

05-19-2020

PRELIMINARY DRAFT - NOT FOR PUBLICATION

ARTICLE VII, SECTION 730 - Alternative Energy System (Solar Powered) Utility Scale

A. PURPOSE

The Town Board of the Town of Clarendon, New York has determined that solar energy, properly regulated, is clean, readily available and is a renewable energy source beneficial to the Town of Clarendon, its residents, and the general public. These supplementary regulations are designed to control the placement of Commercial Solar Energy Facilities (SEFs) to protect the public health, safety and welfare of its citizens and visitors; to minimize the adverse impacts on the Town of Clarendon character and economy; to minimize negative impacts on the unique scenic resources including but not limited to, adjacent lands and waterways; to minimize the adverse impacts on property values of nearby citizens; to minimize the adverse impacts on the town's farming communities; and to minimize the adverse impacts on the town's environment and ecosystems.

These regulations do not address private residential solar use or a small solar array that is on a farm or other business whose primary purpose is for onsite energy usage. These regulations are not intended to abridge safety, health or environmental requirements contained in other applicable codes, standards, or laws. The provisions contained herein shall not be deemed to nullify any provisions of any state or federal law.

B. AUTHORITY AND REFERENCES

The Clarendon Town Board enacts these regulations establishing comprehensive regulations for Commercial Solar Energy Facilities for the Town of Clarendon, New York providing for the administration, enforcement and amendment thereof, in accordance with the provisions of law.

C. INTENT

The New York General Statute (e.g. 272-a) and repeated in the foundation of the Clarendon Comprehensive Plan, gives our local legislators the power to write zoning and regulation laws for the purpose of promoting the health, safety or general welfare of their community. It states "While municipalities are given the power to regulate land uses in the community, it is understood that these decisions should be based on sound planning principles and are not to be arbitrary or capricious."

D. PERMIT REQUIRED

Utility scale solar energy facilities shall be allowed by Special Use Permit within the Town of Clarendon only in the Residential/Agricultural (RA) Zoning District or the Industrial (I) Zoning District. Such facilities shall be subject to the requirements and permitting process of ~~this Local Law~~ **these regulations** in addition to other applicable local, state and federal laws.

~~This Local Law~~ **These regulations** shall apply to all areas of the Town of Clarendon, New York.

E. DEFINITIONS

As used in this law, the following terms shall have the meanings indicated. Words not defined in ~~this Local Law~~ **these regulations** shall be given their ordinary and common meaning:

ACCESSORY BUILDING: A building that is located on the Solar Energy Facility (SEF) property.

ACCESSORY EQUIPMENT: Any equipment serving or being used in conjunction with a SEF. The Term includes utility or transmission equipment, power supplies, generators, batteries, equipment sheds and storage sheds, shelters or similar structures.

BROWNFIELD: With certain legal exclusions and additions, the term “brownfield site” means real property, the expansion, redevelopment or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

COMPLETED APPLICATION: An application that contains all information and/or data required and requested to enable an informed decision to be made with respect to that application.

CONSERVATION AREA: Such areas include natural areas protected by law, such as wetlands that meet the definition in the Clean Water Act 33 USC Sec. 1251 et seq.; shore land areas; water bodies; riparian buffers; populations of endangered or threatened species or habitat for such species; archaeological sites, cemeteries and burial grounds; important historic sites; other significant natural features and scenic view sheds; and existing trails or corridors that connect the tract to neighboring areas.

ESCROW ACCOUNT: An account in which funds are accumulated and maintained for specific disbursements.

MAINTENANCE: The cleaning, painting, repair or replacement of defective parts (including plumbing, electrical or mechanical work that might require a building permit) in a manner that does not alter the basic design or composition of a structure, such as a solar array.

MODIFICATION OR MODIFY: Any change, addition, removal, swap-out, exchange and the like that does not qualify as “repairs and/or maintenance” as defined herein is a modification. Also included is any change, addition, swap-out, exchange and the like that requires or results in changes and/or upgrades to the structural integrity of a solar array.

PERSON: An individual, trustee, executor, receiver, other fiduciary, corporation, firm, partnership, association, organization, club, etc. acting as an entity.

REPAIR: The replacement of existing work with the same kind of material used in the existing work, not including additional work that would:

- Change the structural safety of the structure
- That would affect or change required existing facilities, a vital element of an elevator, plumbing, gas piping, wiring or heating installations that would be in violation of a provision of law or this regulation.

