10/22/08 passed
DRAFT
12/22/08 rescinded

Local Law No. 02 of 2008

Be it hereby enacted by the Town Board of the Town of Hammond as follows:

Section 1: Local Law No. 02 of 2008, entitled 'WIND ENERGY FACILITIES;" is hereby adopted to read in its entirety as follows:

WIND ENERGY FACILITIES

Article I

General

§1. Title

This Local Law shall be cited as the "Wind Energy Facility Law of the Town of Hammond, New York".

§2. Purpose

The Town Board of the Town of Hammond adopts this Local Law to promote the effective and efficient use of the Town's wind energy resource through wind energy conversion systems (WECS), and to regulate the placement of such systems so that the public health, safety, and welfare will not be jeopardized.

§3. Authority

The Town Board of the Town of Hammond, enacts this Local Law under the authority granted by

1. Article IX of the New York State Constitution, §2(c) (6) and (10).

2. New York Statute of Local Governments, §10 (1), (6), and (7).

3. New York Municipal Home Rule Law, §10 (1) (i) and (ii) and §10 (l) (a) (6), (11), (12), and (14).

4. The supersession authority of New York Municipal Home Rule Law, §10 (2)(d)(3), specifically as it relates to determining which body shall have power to grant variances under this Local Law, to the extent such grant of power is different than under Town Law §267.

5. New York Town Law, Article 16 (Zoning).

6. New York Town Law §130(1)(Building Code), (3)(Electrical Code), (5)(Fire Prevention), (7)(Use of streets and highways), (7-a)(Location of Driveways), (11)(peace, good order and safety), (15)(Promotion of public welfare), (15-a)(Excavated Lands), (16)(Unsafe buildings), (19)(Trespass), and (25)(Building lines).

7. New York Town Law §64(17-a) (protection of aesthetic interests), (23) (General powers).

§4. Considerations

The Town Board of the Town of Hammond, considers that:

1. Wind energy is an abundant, renewable and nonpolluting energy resource of the Town and its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.

2. The generation of electricity from properly sited wind turbines, including small systems, 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, or on-site consumption can be reduced.

3. Regulation of the siting and installation of wind turbines is necessary for protecting the health, safety, and welfare of neighboring property owners and the public.

4. Wind Energy Facilities represent significant potential aesthetic impacts because of their large size, lighting, and shadow flicker effects.

5. If not properly regulated, installation of Wind Energy Facilities can create drainage problems through erosion and lack of sediment control for facility and access road sites, and harm farmlands through improper construction methods.

6. Wind Energy Facilities may present a risk to birds, bats and other creatures.

7. If not properly sited, Wind Energy Facilities may adversely affect the property values of adjoining property owners.

8. Wind Energy Facilities may be significant sources of noise, which, if unregulated, can negatively affect the quiet enjoyment of properties in the vicinity.

9. Construction of Wind Energy Facilities can create traffic problems and damage local roads.

10. Wind Energy Facilities can cause electromagnetic interference issues with various types of communications.
11. The installation of WEF's may affect ground water supplies.
12. Distance of setbacks have taken into consideration the potential hazards of ice throws, blade breakage, and tower blow downs.
13. WEF's may have an effect on future sub-divisions.

§5. Permits Required

A. No Wind Energy Facility shall be constructed, reconstructed, modified, or operated in the Town of Hammond, except in compliance with this Local Law.

B. No WECS shall be constructed, reconstructed, modified, or operated in the Town of Hammond, except in a Wind Overlay District, pursuant to a Special Use Permit approved pursuant to this Local Law.

C. No Special Permit shall be issued for construction, reconstruction, modification, or operation of a WECS in the Town of Hammond, unless and until a Wind Overlay District has been created by act of the Town Board.

D. No Special Permit shall be issued for construction, reconstruction, modification or operation of a WECS in the Town of Hammond, until all other permits as may be required (e.g., FAA, DEC, etc.) have been issued and evidence of same provided to the Town of Hammond.

E. No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated in the Town of Hammond, except pursuant to a Special Use Permit issued pursuant to this Local Law.

F. No Small Wind Energy Conversion System shall be constructed, reconstructed, modified, or operated in the Town of Hammond, except pursuant to a Special Use Permit issued pursuant to this Local Law.

G. Exemptions. No permit or other approval shall be required under this Local Law for mechanical, non-electrical WECS utilized solely for on-site agricultural operations.

H. Transfer. No transfer of any Wind Energy Facility or Special Use Permit, nor sale of the entity owning such facility including the sale of more than 30% of the stock of such entity (not counting sales of shares on a public exchange), will occur without prior approval of the Town, which approval shall be granted upon written acceptance by the transferee of the obligations of the transferor under this Local Law. No transfer shall eliminate the liability of an applicant or of any other party under this Local Law.

I. Notwithstanding the requirements of this Section. replacement in kind or modification of a Wind Energy Facility may occur with Town Board approval. Replacement or modification may include but not be limited to:
(1) Increases in Total Height of the WECS;
(2) Changes in the location of the WECS;
(3) Additional lighting or changes in facility color
(4) Increases in noise produced by the WECS.

§6. Definitions.

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

EAF - Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules, and Regulations.

RESIDENCE - means any dwelling suitable for habitation existing in the Town of Hammond on the date an application is received. A residence may be part of a multi-dwelling or multipurpose building, and shall include buildings such as hunting camps, seasonal residences, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes, or correctional institutions.

SEQRA - the New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes,' Rules and Regulations, Part 617.

