SLYE & BURROWS
ATTORNEYS AT LAW
104 WASHINGTON STREET
WATERTOWN, NEW YORK 13601

ROBERT J. SLYE
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(315) 786-0266
FAX: (315) 786-3488

December 15, 2011

Town of Orleans
20558 Sunrise Avenue
P.O. Box 187
Lafargeville, New York 13656

Attn: Donna Chatterton, Supervisor

Re: Town of Orleans Local Law No. 1 of 2011
Amendment to Wind Law

Dear Supervisor Chatterton:

This letter confirms that the Town of Orleans' amendment to its Wind Energy Facilities Law was filed with the office of the Secretary of State on December 6, 2011. The law, as amended, is now operative within the Town of Orleans. A copy of the confirming letter from the New York State Department of State is enclosed for your records. Thank you for permitting this office to be of service.

Very truly yours,

SLYE & BURROWS

By: James A. Burrows

JAB/mp
Enclosure

cc: Tammy Donnelly, Town Clerk

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

December 7, 2011

RECEIVED
DEC 12 2011
Per

James A Burrows
Slye & Burrows
104 Washington Street
Watertown NY 13601

RE: Town of Orleans, Local Law 1 2011, filed on December 6, 2011

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from out website, www.dos.state.ny.us.

Sincerely,
State Records and Law Bureau
(518) 474-2755

SLYE & BURROWS
ATTORNEYS AT LAW
104 WASHINGTON STREET
WATERTOWN, NEW YORK 13601

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(315) 786-0266
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December 2, 2011

COPY

State Records and Law Bureau
Department of State
41 State Street
Albany, New York 12231

Re: Town of Orleans, Jefferson County, New York
Local Law No. 1 of 2011

Dear Sir or Madam:

I enclose one (1) executed original and two (2) copies of Local Law No. 1 of 2011 for the Town of Orleans, New York. Please file this Local Law in the office of the Secretary of State and provide proof of its filing to me at your earliest convenience. Thank you for your assistance in this matter.

Very truly yours,

SLYE & BURROWS

By: James A. Burrows

JAB/mp
Enclosures

cc: Tammy Donnelly, Town Clerk
Town of Orleans
20558 Sunrise Avenue
P.O. Box 187
Lafargeville, New York 13656

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~
Town of Orleans, New York
~~Village~~

Local Law No. 1 of the year 2011

A local law Town of Orleans Wind Energy Facilities Law
(Insert Title)

Be it enacted by the Town Board (Name of Legislative Body) of the

~~County~~
~~City~~
Town of Orleans, New York as follows:
~~Village~~

Local Law No. 1 of 2007 shall be repealed and replaced in its entirety with Local Law No. 1 of 2011 as attached.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 20 11 of the ~~(County)(City)~~(Town)~~(Village)~~ of Orleans, New York was duly passed by the Town Board on November 10 20 11, in accordance with the applicable provisions of law.
(Name of Legislative Body)

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. ..... of 20..... of the (County)(City)(Town)(Village) of ..... was duly passed by the ..... on ..... 20 ..., and was (approved)(not approved)(repassed after disapproval) by the ..... and was deemed duly adopted on ..... 20...., in accordance with the applicable provisions of law.~~
(Name of Legislative Body) (Elective Chief Executive Officer*)

~~3. (Final adoption by referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. ..... of 20..... of the (County)(City)(Town)(Village) of ..... was duly passed by the ..... on ..... 20...., and was (approved)(not approved)(repassed after disapproval) by the ..... on ..... 20.... . Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on ..... 20...., in accordance with the applicable provisions of law.~~
(Name of Legislative Body) (Elective Chief Executive Officer*)

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. ..... of 20..... of the (County)(City)(Town)(Village) of ..... was duly passed by the ..... on ..... 20...., and was (approved)(not approved)(repassed after disapproval) by the ..... on ..... 20...., Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of ..... 20...., in accordance with the applicable provisions of law.~~
(Name of Legislative Body) (Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

I hereby certify that the local law annexed hereto, designated as local law No. ---------- of 20---- of the City of ---------- having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on ---------- 20----, became operative.

~~6. (County local law concerning adoption of Charter.)~~

I hereby certify that the local law annexed hereto, designated as local law No. ---------- of 20---- of the County of ---------- State of New York, having been submitted to the electors at the General Election of November ---------- 20----, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph ----1----, above.

Tammy Donnelly

Clerk of the ~~County legislative body, City~~, Town ~~or Village Clerk~~ or officer designated by local legislative body — Tammy Donnelly

(Seal)

Date: 11/10/11

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF JEFFERSON

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

Town Attorney
Title Town Attorney

~~County~~
~~City~~
Town of Orleans
~~Village~~

Date: 11/29/11

TOTAL P.04

Town of Orleans Wind Energy Facilities Law

Article 1

Section 1 Title

This Local Law may be cites as the "Wind Energy Facilities Law of the Town of Orleans, New York."

Local Law No. 1 of 2007, entitled "Wind Energy Facilities Law of the Town of Orleans, New York," is hereby repealed and replaced in its entirety by this new Local Law No. 1 of 2011, entitled "Wind Energy Facilities Law of the Town of Orleans, New York of 2011," which reads in its entirety as follows:

Section 2 Purpose

The Town Board of the Town of Orleans 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 public health, safety, and welfare will not be jeopardized.

Section 3 Authority

The Town Board of the Town of Orleans enacts this Local Law under the authority granted by:

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

B. New York Statute of Local Governments, Section 10 (1) and (7).

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

D. New York Town Law Section 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).

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

F. The State Environmental Quality Review Act ("SEQRA).

Section 4 Findings

A. The Town Board of the Town of Orleans finds and declares that:

1. Wind energy is an abundant, renewable, and nonpolluting energy resource of the Town.

2. Wind turbines are designed to generate electricity and designs vary widely from large industrial units to medium and small residential units. Wind turbines of all sizes may or may not be cost effective and may or may not produce energy for local use or transmission into larger energy grids.

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

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

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

6. It has been found that Wind Energy Facilities present a risk to birds, bats, and other creatures .

7. If not properly sited, Wind Energy Facilities have the potential to adversely impact property values of property owners.