- The term “Repair” or “Repairs” shall not apply to any change in construction.

SOLAR ARRAY: An active solar energy system that converts sunlight into electricity using either Thermal or Photovoltaic methods. Such a system has multiple solar collectors, and might include transformers, generators, batteries and other additional structures and/or facilities.

SOLAR COLLECTOR: A device that converts sunlight into electricity using either Thermal or Photovoltaic methods.

SOLAR ENERGY: There are two general ways sunlight is converted into useful energy; Passive and Active. Passive refers to such actions as opening a window shade to let sunlight in to heat a room. Active uses mechanical devices to collect, convert, store and distribute solar energy. The two most common Active conversions of sunlight into electricity are Thermal and Photovoltaic.

SOLAR ENERGY FACILITY (SEF): A commercial electricity-generating facility (PV or CSP), whose primary purpose is to produce electrical energy for offsite usage. This consists of one or more solar arrays and other accessory structures and buildings, including substations, electrical infrastructure, generators, transmission lines, and other additional structures and/or facilities. Also referred to as a large scale Industrial Solar Energy Facility.

SOLAR FARM: A marketing term for a SEF.

STATE: State of New York.

UTILITY POLE: A structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables or wires for telephone, cable television or electricity, or to provide lighting.

F. PERMIT REQUIREMENTS

1. General: Before a building permit may be submitted for a SEF, a building Permit Application must first be approved by the Town Planning Board.

2. Permit Application: Throughout the permit process, the Applicant/Owner/Operator shall promptly notify the Town Planning Board of any changes to the information contained in the permit application. Changes that do not materially alter the initial site plan may be administratively accepted. The application for a SEF shall consist of five paper copies and electronic (digital) filing that contain at least the following:

3. Summary: A narrative overview of the SEF, including its generating capacity.

4. Inventory: A tabulation describing the:

- a) Number and type of each proposed solar array, including their generating capacity;
- b) Dimensions and respective manufacturers;
- c) Additional structures and/or facilities.

5. Vicinity Map: Identification of the property on which the proposed SEF will be located.

6. Site Plan: A plan showing the:

- a) Planned location of each solar array;
- b) All property lines within 100 feet of the property lines of the proposed site;
- c) Each array's setback distance from the closest SEF boundary;
- d) Access road and turnout locations;
- e) Substation(s) and ancillary equipment, buildings and structures;
- f) Electrical cabling from the SEF to the substation(s) and from the substation(s) to where the electricity will leave the site, and associated transmission lines;
- g) Conservation Areas, including natural areas protected by law such as wetlands, that meet the definition in the Clean Water Act; shore land areas; water bodies; riparian buffers; populations of endangered or threatened species (federal or state), or habitat for such species; flyways; archaeological sites, cemeteries and burial grounds; important local historic sites; existing healthy, native forests consisting of at least one acre of contiguous area; individual existing health trees that are at least 100 years old; other significant natural features and scenic view sheds; existing trails or corridors that connect the tract to neighboring areas;
- h) A landscaping plan that shows proposed screening and buffering of all arrays, buildings and other non-array structures on the site or sites.

7. Miscellaneous: The Applicant/Owner/Operator shall provide the following information to the Town Planning Board:

- a) Documentation that the Project will meet all the requirements of the nationally recognized electrical code;
- b) A Stand-down Plan for high wind conditions;
- c) Signed copies of all original leases/easements and agreements for this SEF.

8. Economic Impact Study: The Town of Clarendon will hire independent experts (paid for from the Escrow Account) who will do a thorough, realistic assessment of the SEF's net economic impact on the community. This will include possible tourism impact, property values, cost to community, health effects, higher cost of electricity, etc. This will be compared to any guaranteed incomes from the SEF. The Town of Clarendon shall pay from the Escrow Account for at least ten (10) representative soil sample tests prior to construction of a SEF for comparison of soil sample tests taken during the decommissioning process.

9. Maintenance Plan: The Applicant/Owner/Operator shall detail storm and other severe weather event follow-up and other actions that shall be taken to keep the SEF operating quietly, efficiently and not polluting land, water, air. Steps should be taken to insure proper operation of inverters, inverter filters and associated electrical equipment. This should include checks for electrical pollution. The Applicant/Owner/Operator shall conduct preventive maintenance inspections at least every six months and after any wind event defined as severe wind, which would be wind over 40 miles per hour for one hour or wind gust 58 miles per hour or greater. Each inspection shall look for such things as metal fatigue, nut loosening, leakage and other

potential failures that might impact the public health and safety. Such inspection reports shall be provided to the Town of Clarendon Zoning or Code Enforcement Officer within thirty (30) days of the inspection. Once a year, the Clarendon Building Inspector or designee will inspect for safety of the SEF.