SOUND PRESSURE LEVEL - means the level, which is equaled or exceeded a stated percentage of time. An LIO - 45 dBA (this figure must be discussed at greater length by the committee) indicates that in any hour of the day 45 dBA can be equaled or exceeded only 10% of the time, or for 6 minutes. The measurement of the sound pressure level can be done according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11), or other accepted procedures.

SITE - The parcel(s) of land where the Wind Energy Facility is to be placed. The Site could be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property, which has a Wind Energy Facility, or has entered an agreement for said Facility or a setback agreement, shall not be considered off-site.

SMALL WIND ENERGY CONVERSION SYSTEM - ("Small WECS") - A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of no less than 500 watts and not more than 100 kW and which is intended to primarily generate on-site power or reduce on-site consumption of utility power.

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 electricity (commonly known as a "wind turbine" or "windmill").

WIND ENERGY FACILTY - Any Wind Energy Conversion System, Small Wind Energy Conversion System, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

WIND MEASUREMENT TOWER - A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

WIND OVERLAY DISTRICT – Those areas of the Town of Hammond that the Town Board has determined are appropriate for the development of wind energy conversion systems (WECS) and related infrastructure, electrical lines and substations, access roads and accessory structures.

§7. Applicability

A. The requirements of this Local Law shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this Local Law.

B. Wind Energy Facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this Local Law, shall not be required to meet the requirements of this Local Law; provided, however, that

1. Any such pre-existing Wind Energy Facility that does not generate energy for a continuous period of twelve (12) months shall meet the requirements of this Local Law prior to recommencing production of energy.

2. No modification or alteration to an existing Wind Energy Facility shall be allowed without full compliance with this Local Law.

3. Any Wind Measurement Tower existing on the effective date of this Local Law shall be removed no later than twenty-six (26) months after said effective date, unless a Special Use Permit for said Wind Energy Facility is obtained.

C. Wind Energy Facilities may be either principal or accessory uses. Alternatively, an existing structure on the same Site shall not preclude the installation of a Wind Energy Facility or a part of such facility on such Site. Wind Energy Facilities constructed and Installed in accordance with this Local Law shall not be deemed expansions of a nonconforming use or structure.

Article II

Wind Energy Conversion Systems

§10. Creation of Wind Overlay *District*

The committee recommends the following boundaries for the Wind Overlay District:

i. Railroad bed from St. Lawrence County / Jefferson County line to Village of Hammond.
ii. Black Lake Road from the Village of Hammond to Hammond/ Morristown town line.
iii. Inland side of Route 12 right of way from St. Lawrence / Jefferson County line to Hammond / Morristown town line.
iv. St. Lawrence / Jefferson County line from railroad bed to inland side of Route 12 right-of-way.
v. Hammond / Morristown town line from Black Lake Road to inland side of Route 12 right-of-way.

A. Wind Overlay Districts shall be created by the Town Board to delineate those areas in the Town of Hammond that are appropriate for the development of wind energy conversion systems (WECS) and related infrastructure, electrical lines and substations, access roads and accessory structures.

B. The Town Board shall refer development of Wind Overlay Districts to the Town Planning Board. The Town Planning Board shall hold public meetings after public notice at which the Planning Board shall consider the landscape and topography of the town, current land uses and future development patterns, natural resources, unique or sensitive environments, the local existence of wildlife and plant species, viewsheds, residents' opinions, and other pertinent information.

C. After considering these and any other information presented at public hearing, the Town Planning Board shall determine those areas which are not considered appropriate for development of wind energy conversion systems (WECS) and related infrastructure, electrical lines and substations, access roads and accessory structures. Any other areas of the Town of Hammond may be designated by the Town Planning Board to be potential Wind Overlay Districts.

D. The Town Planning Board shall report its findings and make recommendations to the Town Board.

E. The Town Board shall hold a public hearing after public notice as required, and shall consider the recommendations of the Town Planning Board and all other comments, reviews and statements pertaining thereto. After considering these and any other information presented at public hearing, the Town Board shall determine which areas of the Town of Hammond shall be determined to be Wind Overlay District.

F. If approved, the Town Board will direct the Town Clerk to modify the Official Map to reflect the creation of the Wind OverlayDistrict.

G. Once a Wind Overlay District has been created, new WECSs or accessory structures or facilities may be added in that zone by grant of a Special Use Permit pursuant to the requirements of this Article.

H. Construction, reconstruction, modification or operation of Small Wind Energy Conversion Systems (Small WECS) or Wind Measurement Towers, as defined in this Local Law, shall not be limited to Wind Overlay District, as long as these other projects comply with all other regulations contained herein.

§11. Applications for Wind Energy Conversion Systems

A. An application for Special Use Permit for individual WECS shall include the following:

1. Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

2. Name and address of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

3. Address, or other property identification, of each proposed tower location, including Tax Map section, block and lot number, latitude and longitude coordinates.

4. A description of the project, including the number and maximum rated power output capacity of each WECS.

5. For each WECS proposed, a plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:

(a) Property lines and physical dimensions of the Site;

(b) Location, approximate dimensions and types of existing structures and uses on Site, public roads, and adjoining properties within one thousand two hundred fifty feet of tower height of the Site, unless adjacent landowners have a signed memorandum of understanding to a less footage.

(c) Location and ground elevation of each proposed WECS.

(d) Location of all above ground utility lines on the Site, and all related transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.

(e) Location and size of structures above 35 feet within a one thousand two hundred fifty 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.

(f) Boundaries of the Wind Overlay District to demonstrate that each proposed WECS is located within said overlay zones.

