structural components of the wind energy conversion system, including support structures, tower, base and footings. Drawings and any necessary

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calculations shall be certified, in writing, by a New York State registered professional engineer that the system complies with the current building code. This certification would normally be supplied by the manufacturer.

- (b) Where the structural components or installation vary from the standard design or specification, the proposed modifications shall be certified by a New York State registered professional engineer for compliance with the seismic and structural design provisions of the Building Code.
- (4) Compliance with Electrical Code.
  - (a) Building permit applications shall be accompanied by a line drawing identifying the electrical components of the wind system to be installed in sufficient detail to allow for a determination that the manner of installation conforms to the electrical code. The application shall include a statement from a New York State registered professional engineer indicating that the electrical system conforms with good engineering practices and complies with the electrical code. This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.
  - (b) Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a New York State registered professional engineer for compliance with the requirements of the electrical code and good engineering practices.
- (5) Rotor safety. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor. Additionally, certification of appropriate clear zones for ice throw or blade throw (in the case of an exploding/malfunctioning turbine or propeller in accordance with Loss of Blade Theory) and structural compatibility of the proposed tower with the turbine and rotor(s) shall also be provided. The application must include a statement by a New York State registered professional engineer certifying that these safety components have been included and the siting, design, and fabrication for the proposed use is in accordance with good engineering practices. This certification would normally be supplied by the manufacturer.
- (6) Guy wires. Anchor points for guy wires for the WECS tower shall be located within property lines and not on or across any aboveground electrical transmission or distribution line. The point of ground attachment for the guy wires shall be enclosed by a fence six feet high.
- (7) Tower access. Towers should have either:
  - (a) Tower-climbing apparatus located no closer than 12 feet to the ground.
  - (b) A locked anticlimb device installed on the tower; or
  - (c) The tower shall be completely enclosed by a locked, protective fence at least six feet high. For windmill farms a protective fence at least six feet high enclosing the entire site may be considered.
- (8) Noise. The WECS shall meet the requirements of any existing noise ordinance of the Town of Eden. In general, the noise of the turbine shall not exceed 50 dba, as measured at the boundaries of all the closest parcels that are owned by non-site owners and abut the site parcels. The applicant shall provide this information or otherwise provide compliance with these regulations should irregularities be noted after construction. Waivers may be granted subject to standards set forth in the special use permit (see §217-5E).
- (9) Electromagnetic interference. The WECS shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated to a Town Building and Zoning Inspector that a wind energy conversion system is causing harmful interference, the operator shall promptly mitigate the harmful interference.
- (10) Signs. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage.
- (11) Height. The minimum height of the lowest part of the swept area of any WECS shall be 30 feet above the highest existing major structure or tree within a two-hundred-fifty-foot radius. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open-lattice towers are not considered structures. The total height of any WECS shall be equal to or less than 200 feet.
- (12) Setbacks.
  - (a) WECS shall be set back from any property line, aboveground utility line or other WECS a distance of 1.5 times the total height. The WECS shall also not be placed in the front yard of any existing structure.
  - (b) In the case of cluster development, a WECS shall be erected within the common open space area and shall be set back from all residences a distance greater than Subsection **C(12)(a)** above.
  - (c) Contiguous property owners may construct a WECS for use in common, provided that the required setback, as defined in Subsection **C(12)(a)** above, is maintained relative to the property lines of nonparticipant owners.
  - (d) The Zoning Board of Appeals is hereby authorized to review and approve use and area variances from the requirements contained in this Chapter or in Chapter 225, Zoning.