10. Decommissioning Plan: A description of how the structural and array materials will be disposed of, how the site will be restored, as well as:

- a) Anticipated life of the SEF;
- b) Estimated decommissioning costs including contingency costs of at least 20% (in current dollars), as provided by an appropriately experienced licensed engineer;
- c) A verifiable means of determining if the decommissioning plan needs to be activated due to cessation of use if electricity is not received from any array within the SEF for any thirty (30) consecutive days;
- d) The Applicant/Owner/Operator's plan to dispose of all hazardous waste contained in the SEF;
- e) Method for ensuring that funds will be available for decommissioning and restoration as set forth in a decommission bond.

11. Ancillary Materials: Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Town of Clarendon to ensure compliance with these Regulations or to protect the health, safety and well-being of the town's citizens or local ecosystems. The inputs of local citizens will be solicited in at least one (1) public hearing on this application.

12. Town Planning Board Decision: The approval by the Town Planning Board shall be via Special Use Permit and shall include but is not limited to, a review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].

13. Special Permit Criteria and Restrictions: To provide for at least minimal operational safety for persons and property located outside of a SEF, all SEFs shall comply with the following:

- a) Minimum lot size: Shall be fifteen (15) acres.
- b) Number of systems per lot: There shall be only one (1) SEF allowed per lot.
- c) Maximum overall height: The height of the system shall not exceed fifteen (15) feet when oriented at maximum tilt. Height is measured from the lowest adjacent grade to the highest point of the structure, including any attachments (such as a lightning protection device).
- d) Minimum front setback: As measured from center of the road shall be two hundred fifty (250) feet.
- e) Minimum side and rear setback: Measured from lot lines shall be two hundred fifty (250) feet.
- f) Minimum setback: Measured from any residence shall be three hundred (300) feet.
- g) Minimum setback: From any zoning district boundary shall be three hundred (300) feet. Such minimum setback for a SEF shall be measured from its outermost extension that is nearest the SEF property line, public or private right-of-way and access easement.

- h)** A utility-scale solar energy system shall adhere to all applicable federal, state, county and Town of Clarendon laws, regulations, building, plumbing, electrical, and fire codes, and the applicant shall provide any requested documentation of such correspondence.
- i)** Development and operation of a utility-scale 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 of Clarendon or other federal or state regulatory agencies.
- j)** The design, construction, operation, and maintenance of a utility-scale solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists.
- k)** All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color.
- l)** All transmission lines and wiring associated with a utility-scale solar energy system shall be buried and include necessary encasements in accordance with the International Electric Code and Town requirements. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan.
- m)** All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.
- n)** Artificial lighting of utility-scale solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
- o)** Prior to issuance of a Certificate of Occupancy, the applicant shall provide a 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 design plans.
- p)** Compliance with regulatory agencies: The applicant is required to obtain and maintain all necessary regulatory approval and permits from all federal, state, county, and local agencies having jurisdiction and approval related to the completion of a utility-scale solar energy system.

14. Power Collection: The electrical connection system from the solar arrays to a substation shall, to the maximum extent possible, be placed underground. The power from that substation may use overhead transmission lines, if approved by the Town Planning Board.

15. The SEF shall:

- a)** Not contain any signage or other advertising (including flags, streamers or decorative items or any identification of the array manufacturer Applicant/Owner/Operator). This does not include any identification plaques that might be required by the electric utility or a governmental agency;
- b)** Have a minimum landscape buffer on sides where neighboring homes can see into the SEF. The type of buffer including to but not limited to: plantings, berm, additional screening, or any other means necessary to ensure compatibility and the health and welfare of adjoining properties shall be determined by the Planning Board as part of the site plan process. Plantings at a minimum shall consist of a double row of ten (10) foot evergreens planted in a staggered

configuration. **Vegetative screening shall be maintained and replaced as necessary for the life of the facility.**

16. Security: The Applicant/Owner/Operator shall submit design plans to verify that the SEF is:

- a)** Located, fenced or otherwise secured so as to prevent unauthorized access inside the planted buffer. The minimum security fence shall be seven (7) feet in height.
- b)** Installed in such a manner that they are accessible only to persons authorized to operate or service them, and inaccessible to non-authorized individuals.
- c)** Provisions have been made for emergency responders to gain access to the site as necessary.