8. Wind Energy Facilities are potentially significant sources of noise, including infrasound, and if such facilities are unregulated or improperly sited, or if such impacts are inadequately mitigated, they can negatively impact properties in the vicinity and the health of residents

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

10. Wind Energy Facilities can interfere with various types of communications.

11. The installation of Wind Energy Facilities may affect ground water supplies.

12. Distance of setbacks should take into consideration the potential hazards of ice throws, blade breakage, and tower blow downs.

13. The town hereby reserves the 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, or by any other provision of law.

Section 5 Authorization of the Planning Board to Review Wind Energy Facilities.

The Town of Orleans Planning Board is hereby authorized to review and either approve, approve with conditions, or disapprove applications for Wind Energy Facilities.

Section 6 Permits Required; Transfer, Modifications.

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

B. No WECS shall be constructed, reconstructed, modified, or operated in the Town except with a Wind Energy Facility Permit approved pursuant to this Local Law.

C. No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated in the Town except pursuant to a Wind Energy Facility Permit issued pursuant to this Local Law.

D. No Small Wind Energy Conversion System shall be constructed, reconstructed, modified, or operated in the Town except pursuant to a Wind Energy Facility Permit issued pursuant to this Local Law.

E. This Local Law shall apply to all areas of the Town with proper review by the Planning Board.

F. Exemptions. No permit or other approval shall be required under this Local Law for mechanical, no electrical WECS utilized solely for agricultural operations, commonly referred to as "windmills".

G. Transfer. No transfer of any Wind Energy Facility or Wind Energy Facility 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), may occur unless the transferee provides to the Town Board of the Town of Orleans written certification that such transferee assumes all obligations of the transferor under any permit issued pursuant to this Local Law and any other applicable law or ordinance of the Town.

H. Notwithstanding the requirements of this Section, replacement in kind or modification of a Wind Energy Facility may occur without Town Board approval when (1) there will be no increase in Total Height; (2) no change in the location of the WECS; (3) no additional lighting or change in facility color; and (4) no increase in the noise produced by the WECS.

Section 7 Definitions

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

AMBIENT SOUND LEVEL - also referred to as the Ambient Noise Level and Ambient Sound Pressure Level, means the background (exclusive of the development proposed) Sound Level ($L_{(90)}$) found to be exceeded 90 percent of the time over which sound is measured in a noise analysis. Unless indicated otherwise, frequency weighting according to the A-weighting scale is understood to be applicable.

ANSI – refers to or means the AMERICAN NATIONAL STANDARDS INSTITUTE.

APPLICANT – The person or entity filing an application and seeking license under this local law.

BACKGROUND SOUND AND BACKGROUND SOUND PRESSURE LEVEL-Background Sounds are those heard during lulls in the Ambient Sound environment and represent the quietest 10% of the time, for example the quietest one minute.

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

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

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

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.

NON-PARTICIPANT – Any and all Orleans landowners having no contractual relationship with a wind developer.

PARTICIPANT – Any and all Orleans landowners having a signed lease,easement, or good neighbor agreement with a wind developer.

PROJECT PARCEL or PROJECT PARCELS - means the parcel or parcels of real estate on which all or any part of a WECS will be constructed.

PROPERTY LINE - Means the recognized and mapped property parcel boundary line.

QUALIFIED INDEPENDENT ACOUSTICAL CONSULTANT – A person with demonstrated competence in the specialty of community noise testing who is contracted by the Town for purposes of noise measurement or evaluation of noise analysis or noise complaints. An example is a person with full membership in the Institute of Noise Control Engineers (INCE) or other specialist who is qualified by education and experience in acoustics and regularly engaged in community noise testing. While such a consultant is preferably also a licensed professional engineer, such licensure does not by itself establish qualification for community noise testing or analysis without further qualification. The Qualified Independent Acoustical Consultant can have no financial relationship with the Wind Energy Facility developer or related entity.

RESIDENCE - means any dwelling suitable for habitation existing in the Town of Orleans on the date an application is received. For purposes of this definition "suitable for habitation" shall mean that its primary purpose is for private occupancy and it has both electrical service and a connection to an on-site or off-site potable water supply and wastewater treatment/disposal system on a full-time basis. A residence may be part of a multi-dwelling or multipurpose building, but shall not include buildings such as hunting camps, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes, or correctional institutions.

ROTOR DIAMETER – The diameter of the largest swept area of a rotating turbine blade.

SEQRA - the New York State Environmental Quality Review Act, as codified in Article 8 of the New York State Environmental Conservation Law and its implementing regulations in Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, Part 617 *et seq.* (6 NYCRR Section 617).

SETBACKS – a distance measured from the centerline of the road right-of-way, property lines, village limits, edge of wetlands, or closest point of residence foundation to the base of the turbine or measurement tower.

SHADOW FLICKER – the visual effect of viewing the moving shadow of the Wind Energy Conversion System (WECS) rotor blades when they are in a position between the receptor (person viewing them) and the sun and/or the "strobe" lighting effect of this condition as perceived by the receptor whether directly or indirectly (as in a reflection off a light colored wall).

SITE - The parcel(s) of land where a Wind Energy Facility is to be placed. The Site can be publicly or privately owned by an individual or group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for the 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 not more than 100 kW and which is intended to primarily reduce consumption of utility power at that location.

SOUND LEVEL - also referred to as Noise Level, means the statistical sound pressure level expressed as the sound pressure level that is exceeded for a given proportion of the time over which sound is measured. $L_{(10)}$ shall mean the standard abbreviation for the sound pressure level that is exceeded for 10 percent of the time over which the sound is measured. $L_{(90)}$ shall mean the standard abbreviation for the sound pressure level

that is exceeded for 90 percent of the time over which the sound is measured. Unless indicated otherwise, frequency weighting according to the A-weighting scale is understood to be applicable.

SOUND PRESSURE LEVEL - means the quantity in decibels measured by a sound level meter satisfying the requirements of the American National Standards Specification of Sound Level Meters, S1.4-1971 according to a frequency-weighted decibel scale. Decibels shall mean 20 times the logarithm to the base of ten of the ratio of the root mean squared pressure of a sound to a reference pressure of 20 micropascals. dB shall mean the standard abbreviation for decibels. Frequency-weighting of the sound pressure level is obtained with the standardized dynamic characteristic "fast" or "slow" and weighting A, B, C; unless indicated otherwise, the A-weighting is understood to be applicable. DBA shall mean the standard abbreviation for the A-weighted sound pressure level in decibels.