(g) To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower site equal to:
(i) Perimeter equal to one and a half times the tower height.
(ii) Five Hundred foot radius.
(iii) One Thousand two hundred fifty foot radius.

Information shall be provided concerning ownership and land uses within the above-mentioned radii.

(h) Location of the nearest residential structure on Site and off Site, and the distance from the proposed WECS.

(i) All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.

6. Elevation drawing of the WECS showing Total Height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each WECS of the same type and Total Height.

7. Landscaping Plan depicting vegetation describing the area to be cleared of vegetation and areas where vegetation shall be added, identified by species and size of specimens at installation, and their locations. Guideline listed in Appendix A of this law shall also adhere to for this work.

8. Lighting Plan showing any FAA-required lighting and other proposed lighting. The application should include a copy of the determination by the Federal Aviation Administration to establish required markings and/or lights for the structure, but if such determination is not available at the time of the application, no building permit for any lighted facility may be issued until such determination is submitted.

9. Decommissioning Plan: The applicant shall submit a decommissioning plan, which shall include: 1) the anticipated life of the WECS; 2) the estimated decommissioning costs in current dollars; 3) how said estimate was determined; 4) the method of ensuring that funds will be available for decommissioning and restoration; (5) the method, such by annual re-estimate by a licensed engineer, that the decommissioning cost will be kept current; and 6) the manner in which the WECS will be decommissioned and the Site restored, which shall include removal of all roads, structures and debris to a depth of 3 feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner. Guidelines listed in Appendix A of this law shall also be adhered to for this work.

10. Complaint Resolution: The application will include a complaint resolution process to address complaints from nearby residents. The applicant shall make every reasonable effort to resolve any complaint within 45 days. Lacking resolution, an arbitrator shall be appointed by the Town Board where the results shall be binding by both parties. Complaint resolution shall be filed by registered mail.

11. An application shall include information relating to the construction/installation of the wind energy conversion facility as follows:

(a) A construction schedule describing commencement and completion dates and hours of construction; and
(b) A description of the routes to be used by construction and delivery vehicles, the gross weights, and heights of those loaded vehicles.

12. Completed Part 1 of the Full EAF.

13. Applications for Wind Energy Permits for Wind Measurement Towers subject to this Local Law may be jointly submitted with the WECS.

14. For each proposed WECS, include make, model, picture, and manufacturer's specifications, including noise decibels data. Include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.

15. If the applicant agrees in writing in the application that the proposed WECS may have a significant adverse impact on the environment, the Town Board may issue a positive declaration of environmental significance.

16. If a positive declaration of environmental significance is determined by the SEQRA lead agency, the following information shall be included in the Draft Environmental Impact Statement (DEIS) prepared for a Wind Energy Facility. Otherwise, the following studies shall be submitted with the application:

(a). Shadow Flicker: The applicant shall conduct a study on potential shadow flicker. The study shall identify locations where shadow flicker may be caused by the WECSs and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences and describe measures that shall be taken to eliminate or mitigate the problems.

(b). Visual Impact: Applications shall include a visual impact study of the proposed WECS as installed, which may include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed Site from at least two locations accurately depicting the existing conditions shall be included. The visual analysis shall

also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

(c). Fire Protection/Emergency Response Plan: A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed District to address coordination with local emergency/fire protection providers during any construction or operation phase emergency, hazard or other event.

(d). Noise Analysis: A noise analysis by a competent acoustical consultant documenting the noise levels associated with the proposed WECS. The study shall document noise levels at property lines and at the nearest residence not on the Site (if access to the nearest residence is not available, the Town Board may modify this requirement). The noise analysis shall include low frequency noise.

(e). Property Value Analysis: Property value analysis shall be prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact of values of properties neighboring WECS Sites.

(f). Electromagnetic Interference: An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems and other wireless communication.

(g). Transportation Impacts: An analysis of impacts on local transportation shall be prepared, regarding impacts anticipated during construction, reconstruction, modification, or operation of WECS. Transportation impacts to be considered shall include, at a minimum, potential damage to local road surfaces, road beds and associated structures; potential traffic tie-ups by haulers of WECS materials; impacts on school bus routes; impacts of visitors to the WECS facilities.

(h.) Transportation Plan: A transportation plan describing routes to be used in delivery of project components, equipment and building materials, and those to be used to provide access to the Site during and after construction. Such plan shall also describe any anticipated improvements to existing roads, bridges or other infrastructure, and measures to restore damaged/disturbed access routes following construction.

(i). Ground Water Impacts: An analysis of impacts on local ground water resources shall be prepared, regarding impacts anticipated during construction, reconstruction, modification or operation of WECS.

(j). Cultural Resources: An analysis of impacts on cultural resources shall be prepared, regarding impacts anticipated during construction, reconstruction, modification, or operation of WECS.

(k). Wildlife Impacts: An analysis of impacts on local wildlife shall be prepared, regarding impacts anticipated during construction, reconstruction, modification, or operation of WECS. Wildlife impacts to be considered shall include, at a minimum, anticipated impacts on flying creatures (birds, bats, insects), as well as wild creatures existing at ground level. Any analysis or studies shall follow guidelines published by the DEC (when adopted) for avian studies.

(l). Operation and Maintenance Plan: An operation and maintenance plan providing for regular periodic Wind Energy Facility, Small Wind Energy Facility, and Wind Turbine maintenance schedules, any special maintenance requirements and procedures and notification requirements for restarts during icing events.