17. SEF Escrow Account: The Applicant/Owner/Operator shall pay to the Town of Clarendon a non-refundable Application Fee. The Town Planning Board is required to obtain engineering, economic impact, environmental impact, or other professional services to aid it in the review of any submitted SEF application. These costs (and other expenses incurred by the Town of Clarendon) are reimbursable only from the Escrow Account, not the Application Fee. The amount of the escrow account will be determined by consulting with the appropriate professional organizations. There will be a minimum amount of \$150,000 in the account at all times.

18. Reimbursement: The Applicant/Owner/Operator shall reimburse the Town of Clarendon for all oversight expenses incurred relating to the SEF, from application through decommissioning.

19. These SEF related oversight expenses include but are not limited to: amounts required for Building Permits, Licensing, Re-Licensing and Decommissioning – e.g. administration, engineering, expert health and wildlife evaluations, handling complaints, legal, etc. “Legal” includes reasonable attorney fees for the Town of Clarendon in the event that an action is commenced by the Town to enforce provisions of these Regulations.

20. Any Escrow Interest: Shall stay with the account and be considered new principal.

21. Escrow Account Setup will be by the Applicant/Owner/Operator at the time of the SEF permit application. This Escrow Account will be at a financial institution approved by the Town of Clarendon, solely in the name of the Town of Clarendon, to be managed by the Town of Clarendon, or designee appointed by the Clarendon Town Board.

The Applicant/Owner/Operator will make an initial deposit in an amount to be determined by the Town of Clarendon. A SEF Permit Application will not be processed until the applicant/Owner/Operator has provided proof of deposit. A SEF Permit Application determination will not be made until all costs incurred to date have been reimbursed by the Applicant/Owner/Operator.

22. SEF Application Denial If the SEF Application is denied, all Escrow Account funds will be returned to the applicant/Owner/Operator, less related expenses incurred by the Town of Clarendon. The money will be returned along with a statement as to these costs within thirty (30)

days of the Application being formally denied or receipt of a Letter of Withdrawal. Permit Fees are non-refundable.

23. Escrow Account Funding: This Escrow Account will be funded during the life of the SEF by the applicant/Owner/Operator. The applicant/Owner/Operator will replenish any Escrow funds used by the Town of Clarendon within thirty (30) calendar days of being sent written report and accounting of said withdrawals. Failure to maintain the Escrow Account at a minimum balance set by the Clarendon Town Planning Board within thirty (30) days of being given notice, shall be cause for revocation or denial of renewal of the SEF Permit.

24. Decommissioning Verification: Once the SEF Applicant/Owner/Operator believes that they have satisfactorily complied with the decommissioning conditions specified herein, they will send the Clarendon Town Planning Board written notification. The Town of Clarendon then has ninety (90) days to verify to their satisfaction that all decommissioning conditions have been complied with. If there is material non-compliance, the Clarendon Town Planning Board will so notify the SEF Applicant/Owner/Operator and the process starts over. Otherwise, the Town of Clarendon will return all Escrow Account funds to the SEF Applicant/Owner/Operator less related expenses incurred by the Town of Clarendon, along with an explanatory statement.

25. SEF Surety for Removal when Decommissioned: The Applicant/Owner/Operator shall place with the Town of Clarendon an acceptable letter of credit, bond, or other form of security that is sufficient to cover the cost of removal at the end of each SEF array's useful life as detailed in the decommissioning plan. Such surety shall be determined based on best practices and research for each acre of a solar array. The Town of Clarendon may approve a reduced surety amount that is not less than 150% of a cost estimate that is certified by an Engineer, Salvage Company or other expert acceptable to the Town of Clarendon. This calculation will not take into account any estimated salvage values.

The Town of Clarendon shall use this surety to assure the faithful performance of the decommissioning terms and conditions of the Applicant/Owner/Operator's plan and these Regulations. The full amount of the bond or security shall remain in full force and effect until all necessary site restoration is completed to return the site to a condition comparable to what it was prior to the SEF, as determined by the Town Planning Board. The Applicant/Owner/Operator will be responsible for assuring that any subsequent Assigns of the SEF will provide acceptable surety to the Town of Clarendon prior to any transfer of ownership.