TOTAL HEIGHT - The height of the tower from the finished ground elevation to the furthest vertical extension of the turbine rotor plane.

TOWER HEIGHT – The height of the tower from the finished ground elevation at the tower base to the center of the hub forming the attachment point for turbine blades.

WIND ENERGY CONVERSION SYSTEM ("WECS") - A machine that converts the kinetic energy in the wind into a usable form (commonly known as a "wind turbine" or "windmill").

WIND ENERGY FACILITY - 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 ENERGY FACILITY PERMIT - a permit granted pursuant to this Local Law granting the holder the right to construct, maintain and operate a Wind Energy Facility.

Section 8 Applicability

A. The requirements of this Local Law shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed in the Town of Orleans after the effective date of this Local Law, including any Wind Energy Facility, applied for but not yet approved prior to the date of this Local Law.

B. Any Wind Measurement tower existing on the effective date of this Local Law shall be removed no later than thirty-six (36) months after said effective date, unless a Wind Energy Facility Permit for said Wind Energy Facility is obtained pursuant to the provision of this Local Law.

Section 9 Reserved for Future Use

Article II

Wind Energy Conversion Systems

Section 10 Applications for Wind Energy Permits for Wind Energy Conversion Systems.

No application for a Wind Energy Facility Permit shall be complete until the following materials are received by the Planning Board, in acceptable form, unless specifically waived by the Planning Board. Such information shall be in addition to and not instead of any information required by the Town of Orleans, under any related Local Law or Ordinance, including but not limited to the Town of Orleans Zoning Ordinance:

A. 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.

B. 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.

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

D. A description of the project, including the number and maximum rated capacity of each WECS.

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

1. Property lines and physical dimensions of the Site.
2. Location, approximate dimensions and types of existing structures and uses on the Site, public roads, adjoining properties, and the St. Lawrence River within 2250 feet of the boundaries of a Project Parcel.
3. Location and elevation of each proposed WECS.
4. Location of all above and below ground utility lines on the Site and all related transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.
5. Location and size of structures above thirty-five (35) feet within 2250 feet of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.
6. To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower location equal to 2250 feet.
7. Location of each residential structure, both on the site and off the site, that is located within 2250 feet from the nearest individual Wind Energy Facility, as well as the specific distance from the nearest individual Wind Energy Facility to each residential structure.
8. All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.

F. Vertical 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.

G. Landscaping Plan depicting existing vegetation and forest cover describing any areas to be cleared of vegetation and forest cover and areas where vegetation will be added, identified by species and size of the specimen at installation and their locations.

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

I. List of property owners, with their mailing addresses, within 2250 feet of any of the boundaries of the proposed Site.

J. Decommissioning Plan: The applicant shall submit a decommissioning plan, which shall include the following information at a minimum:

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 the funds will be available for decommissioning and restoration;
5) the method, such as 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 at a minimum, the removal of all structures and debris to a depth of three (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.

K. Complaint Resolution: The application will include a complaint resolution process to address complaints from nearby residents. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve the complaint.

L. An application shall include at a minimum, the following information relating to the construction/installation of the wind energy conversion facility:

1. A construction schedule describing commencement and completion dates of the project and beginning and ending hours of daily construction; and
2. A description of the routes to be used by construction and delivery vehicles and the gross weights and heights of those vehicles.

M. Completed Part 1 of the Full EAF.

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

O. 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.

P. If the Planning Board determines that the proposed WECS may have a significant adverse impact on the environment and requires a Draft Environmental Impact Statement ("DEIS"), the Planning Board shall issue a positive declaration of environmental significance.

Q. The following information must be submitted by the applicant, either with the application, or in the event of a positive declaration under SEQRA, as part on any DEIS submitted by the applicant with respect to the application for a Wind Energy Facility Permit. Studies conducted by a qualified consultant as to each of the following impacts or potential adverse impacts, and the measures to be taken by the applicant to mitigate or eliminate such impacts. The impacts/issues to be addressed by the studies shall include, at a minimum, the following:

(1). Shadow Flicker: The applicant shall conduct a study on potential shadow flicker. The study shall identify locations where shadow flicker may be caused by the WECS and the expected durations of the flicker at these locations. No shadow flicker will be permitted on non-participants property without an easement or on any roads.
(2). Visual Impact: Applications shall include a visual impact study of the proposed WECS as installed, which shall include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points. 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.
(3) Fire Protection/Emergency Response Plan: A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed WECS to

address coordination with local emergency/fire protection providers during any construction or operation phase emergency, hazard or other event.
(4). 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 be performed according to the International Standard For Acoustic Noise Measurement Techniques For Wind Generators (IEC 61400-11), or other procedure accepted by the Town Planning Board, and shall include both a dBA analysis and dBC analysis.
(5). 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 in the Town of Orleans.
(6). Electromagnetic Interference: An assessment of potential electromagnetic interference with microwave, radio, television, satellite systems, personal communication systems and other wireless communication, weather and other radar shall be prepared.
(7). 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. Local roads shall include all state highways, county highways, town highways, and village streets and highways, which will be or may be used by the applicant.
(8). 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 a WECS. An assessment of potential immediate and long-term impacts to local flora and fauna, micro and macro habitats, and ground and surface water related, but not limited to, excavation, blasting, clear-cutting and grading during the Site preparation phase. A geotechnical report shall include: soils engineering and engineering geologic characteristics of the Site based on Site sampling and testing, a bedrock profile within one (1) mile of the Site, information on depth of well, average flow rate, and with permission by owner, test of water quality for all wells within two (2) miles of the Site, grading criteria for ground preparation, cuts and fills, soil compaction, and a slope stability analysis.
(9). Cultural, Historical, and Archeological Resources Plan: An analysis of impacts on cultural, historical and archeological resources shall be prepared, regarding impacts anticipated during construction, reconstruction, modification, or operation of WECS. This assessment shall be conducted in coordination with the New York State Office of Parks, Recreation and Historic Preservation.
(10). 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. An assessment of the impact of the proposed development on the local flora and fauna will include migratory and resident avian species, bat species and the local wildlife population. The scope of such assessment shall be developed in consultation with the New York State Department of Environmental Conservation and the United States Fish and Wildlife Service and must at a minimum consist of pre-construction data of three years, including radar observations and literature survey for threatened and endangered species that provide relevant information on critical flyways, and shall describe the potential impacts of any proposed facilities on bird and bat species, and an avoidance or mitigation plan to address any impacts, as well as plans for three-year post-installation studies. The analysis shall include observations from multiple site-specific areas meeting DEC guidelines.
(11). Operation and Maintenance Plan: An operation and maintenance plan providing for regular periodic Wind Energy Facility schedules, any special maintenance requirements and procedures and notification requirements for restarts during icing events.
(12). Blade Throw Report: A report from an independent New York State professional engineer that calculates the maximum distance that ice from the turbine blades and pieces of turbine blade could be thrown. (The basis of the calculation and all assumptions must be disclosed.) The incidence of