17. The applicant shall, prior to the receipt of a building permit, provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and the applicable Transmission Owner.

18. A statement, signed under penalties of perjury that the information contained in the application is true and accurate.

§ 12 Application Review Process (*in communities WITH Planning Boards)*

A. Applicants may request a pre-application meeting with the Town Planning Board, or with any consultants retained by the Planning Board for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.

B. Six copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.

C. Town staff or Town-designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this Article is included in the application. Unless the Planning Board waives any application requirement, no application shall be considered until deemed complete.

D. If the application is deemed incomplete, the Planning Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of WECSs proposed is increased.

E. Upon submission of a complete application, including the grant of any application waiver by the Planning Board, the Town Clerk shall transmit the application to the Planning Board.

F. The Planning Board shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within 1,000 feet of each proposed WECS and published in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

G. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested variances.

H. Notice of the project shall also be given, when applicable, to (1) the St. Lawrence County Planning Board, if required by General Municipal Law §239-1 and 239-m, and (2) to adjoining Towns under Town Law §264.

I. SEQRA review. Applications for WECS are deemed Type I projects under SEQRA. The Planning Board may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said communities shall be part of the record of the Planning Board's proceedings. The Planning Board will require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review.

J. Upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the applications, in accordance with the standards in this Article.

§13 Standards for WECS

The following standards shall apply to all WECS, unless specifically waived by the Town Board as part of a permit.

A. All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.

B. No television, radio or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the Town Site Plan Review and Subdivision Law. Applications may be jointly submitted for WECS and telecommunications facilities.

C. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.

D. Lighting of tower. No tower shall be lit except to comply with FAA requirements. Minimum-security lighting for ground level facilities shall be allowed as approved on the Site plan.

E. All applicants shall use measures to reduce the visual impact of WECSs to the extent possible. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Individual WECSs within a Wind Overlay District shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the District, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.

F. The use of guy wires is disfavored. A WECS using guy wires for tower support shall incorporate appropriate measures to protect the guy wires from damage, which could cause tower failure.

G. No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No WECS shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy electromagnetic interference is grounds for revocation of the Wind Energy Permit for the specific WECS or WECSs causing the interference.

H. All solid waste and hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all appropriate rules and regulations.

I. WECSs shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas will be given priority wherever possible. All top soil disturbed during construction, reconstruction or modification of WECS shall be stockpiled and returned to the site upon completion of the activity, which disturbed the soil. Guidelines listed in Appendix A of this law shall also be adhered to for this work.

J. WECSs shall be located in a manner that minimizes significant negative impacts on animal species in the vicinity, particularly bird and bat species, including those that may be listed by the U.S. Fish & Wildlife Service as threatened or endangered.

K. Wind energy conversion facilities shall be located in a manner consistent with all applicable state and Federal wetlands laws and regulations.

L. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable state and Federal laws and regulations. Guidelines listed in Appendix A of this law shall also be adhered to for this work.

M. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects shall be adhered to, both inside and outside of agricultural districts. These guidelines are listed in Appendix A of this law.

N. The maximum Total Height of any WECS shall be 500 feet.

O. Construction of the WECS shall be limited to the hours of 7 AM to 7 PM Monday through Friday, unless the prior written approval of the Town Planning Board is received to allow deviation from such hours.

P. If it is determined that a WECS is causing stray voltage issues, the operator shall take the necessary corrective action to eliminate these problems including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy stray voltage issues is grounds for revocation of the Wind Energy Permit for the specific WECS or WECSs causing the problems.

§14. Required Safety Measures

A. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.

B. If the property owner submits a written request that fencing be required, a six-foot-high fence with a locking portal shall be required to enclose each tower or group of towers. The color and type of fencing for each WECS installation shall be determined based on individual applications as safety needs dictate.

C. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each tower or group of towers and any building (or on the tower or building if there is no fence), containing emergency contact information, including a local telephone number with 24 hour, 7 day a week coverage. The Town Planning Board may require additional signs based on safety needs.

D. No climbing pegs or tower ladders shall be located closer than twelve (12) feet to the ground level at the base of the structure for freestanding single pole or guyed towers.

E. The minimum distance between the ground and any part of the rotor or blade system shall be thirty-five (35) feet.

F. WECSs shall-be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked.

G. Copies of all reports concerning operating and safety inspections for each WECS shall be filed with the Town Clerk.

§15. Traffic Routes

A. Construction of WECS poses potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECS and/or associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include (1) minimizing traffic impacts from construction and delivery vehicles; (2) minimizing WECS related traffic during times of school bus activity; (3) minimizing wear and tear on local roads; and (4) minimizing impacts on local business operations. Permit conditions may limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public.

B. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a WECS. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by the Town Board, sufficient to compensate the Town for any damage to local roads.

C. If the applicant uses any seasonal use highway in the off-season, it shall be solely responsible for the maintenance of said highway including but not limited to snow plowing. No act of maintenance on a seasonal use highway by an applicant shall be considered as Town maintenance of that highway for purposes of determining the seasonal use status of the highway.

§16. Noise Standards and Setbacks for Wind Energy Conversion Systems

A. The statistical sound pressure level (L_{10}) generated by a WECS shall not exceed 45 dBA when measured at the nearest inhabited off-site dwelling, school hospital, church or public building existing at the time of application. If the ambient sound pressure level exceeds 45 dBA, the standard shall be ambient dBA plus 5 dBA. Independent certification shall be provided before and after construction demonstrating compliance with this requirement.