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- (13) Utility interconnection (for those WECS which will be interconnected to a utility grid). If proposed, no wind turbine shall be installed until evidence has been given of a signed interconnection agreement, or letter of intent, with the interconnecting utility company. For a WECS, interconnection is permitted as a secondary element of the overall use, but shall in no way be used for commercial purposes.
- (14) Abatement. If a wind energy conversion system or systems are not maintained in operational condition for a period of one year and/or pose a potential safety hazard, the owner or operator shall take expeditious action to remedy the situation upon notice by the Town of Eden and its duly authorized representatives. The Town of Eden reserves the authority to abate any hazardous situation and to pass the cost of such abatement onto the owner or operator of the system. If the Town of Eden determines that the WECS has been abandoned or poses a safety hazard, the system shall be removed within 45 days of written notice to the owner or operator of the system with windmill farms subject to the decommission and restoration as noted herein.
- (15) Liability insurance. The applicant, owner, lessee or assignee shall maintain a current insurance policy which will cover installation and operation of the wind energy conversion system at all times. As a part of the application review process, the Town may require proof that the applicant is carrying sufficient liability, workers compensation, etc. during installation and operation of proposed facility. Limits for said policy shall be set on size and scope of each project.
- (16) Lighting of tower. Lighting of the tower for aircraft and helicopters will conform with FAA standards for wattage and color, when required.
- (17) Environmental impact. Any WECS or windmill farm project will be subject to the State Environmental Quality Review Act (SEQRA); a windmill farm will require a visual assessment. The visual assessment shall include viewshed mapping and/or cross section analysis to identify any areas of potential visual impact as well as the potential impact of any adjoining properties with respect to "rotor flicker" as a result of shadows cast from the rotating blades. This assessment shall include an evaluation of potential impacts and recommended visual mitigation measures.
- (18) Decommissioning and restoration. For windmill farms, the applicant shall include the following information regarding decommissioning of the project and restoring the site:
  - (a) Decommissioning plan. A formal plan shall be submitted to include the following elements:
    - [1] The anticipated life of the project, including any potential lease extensions;
    - [2] The estimated full decommissioning costs (no including salvage value) in current dollars as well as an inflation escalation for the life of the project, certified by a NYS licensed professional engineer;
    - [3] The method and schedule for updating the costs of decommissioning and restoration;
    - [4] The method of ensuring that funds will be available for decommissioning and restoration; and
    - [5] The anticipated manner in which the project will be decommissioned and the site restored to original conditions.
  - (b) The Planning Board and/or the Town Board shall require the applicant to provide an appropriate and adequate demolition bond for purposes of removing the WECS facility in case the applicant fails to do so as required above. Proof of this bond shall be provided each year or at renewal time of any special permit.
  - (c) The sufficiency of the demolition bond shall be confirmed at least every five years by an analysis and report of the cost of removal and property restoration to be performed by a New York State licensed professional engineer, the cost of same to be borne by the applicant. If said analysis and report determines that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs within 10 days of the applicant's receipt of such report.
- (19) Host Community Agreement. To ensure that windmill farm projects adequately benefit the overall community and that wind energy resources are used to support and mitigate the costs and impacts the wind development will have on the community, applicants for windmill farm projects shall enter into a Host Community Agreement (HCA) with the Town. The applicant or its successors shall be required to pay the Town a mutually agreed upon Host Community Fee annually to compensate the Town for any expenses (e.g., monitoring, inspections) and environmental impacts associated with the project as may be necessary to protect the Town's and its citizen's interest. The Host Community Fee shall be in addition to any payment in lieu of taxes (PILOT) which may be authorized to be collected by the Town.
- (20) Road Use Agreement. To ensure that local roads are protected and repaired and impacts to traffic and local business operations are accounted for, the applicant shall supply the Town with a plan for designated hauling routes for windmill farm project equipment. A road use agreement shall be executed with the appropriate agency of jurisdiction for the remediation of damaged roads upon completion of the installation or maintenance of a WECS and for adequate maintenance of the roads during construction such that the roads remain open and passable. Prior to the issuance of any building permit, a bond or other surety acceptable to the agency and sufficient to compensate the Town for any damage to public roads shall be secured and provided to the Town.

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**§ 217-5 Additional special use permit requirements.**

Application. Every application for a special use permit shall be made, in writing, to the Town Board in accordance with the requirements of the Town, shall be accompanied by a filing fee as set forth in the Town's Standard Schedule of Fees. In addition to these fees, the Town may hire consultants and/or experts as necessary to provide technical review and evaluation. The applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultants in connection with the review of the application. The special use permit application will include the following:

- A. Name and address of the applicant.
- B. Evidence that the applicant is the owner of the premises involved or that the applicant has written permission of the owner to make such an application.
- C. A plot plan and development plan drawn in accordance with § 217-4 and § 225-30D of the Town Code.
  - (1) Property line and physical dimensions of the proposed site;
  - (2) Location, approximate dimensions and types of major existing structures and uses of the site;
  - (3) Location and elevation of the proposed WECS;
  - (4) Where applicable, the location of all transmission facilities proposed for installation; and
  - (5) Where applicable, the location of all road and other service structures proposed as part of the installation.
  - (6) Where applicable, all transmission lines and wiring shall be buried to the power grid connection (including along any roads or highways) and include necessary encasements in accordance with the National Electric Code and Town requirements. The applicant is required to show the locations of all proposed underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.
- D. An environmental assessment form (full EAF) and visual EAF.
- E. Waivers, easements & variances. In the event the noise levels resulting from a WECS or windmill exceeds the criteria established in this article, or a setback requirement is not met, a waiver may be granted from such requirement(s) provided the following:
  - (1) Written consent from the affected property owner(s) shall be obtained stating that they are aware of the WECS or windmill, the requirements set forth by this article, and that consent is granted for:
    - (a) Allowance of noise levels that exceed the maximum limits otherwise allowed; and/or
    - (b) Allowance of distance setbacks less than required; and/or
    - (c) Allowance of rotor (shadow) flicker on all or part of an adjoining property and/or structures.
  - (2) In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, shall be recorded in the County Clerk's office describing the benefitted and burdened properties. Such easements shall be permanent and may not be revoked without the consent of the Town Board, which consent shall be granted upon either the completion of the decommissioning of the benefitted WECS in accordance with this article, or the acquisition of the burdened parcel by the owner of the benefitted parcel or the WECS.
  - (3) In any case where written consent is not obtained, a variance from the Zoning Board of Appeals shall be required.
- F. Other information as requested by the Town Planning Board, and the Town Board.

**§ 217-6 Penalties for offenses.**

Any person who violates any provision of this chapter shall be guilty of a violation and subject to a fine of not more than \$250, imprisonment not to exceed 15 days, or both such fine and imprisonment.

**§ 217-7 Enforcement.**

The Town Code Enforcement Officer or his designee shall be provided access, at any time, to any WECS site for the purposes of ensuring compliance with this and any other applicable code. Such access shall be upon providing twenty-four-hour advance notification to the owner/operator of any such site.

**Section 2. This local law shall be effective upon filing with the New York State Secretary of State.**

**#145-2022: MOTION** was made by Supervisor Hartman adopting the Local Law to amend Chapter 217 of the Town of Eden Code (Wind Energy Conversion Systems) seconded by Councilperson Ventry; Ayes: all; Opposed: None; Abstain: None; Motion carried.

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**6. Set Public Hearing for Amusement/ Entertainment License Application for Pilot Light Pub:**

#146-2022: **MOTION** was made by Supervisor Hartman to set a public hearing for Pilot Light Pub’s application for Amusement/Entertainment license on July, 27<sup>th</sup> 2022 at 7:00PM; seconded by Councilperson Byrnes; Ayes: all; Opposed: None; Abstain: None; Motion carried.

**7. Appoint Gregory Jacobs as part-time Police Officer:**

#147-2022: **MOTION** was made by Supervisor Hartman to appoint Gregory Jacobs as part-time police officer at a training rate of \$15 per hour; seconded by Councilperson Wilhelm; Ayes: all; Opposed: None; Abstain: None; Motion carried.

**8. Fitness Trail:**

Supervisor Hartman stated that the Recreation Board previously presented to the Town Board on their desire to bring a paved fitness trail and permanent bathrooms to Swartz Park. After additional research the Town can apply for grant funding for the permanent bathrooms asking for \$350,000 which will be a 50/50 matching grant. The Town can also apply for match funding from the Eden Community Foundation and the Community Development Block Grant program. With the grant funding the Town is hopeful to be able to have funding available by summer of 2023 and be able to complete both proposed projects.

#148-2022: **MOTION** was made by Supervisor Hartman to leave the regular meeting and open the Public Hearing for the proposed Local Law Regulating Noise in the Town of Eden; seconded by Councilperson Ventry; Ayes: all; Opposed: None; Abstain: None; Motion carried.

The Public Hearing was opened at 7:30 PM.

**LEGAL NOTICE  
TOWN OF EDEN, NEW YORK  
NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held by the Eden Town Board in the Eden Town Hall, 2795 East Church Street, Eden, New York on the 13th day of July, 2022 at 7:30 P.M. Local Time, for the purpose of considering the adoption of proposed Local Law #2-2022, being a Local Law Regulating Noise in the Town of Eden. Copies of the proposed local law are available for public review in the Office of the Eden Town Clerk. All interested parties will be given an opportunity to be heard.

Supervisor Hartman stated that this is the fourth public discussion and second public hearing on the proposed noise ordinance and addressed the misleading publication in the Eden Penny Saver that was submitted by a resident.