reported ice and blade throws and the conditions at the time of the ice and blade throw must be included.
(13). Stray Voltage Report: An assessment, pre-and post-installation, of possible stray voltage problems on the Site and neighboring properties within one (1) mile of the project boundary to show what properties need upgraded wiring and grounding.
(14). Seismic Activity Report -WECS developer fund an independent Engineering Study and produce a complete report on the likely effect of seismic activity consistent with historical data on all the Wind Farm Facilities. Due to the fact that Orleans environment lies on the St. Lawrence seismic fault the developer must submit an earthquake preparedness manual to the Town for protecting the residents in the event of an earthquake of sufficient magnitude to affect the operation of any part of the wind farm.

R. The applicant shall, prior to the receipt of a Wind Energy Facility Permit, provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and the applicable Transmission Owner. Applicant should also provide proof of complying with Public Service Commission power purchase requirements.

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

T. The applicant shall provide proof of general liability insurance in the amount of $5,000,000 per occurrence. total policy minimum of $20,000,000 per year. This shall be submitted to the Town of Orleans indicating coverage for potential damages or injury to landowners.

U. Disclosure of Financial Interests. For any financial interest held by a Municipal Officer or his or her relative in any wind development company or its assets within ten years prior to the date of an application for a permit under this local law, the Wind Company shall disclose in a separate section of the application the Municipal Officer or his or her relative, the addresses of all persons included in the disclosure, and the nature and scope of the financial interest of each such person. The disclosure shall include all such instances of financial interest of which the Wind Company has knowledge, or through the exercise of reasonable diligence should know, and the format of the submission shall be subject to the approval of the town board.

V. Requires an accurate one-year survey of wind speed data obtained from an independently installed wind measurement tower and certified by NYSERDA to determine if it meets the minimum wind speed criteria in NYS for efficient wind power production.

W. The Town shall require the applicant to fund an escrow agreement to cover the amount by which the Town's cost to review the applicant's applications exceed the application fees paid by the applicant.

X. In addition to the materials required in accordance with this section, complete applications should include any additional study or assessment determined to be required by the lead agency during review of the project pursuant to SEQRA. No application shall be determined to be complete until the DEIS is submitted and accepted by the Planning Board as complete.

Section 11 Application Review Process

A. Applicants may request a pre-application meeting with the 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 (6) copies of the application and a complete digital version shall be submitted to the Town Zoning Officer, Payment of all application fees shall be made at the time of application submission. If any waivers are requested, waiver application fees, if any, shall be paid at the time of the receipt of the application. In

addition, the applicant shall provide the Planning Board free of charge, with a reasonable number of additional copies necessary to coordinate review with involved agencies and interested parties, pursuant to SEQRA.

C. Town staff or Town designated consultants, shall, within thirty (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 complete and ready for final action until deemed complete and until either a negative declaration is issued under SEQRA, or, a Final Environmental Impact Statement and SEQRA Findings are issued by the lead agency.

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 shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of WECS proposed is increased.

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

F. The Planning Board shall hold at least one (1) public hearing on the application. Notice shall be provided by the first class mail to property owners within 2250' of the boundaries of the proposed WECS, and published in the Town's official newspaper, no less than ten (10) nor more than (20) days before any hearing, but where any hearing is adjourned by the Planning Board to hear additional comments, no further publications 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 any other public hearing required, including public hearings held pursuant to SEQRA.

H. Referral shall also be made, when applicable, to the Jefferson County Planning Department, pursuant to General Municipal Law Sections 239-1 and 239-m.

I. SEQRA review. Applications for WECS shall be deemed Type 1 projects under SEQRA. The Planning Board shall be responsible for the review of the proposed project under SEQRA, shall where appropriate, act as lead agency under SEQRA, and shall coordinate its review with all other involved agencies having discretionary approval over any aspect of the proposed project in accordance with the requirements of SEQRA.

J. The Planning Board may in its discretion, require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review. At the completion of the SEQRA process, if a positive declaration of environmental significance has been issued and an environmental impact statement prepared, the Planning Board shall issue a Statement of Findings, which Statement may also serve as the Planning Board's decision on the applications.

K. Upon receipt of the recommendations of the County Planning Department (where applicable), the holding of a 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.

L. If approved, the Town Planning Board will issue, to the applicant only, a Wind Energy Facilities Permit for each WECS for the purpose of construction and continued operation based on satisfaction of all conditions for said Permit. This authorizes the Code Enforcement Officer to issue a building permit for each WECS, upon compliance with the Uniform Fire Prevention and Building Code and the other conditions of this Local Law.

M. If any approved WECS is not substantially commenced within one year of issuance of the permit, the

permit shall expire.

Section 12 Standards for WECS

The following standards shall apply to all WECS, unless specifically waived by the Planning Board.

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 Code. Applications may be jointly submitted for WECS and telecommunications facilities.

C. In order to minimize any visual impacts associated with Wind Energy Facilities, no advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.

D. Lighting of the tower. No tower shall be lit except to comply with FAA requirements. Use red lights approved by FAA. Any strobing light will be required to be equipped with an RF choke and an adequate neutral pursuant to National Electric code IEEE 519 standards. Minimum downward directed 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 WECS to the extent possible. WECS shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished white or gray in color. WECS within multiple WECS project shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the project, 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 permitted in connection with small WECS and wind measurement towers only.