B. In the event audible noise due to Wind Energy Facility operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in subparagraph 1) of this subsection shall be reduced by five (5) dBA. A pure tone is defined to exist if the one-third (1/3) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one third (1/3) octave bands by five (5) dBA for center frequencies of five hundred (500) Hz and above, by eight (8) dBA for center frequencies between one hundred and sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dBA for center frequencies less than or equal to one hundred and twenty-five (125) Hz.

C. In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is exceeded for more than five (5) minutes per

hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences, schools, hospitals, churches and public libraries. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind-generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project site are sufficient to allow Wind Turbine operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location.

D. Any noise level falling between two whole decibels shall be the lower of the two.

E. Each WECS shall be setback from Site boundaries, measured from the center of the WECS:

1. 500 feet from the nearest site boundary property line unless adjacent landowners have a signed memorandum of understanding to a lesser footage.

2. The greater of one and one-half times the total tower height, or 500 feet from the nearest public road.

3. 500 feet from the nearest edge of the Wind Overlay District

4. The greater of two and one-half times the total tower height, or 1500 feet from the nearest off-site residence existing at the time of application, unless adjacent landowners have a signed memorandum of understanding to a lesser footage..

5. One and a half times the Total Height of the WECS from any non-WECS structure or any aboveground utilities.

6. 500 feet from state-identified wetlands or bodies of water. This distance may be adjusted to be greater at the discretion of the reviewing body, based on topography, land cover, land uses, and other factors that influence the flight patterns of resident birds, bats or other creatures.

§17. Issuance of Special Use Permits

A. Upon completion of the review process, the Town Board shall, upon consideration of the standards in this Local Law and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated.

B. If approved, the Town Board will issue a Special Use Permit for each WECS upon satisfaction of all conditions for said Permit, and direct the Building Inspector to issue a building permit, upon compliance with the Uniform Fire Prevention and Building Code and the other conditions of this Local Law.

C. The decision of the Town Board shall be filed within five days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.

D. If any approved WECS is not substantially commenced within two years of issuance of the permit, the special use permit shall expire.

§18. Abatement

A. If any WECS remains non-functional or inoperative for a continuous period of 1 year, the applicant agrees that, without any further action by the Town Planning Board, it shall remove said system at its own expense. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the applicant demonstrates to the Town that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town Planning Board's ability to order a remedial action plan after public hearing.

B. Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA or by lack of income generation. The applicant shall make available (subject to a non-disclosure agreement) to the Town Planning Board all reports to and from the purchaser of energy from individual Wind Energy Conversion Systems, if requested, necessary to prove the WECS is functioning, which reports may be redacted as necessary to protect proprietary information.

C. Decommissioning Bond or Fund The applicant, or successors, shall continuously maintain a fund or bond payable to the Town for the removal of non-functional towers and appurtenant facilities in an amount to be determined by the Town for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York-licensed financial institution. All costs of the financial security shall be borne by the applicant. All decommissioning funding requirements shall be met prior to commencement of construction.

§19. Limitations on Approvals; Easements on Town Property

A. Nothing in this Local Law shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the Wind Energy Facility. Nothing in this Local Law shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any Wind Energy Facility. It shall be the sole responsibility of the Facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.

B. Pursuant to the powers granted to the Town to manage its own property, the Town may enter into noise, setback, or wind flow easements on such terms as the Town Board deems appropriate, as long as said agreements are not otherwise prohibited by state or local law.

§20. Permit Revocation

A. Testing fund. A Special Use Permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as every two years, or more frequently upon request of the Town Board in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Special Use Permit and this Local Law and shall include an evaluation of any complaints received by the Town. The applicant shall have 90 days after written notice from the Town Board, to cure any deficiency. An extension of the 90-day period may be considered by the Town Board, but the total period may not exceed 180 days.

B. Operation. A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, the owner, or operator shall remedy the situation within 90 days after written notice from the Town Board. The applicant shall have 90 days after written notice from the Town Board, to cure any deficiency. An extension of the 90-day period may be considered by the Town Board, but the total period may not exceed 180 days.

C. Notwithstanding any other abatement provision under this Local Law, and consistent with §18(A) and §20(B), if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Town may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (1) order either remedial action within a particular timeframe, or (2) order revocation of the Wind Energy Permit for the WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the Town Board shall have the right to use the security posted as part of the Decommission Plan to remove the WECS.

Article III

Wind Measurement Towers

§21. Wind Site Assessment

The Town Board acknowledges that prior to construction of a WECS; an assessment is typically needed to determine local wind speeds and the feasibility of using particular sites. Installation of Wind Measurement Towers, also known as anemometer ("Met") towers, shall be permitted as Special Uses, but shall not be limited to those areas delineated as Wind Overlay Districts.

§22. Applications for Wind Measurement Towers

A. An application for a Wind Measurement Tower shall include:

1. Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

2. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

3. Address of each proposed Tower Site, including Tax Map section, block and lot number.

4. Site plan.

5. Decommissioning Plan, including a security bond or cash for removal.

§23. Standards for Wind Measurement Towers

A. The distance between a Wind Measurement Tower and the property line shall be at least 1.5 times the Total Height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.

B. Special Use Permits for Wind Measurement Towers may be issued for a period of up to twenty-six (26) months. Permits may be renewed if the Facility complies with the conditions of the Special Use Permit.

C. Anchor points for any guy wires for a Wind Measurement Tower shall be located within the property that the system is located on and not on or across any aboveground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from three to eight feet above the ground.

D. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind farm projects shall be adhered to both inside and outside of agricultural districts.