She opened discussion on the Town of Eden’s proposed noise ordinance announcing the current code has not been updated since the 1970’s and is too vague to be enforced. The Town discovered issues with the current code as it was not enforceable when taken to court.

Code Enforcement Officer, Dave Rice, acknowledged residents’ concern of the proposed decibel levels and stated that they are in line with noise ordinances in other towns. He stated that the proposed law reads under “Permitted Sounds;” “Routine yard maintenance activities performed by residential property owners during daylight hours”

He added that when reading the proposed code, to read the entire code rather than focusing on a single statement to better understand the concept as a whole.

The following residents spoke at the Public Hearing: Elmer Ploetz, Frank Shattuck, Tracy Schifano, Ruby Davis, Rev. John Proios, Joseph Doyka, Ann Congilosi, Tony Lima, Eugene Longbine, Adam Sidote, Ronald Scheffer, Albert Feasly, Bruce Morrison, Diana Stepankowski, Gerard McShane, Barb Palmieri, Zack Mangialomini, John Kaszubowski, Charles Felser, and Carl Modica.

Some residents spoke in favor of passing the law as written.

Those that spoke against the proposed Local Law generally wanted the decibel level to be raised higher than the proposed 60 dB and wanted the proposed noise ordinance to be more specific. Residents were not entirely against a new noise ordinance but rather the one that was presented. General consensus was in favor of having a peaceful community and wanting any new local law to be more clarified in how it is written.

#149-2022: **MOTION** was made by Supervisor Hartman to leave the Public Hearing for proposed Local Law Regulating Noise in the Town of Eden; seconded by Councilperson Sam; Ayes: all; Opposed: None; Abstain: None; Motion carried.

**9. Brownfield Opportunity Area application resolution:**

**BROWNFIELD OPPORTUNITY AREA APPLICANT RESOLUTION**

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WHEREAS, the Town of Eden, herein called the "Applicant", after thorough consideration, has hereby determined that certain work, as described in its application and attachments, herein called the "Project", is desirable; and

WHEREAS, §970-r of the General Municipal Law authorizes State assistance to eligible parties for Brownfield Opportunity Areas Program grants by means of a State Assistance Contract (the contract); and

WHEREAS, the Town of Eden deems it to be in the public interest and benefit to enter into a contract therewith.

NOW, THEREFORE, BE IT RESOLVED that Supervisor Melissa Hartman is the representative authorized to act in behalf of all applicants in all matters related to State assistance under §970-r of the General Municipal Law for the Project. The representative is also authorized to: sign and submit the application; execute the contract; request payment advances and reimbursements; redistribute contract reimbursements as appropriate; submit Project documentation; and otherwise act for all applicants in all matters related to the Project and to State assistance; and

BE IT FURTHER RESOLVED that the Applicant intends to complete a Brownfield Opportunity Area (BOA) Plan for an approximate 83-acre area characterized with 3-4 potential brownfield sites that are located at in the southwestern portion of the hamlet of Eden Center, hereafter to be referred to as South Main Study Area;

RESOLVED that the Applicant requests funds in the amount of \$90,000, representing no more than 90% of the total Project cost;

RESOLVED that the Applicant agrees that it will fund the Applicant's 10% share of the Project.

RESOLVED that the Applicant agrees to complete the BOA Plan in a timely manner and to seek official Designation of the Brownfield Opportunity Area by the Secretary of State upon completion of the Plan; and

RESOLVED that this Authorization take effect immediately.

Councilperson Wilhelm asked where the \$10,000 match was being funded from and if any portion would be coming from ARPA funding. Supervisor Hartman responded that the \$10,000 match has already been set aside and was not part of the ARPA spending.

**#150-2022: MOTION** was made by Councilperson Sam to approve the resolution at presented; seconded by Councilperson Ventry; Ayes: all; Opposed: None; Abstain: None; Motion carried.

**10. Request of assistance of Highway and Recreation Departments for 2022 Eden Corn Festival by Newell-Faulkner Eden American Legion Post 880 and the Corn Festival:**

**#151-2022: MOTION** was made by Supervisor Hartman to allow the assistance of the Highway and Recreation Departments for the 2022 Eden Corn Festival by Newell-Faulkner Eden American Legion Post 880 and the Corn Fest.; seconded by Councilperson Wilhelm; Ayes: Hartman, Wilhelm, Sam, Byrnes; Opposed: None; Abstain: Ventry; Motion carried.

**11. Proposed Local -Law regulating noise in the Town of Eden:**

This agenda item is tabled.