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 can be reasonably expected to 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 Permit for the specific WECS 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. WECS' 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.

J. WECS' 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.

M. The maximum Total Height of any WECS shall be four hundred (400) feet.

N. Any substation used in conjunction with a WECS shall be sited in a manner that will have the least intrusive impact upon adjacent residences and shall be sheltered and/or screened with a physical barrier and/or vegetation in a manner to eliminate its views from such residences. The Planning Board shall assess such siting in accordance with the requirements of this Local Law and the Town's Site Plan Law.

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

P. In processing any application for a WECS or in reviewing such project under SEQRA, the Planning Board shall consider any applicable policy or guidelines issued by the New York State DEC (i.e., visual impacts, noise impact).

Q. Turbine blades shall pass no closer than thirty (30) feet to the ground during operation of the facility.

R. Orleans shall require any WECS project to meet the latest version of the National Electric Code for the life of the project. 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 Special use Permit for the specific WECS causing the problems. Fines for non-compliance will be set by the Town Board and assessed accordingly.

S. To the greatest extent possible WECS', together with all above ground facilities, underground cables and wires, and all permanent access roads shall be positioned along existing fence lines, hedge rows or tree rows and/or as near the edge of any fields as possible to minimize the disruption to pasture land or tillable land. Following construction the site shall be graded and seeded and restored to its preconstruction condition or better. During construction the developer shall be required to act consistent with best agricultural practices to insure construction integrity of the site.

T. WECSs shall be located in a manner that minimizes significant negative impact on the historical and cultural aspects of the community (i.e. high concentration of historic stone houses and buildings). The Town shall require turbines be sited 2250 feet from residential, historic, schools and wildlife refuge areas to be established by Town Board resolution. This shall be done in coordination with the New York State Office of Parks, Recreation and Historic Preservation. In addition, the review of NY's Department of State guidelines for Scenic Areas of Statewide Significance should be respected.

U. Health and Safety Setbacks: Each WECS shall be setback from Site boundaries,

1. 2250 feet from the nearest site boundary property line .
2. 2250 feet from the nearest public road or St. Lawrence River.
3. 2250 feet from the Town of Orleans boundaries..
4. 2250 feet from state and federal wetlands.

Section 13 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. Appropriate warning signs shall be posted. At least one (1) 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. The Planning Board may require additional signs based on safety needs.

C. 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.

D. The minimum distance between the ground and any part of the rotor or blade system shall be thirty (30) feet

E. WECS' shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.

F. Existing snowmobile and/or ATV trails shall be posted to warn of potential ice throw dangers from the WECS.

G. The owner and/or operator of a WECS that has received approval under this Law and for which a permit has been issued shall file with the Town Code Enforcement on an annual basis an Operation and Maintenance Compliance report detailing the operation and maintenance activities over the previous year and certifying full compliance with the Operation and Maintenance Plan. The annual report shall include a noise analysis by an independent acoustical consultant performed according to the International Standard For Acoustic Noise Measurement Techniques For Wind Generators (IEC 61400-11) or such other procedure as accepted by the Town Planning Board during the permit review process which certifies to the Town that the noise level of the WECS is in full compliance with the provisions of this law and the permit as issued.

Section 14 Traffic Routes

A. Construction of WECS' pose 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 for 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, including impacts on local residential areas;
(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.

Wind Energy Permit conditions may limit WECS-related traffic to specific routes, and include a plan for disseminating traffic route information to the public.

B. The applicant is responsible for repair of all damages to Town Roads occurring during the construction 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 Planning Board, sufficient to compensate the Town for any damage to local roads.

Section 15 Setbacks and Noise Standards for Wind Energy Conversion Systems.

A. The equivalent level (LEQ) generated by a Wind Energy Conversion System (WECS) shall not exceed the limits listed in Table 1 when measured at the nearest off-site dwelling existing at the time of application, or for which a building permit has been issued, or for parcels zoned residential. If the A-weighted background sound pressure level, without the WECS, is within 5 dB of some or all of the limits in Table 1 or exceeds some or all of the limits in Table 1, then the A-weighted criterion to be applied to the WECS application for those affected limits shall be the A weighted background level +5 dB. The remaining limits that are more than 5 dB above the A-weighted background shall remain as given in Table 1.

Note: For example, during daytime, if the background is less than or equal to 40 dB, then the limit is 45 dB. However, if the background is greater than 40 dB, say 44 dB, then the applicable WECS limit is the background level plus 5 dB which calculates to 49 dB for this example.

B. In all cases, the corresponding C-weighted limit shall be the operable A-weighted limit (from Table 1 or based on the A-weighted background, as appropriate) plus 18 dB. The application shall include certification by an independent acoustical engineer as to the predicted A- and C-weighted WECS sound levels at potentially impacted residential sites. The firm with which the engineer is associated shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the independent acoustical engineer shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA. The background shall be measured and predicted in accordance with clause C below.

Table 1. WECS noise limits at residential receivers

	Daytime 7 AM to 7 PM	**Evening 7 PM to 10 PM**	**Nighttime 10 PM to 7 AM**
A-weighted level (dB)	**45**	**40**	**35**
C-weighted level (dB)	**63**	**58**	**53**

C. A-weighted background community noise levels shall be based on measured hourly L90 levels gathered continuously for at least 2 weeks. The day shall be divided into three time periods: (1) daytime, the hours from 7 AM to 7 PM, (2) evening, the hours from 7 PM to 10 PM, and (3) nighttime, the hours from 10 PM to 7 AM. If insect noise possibly can dominate some of the hourly L90 measurements,1 then Ai weighting (see Schomer *et al.*, 20102) shall be used in lieu of the Standard A weighting, or measurements shall not be made when insect noise possibly can dominate some of the hourly L90 measurements. The background shall be reported by time period, and computed as follows. The minimum hourly L90 shall be tabulated by time period and by day, and the arithmetic average by time period over all the days of measurement shall be computed. These three averages of daily minima shall be reported as that site's daytime, evening, and nighttime A-weighted background, respectively.