§24. Application Review Process (*in communities WITH Planning Boards)*

A. Applicants may request a pre-application meeting with the Town Planning Board, or with any consultants retained by the Planning Board for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.

B. Six copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.

C. Town staff or Town-designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this Article is included in the application. Unless the Planning Board waives any application requirement, no application shall be considered until deemed complete.

D. If the application is deemed incomplete, the Planning Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of Wind Measurement Towers proposed is increased.

E. Upon submission of a complete application, including the grant of any application waiver by the Planning Board, the Town Clerk shall transmit the application to the Planning Board.

F. The Planning Board shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within 1,000 feet of each proposed Wind Measurement Tower and published in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

G. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested variances.

H. Notice of the project shall also be given, when applicable, to (1) the St. Lawrence County Planning Board, if required by General Municipal Law §239-l and 239-m, and (2) to adjoining Towns under Town Law §264.

I. SEQRA review. Applications for Wind Measurement Towers are deemed Unlisted projects under SEQRA. The Planning Board may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said communities shall be part of the record of the Planning Board's proceedings. The Planning Board may require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review.

J. Upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the applications, in accordance with the standards in this Article.

Article IV

Small Wind Energy Conversion Systems

§25. Purpose and Intent

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

§26. Permitted Areas.

Small Wind Energy Conversion Systems (Small WECS) may be permitted in any zoning district on a Site of at least 1 acre, upon issuance of a Special Use Permit. A Small WECS shall be set back from all property lines a distance equal to at least 1.5 times its height.

§27. Applications and Application Review Process.

§28. Development Standards.

All small wind energy systems shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this Article that are not in conflict with the requirements contained in this section.

A. A Small WECS system shall be located on a lot a minimum of one acre in size, however, this requirement can be met by multiple owners submitting a joint application.

B. Small WECSs may be used primarily to generate on-Site power or to reduce the on-Site consumption of electricity.

C. Notice of an application for installation of a small wind energy system shall provide to property owners within 1000 feet of the property line on which the system is to be located.

D. Tower height of not more than 140 feet shall be allowed on parcels between one and five acres. For property sizes for five acres or more, there is no limitation on tower height, except as imposed by the FAA regulation, provided that the application includes evidence that the proposed height does not exceed the height recommended by the manufacturer or distributor of the system.

E. Setbacks for the system tower shall be no closer to the property line than the height of the system and no part of the system, including guy-wire anchors, may extend closer than 10 feet

of the property boundary. Additionally, the outer and innermost guy-wires must be marked and clearly visible to a height from the ground level to eight feet above the guy-wire anchors.

E. The system's towers and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize and visible disruption.

G. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.

H. All on-site electrical wires associated with the system shall be installed underground except for "tie- ins" to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the Town if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.

I. Decibel levels for the system shall not exceed 45 decibels (dBA) measured at the property line of the closest neighboring inhabited off-site dwelling, school, hospital, church or public building existing at the time of application, except during short-term events such as utility outages and severe wind storms.

J. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the damage or cease operation of the system.

K. The system shall be operated such that no damage is caused by stray voltage. If it has been demonstrated that a system is causing stray voltage, the system operator shall promptly mitigate the damage or cease operation of the system.

L. The system shall comply with all applicable Federal Aviation Administration requirements, including Part 77 of Title 14 of the Code of Federal Aviation Administration Regulations regarding installation close to airports.

M. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo, or advertising shall be placed or painted on the tower, rotor, generator, or tail vane where it would be visible from the ground, except that a system or tower manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.

N. All small wind energy system tower structures shall be designed and constructed to comply with pertinent provisions of the Uniform Building Code and National Electric Code.

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

P. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:

1. Tower-climbing apparatus located no closer than 12 feet from the ground.

2. A locked anti-climb device installed on the tower.

§29. Abandonment of Use

A. Small WECS, which is not used for twelve (12) successive months, shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Town of Hammond.

B. All Small WECS shall be maintained in good condition and in accordance with all requirements of this section.

Article V

Miscellaneous

§30. Fees

A. Non-refundable Application Fees shall be as follows:

1. WECS Special Use Permit: $1,000.00 per megawatt of rated maximum capacity

2. Wind Measurement Towers: $500.00 per tower.

3. Small WECS: $150.00 per Small WECS

4. Wind Measurement Tower Special Use Permit renewals: $50.00 per Wind Measurement Tower per year.

B. Building Permits. The Town of Hammond believes the review of building and electrical permits for Wind Energy Facilities requires specific expertise for those facilities. Accordingly, for such facilities, an administrative fee of $500.00 per permit request shall be charged for administrative costs, plus the amount charged to the Town by the outside consultant hired by the Town to review the plans and inspect the work. In the alternative, the Town and the applicant may enter into an agreement for an inspection and/or certification procedure for these unique facilities. In such case, the applicant will agree to an escrow agreement account of $75,000.00 to pay for the costs of the review of the plans, certifications or conduct inspections as agreed by the parties.

document handling, and storage. If the escrow account balance falls below $10.000.00, the applicant will agree to immediately remit the amount of $25.000.00 to be placed in the escrow account.

C. Nothing in this Local Law shall be read as limiting the ability of the Town to enter into Host Community agreements with any applicant to compensate the town for expenses or impacts on the community. The Town shall require any applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required by SEQRA.

D. The Town Board may amend these fees, by resolution, after a properly noticed public hearing.

§31. Tax Exemption

The Town of Hammond hereby exercises its right to opt out of the Tax Exemption provisions of Real Property Tax Law §487, pursuant to the authority granted by paragraph 8 of that law.