**12. Off-Road Drainage Projects:**

Off-Road Drainage Committee recommends the Eden Town Board approve:

1) Project 2022-01: Randall at East Pleasant – recommend to clean ditch at 8414 Randall Place at a cost not to exceed \$1,500.

2) Project 2022-02: Misc. Town wide mowing and clearing at a cost not to exceed \$4,500.

**#152-2022: MOTION** was made by Supervisor Hartman to approve the Off-Road Drainage Committee request as presented; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

**13. NYS Parks & Recs, Grant:**

Supervisor Hartman stated that the Town of Eden is applying for financial assistance from the New York State Office of Parks, Recreation and Historic Preservation to install permanent bathrooms at Swartz Field.

**RESOLUTION**

WHEREAS, that the Town of Eden is applying for financial assistance from the New York State Office of Parks, Recreation and Historic Preservation ("OPRHP") under Environmental Protection Fund Act of 1993 (EPF) and through the Consolidated Funding Application (CFA) for the purpose of funding enhancements at Swartz Field, a municipal park; and

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WHEREAS, the enhancements include the design and construction of public restrooms, which currently do not exist and have been desired by the local community as a valuable amenity at the park; and

WHEREAS, that the Town of Eden is authorized and directed to accept grant funds in an amount not to exceed \$175,000 for a total project cost of \$350,000, as further described in the grant application; and

WHEREAS, that Town of Eden is authorized and directed to agree to the terms and conditions of the Master Contract developed with OPRHP for such park enhancements at Swartz Field; and

WHEREAS, that Town of Eden is authorized and directed to agree to the terms and conditions of any required deed of easement granted to OPRHP that affects title to real property owned by the municipality and improved by the grant funds, which may be a duly recorded public access covenant, conservation easement, and/or preservation covenant; and

WHEREAS, the Town of Eden fully supports the development and submission of a CFA grant for this public park improvement and intends to provide the necessary local match.

NOW THEREFORE BE IT RESOLVED, that the Eden Town Board, as the governing body of the municipality delegates signing authority to submit the CFA and execute the Master Contract and any amendments thereto, any required deed of easement, and any other certifications to the individual(s) who hold(s) the following elected or appointed municipal office(s) or employment position title(s): Supervisor Melissa Hartman,

**#153-2022: MOTION** was made by Councilperson Wilhelm to approve Supervisor Hartman to sign grant application; seconded by Councilperson Sam; Ayes: All; Opposed: None; Abstain: None; Motion carried.

Supervisor Hartman stated that the matching portion of the grant would come from further grants through the Eden Community Foundation, the Community Development Block Grant or ARPA funding if those were not awarded.

**14. Proposal for professional consulting services associated with the exterior envelope rehabilitation of the Eden Town Hall:**

Supervisor Hartman stated that this the proposal is for the bid specifications for the roof and masonry brick work at Town Hall. The Town Board previously discussed setting aside \$412,000 for the repairs using Fund Balance, ARPA Funding and the Maintenance Reserve.

**#154-2022: MOTION** was made by Supervisor Hartman to approve the proposal for from CPL for the exterior envelope rehabilitation of Town Hall as presented; seconded by Councilperson Wilhelm; Ayes: All; Opposed: None; Abstain: None; Motion carried.

**15. Increase in mileage reimbursement:**

The Internal Revenue Service announced an increase in the optional standard mileage rate for the final 6 months of 2022 to \$0.625. The IRS is adjusting the standard mileage rates to reflect the recent increase in fuel prices. This item was tabled as some board members wanted to have more time to go over announcement.

**MOTION** was made by Supervisor Hartman to amend the mileage reimbursement rate from July of 2022 to December 31, 2022 to \$0.625. After discussion there was no second and the Motion was tabled until the July 27<sup>th</sup> meeting.

**Supervisors Report:**

Supervisor Hartman addressed the regular garbage as well as bulk garbage issues residents were experiencing. Stating these issues should be resolved going forward as the Town as been in contact with Waste Management, they were experiencing large labor shortage.

**Hearing of Visitors:** There were none.

**#155-2022: MOTION** was made by Supervisor Hartman to close the Regular Meeting of the Eden Town Board; seconded by Councilperson Sam; Ayes: All; Opposed: None; Abstain: None; Motion carried.

Supervisor Hartman adjourned the Regular Meeting of the Eden Town Board at 9:16 P.M.

Respectfully Submitted by:

Shannon Sam, Deputy Clerk