C.1 Parcels 3 acres or smaller

The A- weighted background measurements shall be made along the line from the nearest proposed WECS to the dwelling in question. If the parcel of land has no dwelling, then the line shall terminate within 25 ft of the center of the parcel. The actual position of the microphone shall be within the property in question and should be within 25 feet to either side of the line, no closer than 50 feet from the property boundary, and no closer than 25 feet from the house or any other structures. If positioning within this "measurement box" is not possible because of unique site conditions such as the position being underwater or the property being too small, then the unique conditions shall be fully documented and an alternate position selected and justified.

C.2 Parcels larger than 3 acres

The A- weighted background measurements shall be made along the line from the nearest proposed WECS to the dwelling in question. If the parcel of land has no dwelling then the line shall terminate within 50 ft of the center of the parcel. The actual position of the microphone shall be within the property in question, shall be within 50 to 500 feet of the dwelling or within 0 to 500 feet of the parcel center, as applicable, should be within 50 feet to either side of the line, shall be no closer than 50 ft from the house or any other structure, and shall be no closer than 50 feet from the property boundary. If positioning within this "measurement box" is not possible because of unique site conditions such as the position being underwater or the property being too small, then the unique conditions shall be fully documented and an alternate position selected and justified. The microphone shall be no closer than 50 ft from the house or any other structures.

C.3 Measurement requirements

The microphone shall be situated between 4 and 4.5 ft above the ground. Measurements shall be conducted within the general provisions of ANSI S1.13-2005, and using a meter that meets at least the Type 2 requirements of ANSI S1.4 and S1.4A-1985 (R2006). The meter noise floor shall be 20 (dBA) or lower. The report shall include each hourly measured A-weighted L90 level, the tabulated daily minima by time period, and the three time period averages. The report also shall include a sketch of the site showing distances to the structure(s), to the property line, etc., and several photographs showing the structure(s), the property, and the acoustical instrumentation. All instrumentation shall be listed by manufacturer, model, and serial number.

This instrumentation listing also shall include the A weighted noise floor and the one-third octave band noise floors, if utilized, for each meter used.

C.4 Background prediction and measurement
Background measurements shall be conducted throughout the area using sufficient sites to generally characterize the background in various areas of the community such as along busy roads, in town, near the river, and in the countryside. The town, using the services of the town engineer, shall contract for the background measurements and determination of background levels for general areas of the township such that every parcel is assigned a background level for daytime, evening, and nighttime. The contractor shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the consultant's project leader shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA. The WECS applicant shall pay for the contract to measure and determine background levels. This payment shall include the cost of the contract, the cost of letting the contract, and the cost of supervising the contractor. The number of measurement sites and study plan shall be developed jointly between the town and the contractor with input from the public and from the applicant.

> NOTE: It is anticipated that background measurements will be performed at on the order of 9 to 12 locations.

D. The starting point for predicting WECS A- and C-weighted levels at potentially impacted residential parcels shall be the manufacturer-supplied octave band sound power levels as measured by the manufacturer in accordance with International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11). At a minimum, the octave band data shall include the 10 octave bands with nominal center frequencies ranging from 16 Hz to 8000 Hz (see ANSI S1.6- 1984), and the sound power levels for these bands shall be tabulated in the report. Any data not available from the manufacturer shall be estimated from field measurements on like wind turbines already in use. Any such field measurements shall be described fully and documented in the report. Predictions for certain times of the day such as nighttime may use manufacturer certified lower sound power levels that correspond to a reduced wind turbine output power setting, if the application warrants and affirms that this reduced power setting always will be used during the time of the day in question (e.g., nighttime).

E. 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.

> NOTE: Minimum distances or setbacks are a very inexact means to limit WECS noise. It is far more appropriate to deal with each application on its own merits, taking into account the ground surface in the area, the number and placement of the wind turbines, and the sound power produced by the particular model of the WECS.

F. Any noise level falling between two whole decibels shall be rounded to the nearest whole decibel.

G. Enforcement shall be by measurement. The town, using the services of the town engineer, shall be responsible for and shall contract for any enforcement measurements. The contractor shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the consultant's project leader shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA.

The duration of any WECS measurement shall be 30 minutes. During the 30- minute period, the equivalent level (LEQ) generated by the WECS shall be measured. The measurement location shall be at any residential property as given in Clause A, and at any point on this residential property at which the background

community noise may be measured per Clause C. Measurements shall be entirely within the appropriate time period, e.g., during nighttime for nighttime enforcement, and the WECS shall operate continuously during the 30-minute measurement.

The microphone shall be situated between 4 and 4.5 ft above the ground. Measurements shall be conducted within the general provisions of ANSI S1.13-2005, and using a meter that meets at least the Type 2 requirements of ANSI S1.4 and S1.4A-1985 (R2006). The instrument noise for shall be at least 10 dB below the lowest level measured.

A calibrator shall be used as recommended by the manufacturer of the sound level meter. The fundamental level of the calibrator and the sensitivity of the sound level meter shall be verified annually by a laboratory using procedures traceable to the National Institute of Standards and Technology.

A wind screen shall be used as recommended by the sound level meter manufacturer.

An anemometer shall be used and shall have a range of at least 5 to 15 miles per hour (2.2 to 6.7 meters per second) and an accuracy of at least ± 2 miles per hour (± 0.9 meters per second).

A compass shall be used to measure wind direction to at least an 8-point resolution:
N, NE, E, SE, S, SW, W, NW.

Measurements shall be A-weighted, or, alternatively, in one-third-octave bands. For A-weighted measurements, the uncertainty (tolerance) of measurements shall be 1 dB for a type 1 meter and 2 dB for a type 2 meter. For one-third-octave-band measurements, the meter shall meet the type 1 requirements of ANSI S12.4 and S12.4a-1985 (R2006), and the uncertainty of measurements shall be 5 dB in each and every one-third-octave band.

For all measurements, the surface wind speed, measured at a 1.5-m height, shall be less than 5 m/s.