26. SEF Indemnification: Any application for a SEF within the Town of Clarendon shall contain an indemnification provision. The provision shall require the Applicant/Owner/Operator to at all times defend, indemnify, protect, save, hold harmless and exempt the Town of Clarendon and its officers, councils, employees, attorneys, agents and consultants from any and all penalties, damages, costs or charges arising out of any and all claims, suits, demands, causes of action or award of damages whether compensatory or punitive, or expenses arising therefrom either at law or in equity which might arise out of or are caused by the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation,

replacement, removal or restoration of said SEF, excepting however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town of Clarendon or its employees or agents. With respect to the penalties, damages, or changes referenced herein, reasonable attorneys' fees, consultants' fees and expert witness fees are included in those costs that are recoverable by the Town of Clarendon.

27. SEF Permit Fees: The non-refundable Permit Application Fee shall be set by the Clarendon Town Board and amended from time to time as needed.

28. Permit Decision Standards: The Clarendon Town Planning Board may disapprove a SEF Permit application for a variety of legal reasons, including but not limited to:

- a) Conflict with safety and safety related codes and requirements;
- b) The use or construction of a SEF that is contrary to an already stated purpose of a specific zoning or land use designation;
- c) The operation of a SEF would be a net economic liability to the community;
- d) The operation of a SEF would create unacceptable health risks to the public;
- e) The replacement and operation of a SEF that would create unacceptable risks to wildlife and/or regional ecosystems;
- f) The placement and location of a SEF would result in a conflict with or compromise or change in the nature or character of the surrounding area;
- g) The operation of a SEF would create unacceptable interference with any type of military or aviation operations;
- h) Conflicts with any provisions of this Local Law.

G. SEF POST-PERMIT APPROVAL REQUIREMENTS

1. SEF Construction Related Damage: The owner of any permitted SEF shall to the extent practicable repair or replace all real or personal property, public or private, damaged during the SEF construction.

- a) Any road damage during construction that is caused by the Applicant/Owner/Operator or one or more of its subcontractors that is identified by the New York State Department of Transportation (NYSDOT), Orleans County Highway Department and Town of Clarendon Highway Department (as appropriate) shall be repaired or reconstructed to the satisfaction of the appropriate Agency at the Applicant/Owner/Operator's expense prior to the final inspection. In addition, the Applicant/Owner/Operator shall pay for all costs related to the NYSDOT, Orleans County Highway Department and Town of Clarendon Highway Department (as appropriate) pre-inspection work prior to receipt of the final inspection;
- b) The surety for removal of a decommissioned SEF shall not be released until the Town of Clarendon or designee is satisfied that any road damage identified during and after decommissioning that is done by the Applicant/Owner/Operator and/or one or more of its contractors or subcontractors, has been repaired or reconstructed to the satisfaction of the appropriate Agency at the applicant/Owner/Operator's expense. In addition, the

applicant/Owner/Operator shall pay for all costs related to work of the NYSDOT, Orleans County Highway Department and the Town of Clarendon Highway Department (as appropriate) for inspection prior to receipt of the release of the surety.

2. SEF Environmental Monitoring: The Applicant/Owner/Operator will permit post-construction environmental studies deemed appropriate by the Clarendon Town Planning Board/Building Inspector or designee, which will be funded by the Escrow Account. The Applicant/Owner/Operator is responsible to see that the Town of Clarendon has current Material Safety Data Sheets (MSDS) for all chemicals used for maintenance, etc. of the SEF (e.g. pesticides, herbicides, cleaners). This list shall include quantity and frequency of application of each of these chemicals. At any time if this information is out of date, the Applicant/Owner/Operator will be subject to a fine of \$250 per incident.

Post-construction field studies will include scientific assessments of regional nesting failures and territory abandonment of special status species within one (1) mile of the SEF. When these assessments are being done, only researchers involved with these studies will be legally allowed to touch carcasses. SEF personnel who move carcasses without written Town of Clarendon approval will be subject to a fine per law as solar arrays have been known to kill endangered and other highly protected species. During the life of the project, carcasses found anywhere within the SEF must be reported to the Town of Clarendon Building Inspector by the Applicant/Owner/Operator within seven (7) days. The fine for violation of Section 9.2 is \$250 per carcass per incident.