§32. Enforcement; Penalties and remedies for violations.

A. The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce this Local Law.

B. Any person owning, controlling or managing any building, structure or land who shall undertake a wind energy conversion facility or wind monitoring tower in violation of this Local Law or in noncompliance with the terms and conditions of any permit issued pursuant to this Local Law, or any order of the enforcement officer, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than $1000.00. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amount of $1,000.00 per day, for each violation; and each week said violation continues shall be deemed a separate violation.

C. Special Proceeding: The designated enforcement officer may, with the consent of the Town Board, institute an action or proceeding available at law to prevent, correct or abate any unlawful construction, erection, structural alteration, reconstruction, modification and/or use of a Wind Energy Facility, Small Wind Energy Facility, or Wind Measurement Tower in the Town. This shall be in addition to other remedies and penalties herein provided or available at law.

D. In case of any violation or threatened violation of any of the provisions of this local law, including the terms and conditions imposed by any permit issued pursuant to this local law, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent

the illegal act.

SECTION 2: The Site Plan Review and Subdivision Law for the Town of Hammond, New York, are amended by adding the following to "Definitions":

WIND ENERGY FACILITY - Any Wind Energy Conversion System, Small Wind Energy Conversion System, or Wind Measurement Tower, as each is defined in Local Law No. _ of 20__, including all related infrastructure, electrical lines and substations, access roads and accessory structures. Public Utility uses otherwise allowed under this Law do not include Wind Energy Facilities.

SECTION 3: Severability

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

SECTION 4: Effective Date

This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

Appendix A

New York State Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Wind Power Projects

- The most recent approved version of these guidelines shall apply where stated in this local law.
- As of April 30th, 2008, the latest guidelines as listed below are found at: http://www.agmkt.state.ny.us/AP/agservices/constructWind.html

Guidelines for

Agricultural Mitigation for Windpower Projects

The following guidelines shall apply to construction areas for wind power construction projects impacting agricultural land. The project sponsor shall coordinate with the New York State Department of Agriculture and Markets (Ag. and Markets) to develop an appropriate schedule for inspections to assure that the goals of these guidelines are being met. The project sponsor shall hire an Environmental Monitor to oversee the construction and restoration in agricultural fields.

Siting Goals

Minimize impacts to normal farming operations by locating structures along field edges and in nonagricultural areas where possible.

Avoid dividing larger fields into smaller fields, which are more difficult to farm, by locating access roads along the edge of agricultural fields (hedgerows and field boundaries) and in nonagricultural areas where possible.

Locate access roads, which cross agricultural fields, along ridge tops and following field contours, where possible, to eliminate the need for cut and fill and reduce the risk of creating drainage problems.

The permanent width of access roads in agricultural fields should be no more than 16 feet to minimize the loss of agricultural land.

All existing drainage and erosion control structures such as diversions, ditches, and tile lines shall be avoided or appropriate measures taken to maintain the design and effectiveness of the existing structures. Any structures disturbed during construction shall be repaired to as close to original condition as possible, as soon as possible, unless such structures are to be eliminated based on a new design.

Construction Requirements

The surface of access roads constructed through agricultural fields shall be level with the adjacent field surface.

Culverts and waterbars shall be installed to maintain natural drainage patterns.

All topsoil must be stripped from agricultural areas used for vehicle and equipment traffic and parking. All vehicle and equipment traffic and parking shall be limited to the access road and/or designated work areas such as tower sites and laydown areas. No vehicles or equipment will be allowed outside the work area without prior approval from the landowner and, when applicable, the Environmental Monitor.

Topsoil from work areas (tower sites, parking areas, "open-cut" electric cable trenches, along access roads) shall be stockpiled separate from other excavated material (rock and/or subsoil). At least 50 feet of temporary workspace is needed along "open-cut" electric cable trenches for proper topsoil segregation. All topsoil will be stockpiled immediately adjacent to the area where stripped/removed and shall be used for restoration on that particular site. Topsoil stockpile areas shall be clearly designated in the field and on the on-site "working set" of construction drawings.

Electric interconnect cables and transmission lines installed above ground can create long term interference with agricultural land use. As a result, interconnect cables shall be buried in agricultural fields wherever practicable. Interconnect cables and transmission lines installed above ground should be located outside field boundaries wherever possible. When above ground cables and transmission lines must cross farmland, the project sponsor shall minimize agricultural impacts by using taller structures that provide longer spanning distances and shall locate poles on field edges to the greatest extent practicable. The line location and pole placements shall be reviewed with the Department and the Environmental Monitor prior to final design.

In cropland, hayland and improved pasture a minimum depth of forty-eight inches of cover will be required for all buried electric cables. In unimproved grazing areas and land permanently devoted to pasture, a minimum depth of thirty-six inches of cover will be required. In areas where the depth of soil over bedrock ranges from zero to forty-eight inches, the electric cables shall be buried entirely below the top of the bedrock or at the depth specified for the particular land use whichever is less. At no time will the depth of cover be less than twenty-four inches below the soil surface.

All excess subsoil and rock shall be removed from the site. On site disposal of such material may be allowed if approved by the landowner and the Environmental Monitor, with appropriate consideration given to any possible agricultural or environmental impacts.

In pasture areas, work areas will be fenced to prevent livestock access, consistent with landowner agreements.

All pieces of wire, bolts, and other unused metal objects will be picked up and properly disposed of as soon as practical after the unloading and packing of turbine components so that these objects will not be mixed with any topsoil.