All measurements shall be corrected for the background on the basis of mean square pressures. For one-third-octave-band measurements, each one-third-octave band shall be individually corrected for the background in that band. That is, both the WECS (which always includes the background) and the background alone shall be measured in each one-third-octave band. For either A-weighted data or one third-octave band data, the background shall be measured during a *like period* when the WECS is not operating, and Table II shall be used to correct for the background, by band in the case of one-third-octave-band data. A *like period* includes the same or like location, like surface wind speed and direction, like time of day and day-of-the-week (e.g., Monday-Thursday night, Friday or Saturday night, or Sunday night), etc.

After correction, when using data measured in one-third-octave bands, all remaining bands, excluding bands set equal to zero, shall be converted to A-weighted bands and then shall be summed on a mean square pressure basis to establish the WECS background-corrected A-weighted sound level.

Table II. Correction in dB that shall be subtracted from the WECS sound level measurement (which always includes the background sound level) because of the background sound so that the result is just the sound level of the WECS alone (See Note 1 below).

Δ, difference dB)	**<3**	**3 - 4**	**5 - 6**	**7 - 10**	**>10**

Notes:
1. This table provides a simple correction to measurements of WECS sound in the presence of the background. For example, the sound of a WECS (along with the background sound which is always present) is measured as 40 dB(A), and the background sound level alone (without the WECS) is measured as 34 dB(A). Then Δ, the difference in decibels is 6 dB (first row, third column), and the corresponding correction shall be 2 dB (second row, third column). That is, 2 dB shall be *subtracted* from the measured 40 dB(A)

level, and it is adjusted to and reported as 38 dB(A). The same procedure is followed in each band for one-third-octave-band data. 2. When using directly measured A-weighted levels, if the difference between the WECS sound level (plus background sound level) and the background sound level alone is less than 3 dB, then it shall not constitute a violation of this chapter. 3. When using measured one-third-octave-band data, if the difference between the WECS sound pressure level (plus background sound pressure level) and the background sound pressure level alone, each in the same one-third-octave band, is less than 3 dB, then the WECS level for that one-third-octave band shall be set to zero.

The report shall include a sketch of the site showing distances to the structure(s), to the property line, etc., and several photographs showing the structure(s), the property, and the acoustical instrumentation. All instrumentation shall be listed by manufacturer, model, and serial number. This instrumentation listing also shall include the A-weighted noise floor and the one-third-octave band noise floors, if utilized, for each sound level meter used.

Commentary: The WECS community noise level criteria are based on numerous national and international criteria and standards. With the exception of airports and highways, all cognizant authorities in the United States recommended a basic day night-sound level (DNL) of 55 dB, which implies a daytime equivalent level (LEQ) of 55 dB and a nighttime LEQ of 45 dB. Similar recommendations are made by such international authorities as the World Health Organization (WHO) and the World Bank. However, both the relevant national standard, ANSI S.12.9 Part 4 and the relevant international standard, ISO 1996 Part 1, contain recommended adjustments to these criteria based on the nature of the community and the newness of the noise source. Each of these standards contains a 10 dB adjustment for very quiet, typically rural communities for which peace and quiet is an expected value and amenity, and each contains a 5 dB adjustment for a new noise source for which the community has no experience. This latter adjustment is obviously "temporary" because after some number of years, the sound is no longer new, so the full 5 dB adjustment may not be justified. Also, the DNL, with the values cited, assumes continuous or near-continuous sound. If the WECS noise was only present half the time, this would imply a 3 dB increase to the criteria. Thus, the 5 dB adjustment for a "new" source is counterbalanced by the transient nature of the adjustment and the adjustment to the criteria for the duty cycle of the WECS. The resulting suggested criterion is a slight variant of DNL equal to 45 dB, which is the general limit of 55 dB minus 10 dB for the quiet rural nature of the area.

The minor variant is that this recommendation is for the use of DENL, the day-evening-night sound level. DENL is used in California and all of Europe, and it divides the day into three time periods: (1) day, 7 AM to 7 PM, (2) evening, 7 PM to 10 PM, and (3) night, 10 PM to 7 AM. In contrast, DNL divides the day into two time periods: (1) day, 7 AM to 10 PM, and (2) night, 10 PM to 7 AM; there is no separate evening limit. DENL is chosen because of the large use of outdoors during the warmer-weather months in the Orleans area. This 45 dB DENL criterion is broken out as 45 dB during daytime, 40 dB during evening, and 35 dB during nighttime.

Section 16 Noise and Setback Easements

A. In the event a Wind Energy Facility does not meet a setback requirement or exceeds noise or other criteria established in this Local Law as it existed at the time the Wind Energy Permit is granted, a waiver will be granted from such requirement by the Planning Board in the following circumstances:

1. Written consent from the affected property owners has been obtained stating that they are aware of the Wind Energy Facility and the noise and/or setback limitations imposed by this Local Law, and that consent is granted to:
   (a) allow noise levels to exceed the maximum limits otherwise allowed or
   (b) setbacks less than required;

2. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, has been recorded in the County Clerk's Office describing the benefited and burdened properties. Such easements shall be permanent and shall state that they may not be revoked without the consent of the Planning Board, which consent shall be granted upon either the

completion of the decommissioning of the benefited WECS in accordance with this Article, or the acquisition of the burdened parcel by the owner of the benefited parcel or the WECS.

B. Waivers granted under this Section differ from waiver requests under Article V of this Local Law in that no Article V waiver is required if a waiver is given under this Sections, and an Article V waiver must be sought rather than a waiver under this Section if the adjoining property owner will not grant an easement pursuant to this Section.

Section 17 Issuance of Wind Energy Permits.

A. Upon completion of the review process, the Planning 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. The decision of the Planning Board shall be filed within five (5) days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.

C. If any approved Wind Energy Facility is not substantially commenced within one (1) year of issuance of the Wind Energy Permit, the Wind Energy Permit shall expire.

Section 18 -Decommissioning

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 Board, it shall remove said system at its own expense as per paragraph C below. 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 Board's ability to order a remedial action plan.

B. Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA or by lack of income generation. The applicant shall make available to a designee (i.e. town engineer, project manager, etc.) appointed by the Town Board, all reports from the purchaser of energy from individual WECS, if requested to prove the WECS is functioning. This designee may also request periodic documentation reporting the power output generated by the WECS.

C. Decommissioning and Site Restoration Plan and Requirements. An application for a WECS permit shall include a decommissioning and site restoration plan containing the information and meeting the requirements in this section.