3. SEF Decommissioning: The Town of Clarendon will review the projected Decommissioning costs every five (5) years. The SEF owner will adjust their security to any changes from the original calculation. If the Town of Clarendon Building Codes Official condemns any portion of a SEF, or if no electricity is generated from any solar array for three (3) consecutive months, the Applicant/Owner/Operator and/or property owner shall have three (3) months to remedy the safety issues or complete the decommissioning of the SEF, according to the approved plan.

4. Time Extensions: The Town of Clarendon may, through the Code Enforcement Officer, grant reasonable extensions of time for repair and/or maintenance for good cause, such as the need to back-order parts that are not currently available from the supplier or the need to repair a SEF damaged by a storm.

5. Removal: Decommissioning shall include the complete removal of solar arrays, building, electrical components, cabling, roads and any other associated facilities and/or structures, buffered fencing, including below-ground items (e.g. foundations) to a depth of four (4) feet below grade.

6. Grading: Disturbed or compacted earth shall be de-compacted, graded and re-seeded, unless the landowner requests in writing to the Applicant/Owner/Operator and the Town Planning Board that the access roads or other land surface areas not to be restored.

7. Soil Samples: The Town of Clarendon shall pay from the Escrow Account for at least ten (10) representative soil sample tests prior to construction on the site and as part of the site decommissioning process to assure that no new contaminants are left behind. If evidence of new contaminants is found, the Applicant/Owner/Operator is obligated to remedy the situation to the Town of Clarendon Planning Board's satisfaction.

8. SEF Complaints: The Town of Clarendon shall set up a procedure for filing and handling SEF complaints. The Applicant/Owner/Operator shall initially be given a reasonable opportunity to resolve all complaints. The cost of such resolution shall be borne by the Applicant/Owner/Operator. If resolution is not made in a reasonable time or sixty (60) days (reasonable as determined by the Clarendon Town Planning Board), the Town of Clarendon may utilize its Escrow Account to attempt to resolve any SEF issues. The Town of Clarendon Planning Board shall monitor and oversee resolution of complaints regarding SEFs.

H. SEF LIABILITY INSURANCE

1. The Holder of a Permit for a SEF Shall Agree to secure and maintain for the duration of the permit, public liability insurance as follows:

- a) Commercial general liability covering personal injuries, death and property damage: \$5,000,000 per occurrence (\$10,000 aggregate) which shall specifically include the Town of Clarendon and its officers, councils, employees, attorneys, agents and consultants as additional named insured;
- b) Umbrella coverage: \$10,000,000.

2. Insurance Company: The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with at least a Best's rating of "A".

3. Insurance Policy Cancellation: The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town of Clarendon with at least thirty (30) days prior written notice in advance of cancellation.

4. Insurance Policy Renewal: Renewal or replacement policies shall be delivered to the town of Clarendon at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

5. Copies of Insurance Policy: No more than fifteen (15) days after the grant of the permit before construction is initiated, the permit holder shall deliver to the Town of Clarendon a copy of each of the policies or certificates representing the insurance in the required amounts.

6. Certificate of Insurance: A certificate of insurance states that it is for informational purposes only and does not confer sufficient rights upon the Town of Clarendon shall not be deemed to comply with this Law.

I. MISCELLANEOUS - Fiscal Responsibility

1. Audited Report: The Clarendon Town Board may at its discretion, request the most recent annual audited financial report of the permittee prepared by a duly licensed Certified Public Accountant during the review process. If such report does not exist, the Clarendon Town Board may in its sole discretion, require a suitable alternative to demonstrate the financial responsibility of the applicant/Owner/Operator and its ability to comply with the requirements of these Regulations.

2. No Transfer or Sale of any SEF, including the sale of more than 30% of the stock of such entity (not counting sale of shares on a public exchange) shall occur without advanced written acceptance by such entity of the obligations of the permittee under these Regulations. Any such transfer shall not eliminate the liability of any entity for any act occurring during its ownership or status as permittee.

3. The requirements of these Regulations shall apply to all SEFs proposed, operated, modified or constructed after the effective date of these Regulations.

J. APPLICABILITY

The requirements of these regulations shall apply to all SEF's proposed, operated, modified, or constructed after the effective date of the regulation.

K. SEVERABILITY

Should any provision of these regulations be declared by any court, administrative body or board or any other government body or board to be unconstitutional, invalid, preempted, void or otherwise inapplicable for any reason, such decision shall not affect the validity of these Regulations as a whole or any part thereof other than the part so decided to be unconstitutional, invalid, preempted, void or otherwise inapplicable.