Excess concrete will not be buried or left on the surface in active agricultural areas. Concrete trucks will be washed outside of active agricultural areas."

("Any permits necessary for disposal under local, State and/or federal laws and regulations must be obtained by the contractor, with the cooperation of the landowner when required.")

Restoration Requirements

Following construction, all disturbed agricultural areas will be decompacted to a depth of 18 inches with a deep ripper or heavy-duty chisel plow. In areas where the topsoil was stripped, soil decompaction shall be conducted prior to topsoil replacement. Following decompaction, all rocks 4 inches and larger in size will be removed from the surface of the subsoil prior to replacement of the topsoil. The topsoil will be replaced to original depth and the original contours will be reestablished where possible. All rocks 4 inches and larger shall be removed from the surface of the topsoil. Subsoil decompaction and topsoil replacement should be avoided after October 1, unless approved on a site-specific basis by the landowner in consultation with Ag. and Markets. All parties involved should be cognizant that areas restored after October 1st may not obtain sufficient growth to prevent erosion over the winter months. If areas are to be restored after October 1st, necessary provision should be made to restore any eroded areas in the springtime, to establish proper growth.

All access roads will be regraded to allow for farm equipment crossing and to restore original surface drainage patterns, or other drainage pattern incorporated into the design.

All restored agricultural areas shall be seeded with the seed mix specified by the landowner, in order to maintain consistency with the surrounding areas.

All surface or subsurface drainage structures damaged during construction shall be repaired to as close to preconstruction conditions as possible, unless said structures are to be removed as part of the project design.

Following restoration, all construction debris will be removed from the site.

Two Year Monitoring and Remediation

The Project Sponsor will provide a monitoring and remediation period of no less than two years immediately following the completion of initial restoration. The two year period allows for the effects of climatic cycles such as frost action, precipitation and growing seasons to occur, from which various monitoring determinations can be made. The monitoring and remediation phase will be used to identify any remaining agricultural impacts associated with construction that are in need of mitigation and to implement the follow-up restoration.

General conditions to be monitored include topsoil thickness, relative content of rock and large stones, trench settling, crop production, drainage and repair of severed fences, etc. Impacts will be identified by the Environmental Monitor through on site monitoring of all agricultural areas impacted by construction and through contact with respective farmland operators and the Department of Agriculture and Markets.

Topsoil deficiency and trench settling shall be mitigated with imported topsoil that is consistent with the quality of topsoil on the affected site. Excessive amounts of rock and oversized stone material will be determined by a visual inspection of disturbed areas as compared to portions of the same field located outside the construction area. All excess rocks and large stones will be removed and disposed of by the Project Sponsor.

When the subsequent crop productivity within affected areas is less than that of the adjacent unaffected agricultural land, the Project Sponsor as well as other appropriate parties, will help to determine the appropriate rehabilitation measures to be implemented. Because conditions which require remediation may not be noticeable at or shortly after the completion of construction, the signing of a release form prior to the end of the remediation period will not obviate the Project Sponsor's responsibility to fully redress all project impacts.

Subsoil compaction shall be tested using an appropriate soil penetrometer or other soil compaction measuring device. Compaction tests will be made for each soil type identified on the affected agricultural fields. The subsoil compaction test results within the affected area will be compared with those of the adjacent unaffected portion of the farm field/soil unit. Where representative subsoil density of the affected area exceeds the representative subsoil density of the unaffected areas, additional shattering of the soil profile will be performed using the appropriate equipment. Deep shattering will be applied during periods of relatively low soil moisture to ensure the desired mitigation and to prevent additional subsoil compaction. Oversized stone/rock material which is uplifted to the surface as a result of the deep shattering will be removed.

Appendix B

Small WECS Application Requirements and Review Process

Applications for Small WECS special use permits shall include:

1. Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.

2. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

3. Address of each proposed tower Site, including Tax Map section, block and lot number.

4. Site plan of each tower site, including but not limited to showing the location of the tower in relation to other structures and lot lines, topography of the site, location of trees and other landscape elements.

5. Ownership and land use information within a 500-foot radius of the location proposed for each tower.

6. Evidence that the proposed tower height does not exceed the height recommended by the manufacture or distributor of the system.

7. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Electric Code.

8. Sufficient information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.

9. Written evidence that the electric utility service provider that serves the proposed Site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan to connect the system to the electricity grid, and so states so in the application.

10. A visual analysis of the Small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

Application Review Process (*in communities WITH Planning Boards*)

A. Applicants may request a pre-application meeting with the Town Planning Board, or with any consultants retained by the Planning Board for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.

B. Six copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.

C. Town staff or Town-designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this Article is included in the application. Unless the Planning Board waives any application requirement, no application shall be considered until deemed complete.

D. If the application is deemed incomplete, the Planning Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of Small WECSs proposed is increased.

E. Upon submission of a complete application, including the grant of any application waiver by the Planning Board, the Town Clerk shall transmit the application to the Planning Board.

F. The Planning Board shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within 1,000 feet of each proposed Small WECS and published in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

G. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested variances.

H. Notice of the project shall also be given, when applicable, to (1) the St. Lawrence County Planning Board, if required by General Municipal Law §239-1 and 239-m, and (2) to adjoining Towns under Town Law §264.

I. SEQRA review. Applications for WECS are deemed Unlisted projects under SEQRA. The Planning Board may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said communities shall be part of the record of the Planning Board's proceedings. The Planning Board may require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements

before commencing its review.

J. Upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the applications, in accordance with the standards in this Article.