1. The plan shall provide for the removal from the Project Parcels, and lawful disposal or disposition of all Wind Turbines and other structures, hazardous materials, electrical facilities, and all foundations to a depth of not less than 48 inches below grade. The plan shall provide for the removal of all access roads that the owner of the Project Parcels wants removed. The plan shall provide for the restoration of the Project Parcels to farmland of similar condition to that which existed before construction of the WECS.

2. The plan shall provide for the decommissioning of the site upon the expiration or revocation of the WECS permit, or upon the abandonment of the WECS. The WECS shall be deemed abandoned if its operation is ceased for 12 consecutive months.

3. The Plan shall include: (a) the estimated decommissioning cost in current dollars; (b) how said estimate was determined; (c) the method of ensuring that funds will be available for decommissioning and restoration; (d) the method that will be used to keep the decommissioning costs current. The Town Board will make arrangements to ensure the fund amount is adjusted annually based on a suitable index such as the "RS Means Heavy Construction Cost Data" index unless the wind developer supplies convincing evidence that market conditions have changed.

4. The plan shall include provisions for financial security to secure completion of decommissioning (removal of non-functional towers and appurtenant facilities) and site restoration. The applicant, or successors, shall continuously maintain a fund payable to the Town of Orleans, in a form approved by the Town Attorney, and in an amount to be determined by the Town Board for the period of the life of the facility. This fund shall be no less than 125% of the cost of full decommissioning (including salvage value) and restoration in the form of cash on deposit with the Town or cash held in escrow in a New York licensed-financial institution, pursuant to an agreement acceptable to the Town. All decommissioning funding requirements shall be met prior to commencement of construction.

5. The plan shall include written authorization from the WECS Permittee and all owners of all Project Parcels for the Town to access the Project Parcels and implement the decommissioning and site restoration plan, in the event the WECS Permittee fails to implement the plan. The written authorization shall be in a form approved by the Town.

6. Use of Decommissioning Fund

(a) Any non-functional or inoperative utility scale WECS, or any utility scale WECS for which the special use permit has been revoked, shall be removed from the site and the site restored in accordance with the approved decommissioning and site restoration within 90 days of the date on which the facility becomes non-functional or inoperative, as defined above, or of the revocation of the special use permit.

(b) If removal of the WECS is required and the applicant, permittee, or successors fails to remove the WECS and restore the site in accordance with the approved decommissioning and site restoration plan, the permittee, by accepting the permit, authorizes the Town Board to contract for such removal and restoration and to pay for the removal and restoration from the posted decommissioning and site restoration fund.

(c) If the fund is not sufficient, the Town shall charge the permit holder for the costs over and above the amount of the fund.

Section 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 right 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.

Section 20 Permit Revocation.

A. Testing fund. A Permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which shall be included in the annual Operation Maintenance and Compliance report required by this local law. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Permit and this Local Law and shall include an evaluation of any complaints received by the Town. A non-compliant WECS shall be shut down immediately. The applicant shall have 90 days after written notice from the Code Enforcement Officer, to cure any deficiency. An extension of the 90-day period may be considered by the Code Enforcement Officer, 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, it shall be shut down immediately. The owner or operator shall remedy the situation within ninety (90) days after written notice from the Town Zoning Enforcement Officer. The applicant shall have ninety (90) days after written notice from the Town Zoning Enforcement Officer, to cure any deficiency. The Planning Board may extend the ninety (90) days cure for good cause shown.

C. Notwithstanding any other abatement provision under this Local Law, 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

Section 21 Wind Site Assessment

As a wind site assessment is typically conducted to determine the wind speeds and the feasibility of using particular Sites, installation of Wind Measurement Towers, also known as anemometer ("Met") towers, shall be permitted in accordance with this Article.

Section 22 Applications for Wind Measurement Towers.

An application for a Wind Measurement Tower shall include:

A. 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.

B. 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 application(s) and
(ii) authorizing the submission of the application.

C. Address of each proposed tower location, including Tax Map section, block and lot number.

D. Proposed Development Plan and Map.

E. Decommissioning Plan, including a security bond for removal.

Section 23 Standards for Wind Measurement Towers.

A. The distance between a Wind Measurement Tower and the property line shall be at least one and a half 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. Wind Energy Facility Permits for Wind Measurement Towers may be issued for a period of up to three

(3) years. Permits shall be renewable upon application to the Planning Board in accordance with the procedure of Section 17.

Article IV

Small Wind Energy Conversion Systems

Section 24 Purpose and Intent.

The purpose of this Article is to provide standards for small wind energy conversion systems designed for home, farm, and small commercial use on the same parcel, and that are primarily used to reduce consumption of utility power at that location. 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.

Section 25 Applications.

Applications for Small WECS Wind Energy Facility Permits shall include:

A. 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.

B. 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.

C. Address of each proposed tower location, including Tax Map section, block and lot number.

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

E. 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 Building Code of the State of New York.

F. Sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location.

G. 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, and so states in the application, to connect the system to the electricity grid.

H. 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.

Section 26 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 system shall be located on a lot a minimum of one (1) acre in size, however, this requirement can be

met by multiple owners submitting a joint application.

B. Only one (1) small wind energy system tower per legal lot shall be allowed, unless there are multiple applicants, in which their joint lots shall be treated as one lot for purposes of this Article.

C. Small Wind energy systems shall be used primarily to reduce the on-site consumption of electricity.

D. Tower heights may be allowed as follow:

1. Sixty-five (65) feet or less on parcels between one (1) and five (5) acres.
2. Eighty (80) feet or less on parcels of five (5) or more acres.

E. The maximum turbine power output is limited to 100 KW.

F. The system's tower 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 any visual disruption.

G. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas.

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

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

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 harmful interference or cease operation of the system.

K. At least one (1) sign shall be posted on the tower at a height of five (5) 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 vain where it would be visible from the ground, except that a system or motor's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.

L. 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 twelve (12) feet from the ground.
2. A locked anti-climb device installed on the tower.
3. A locked, protective fence at least six (6) feet in height that encloses the tower.

M. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six (6) feet high or sheathed in bright orange or yellow covering from three (3) to eight (8) feet above the ground.

N. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.

O. To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of

any horizontal axis wind turbine blade shall be at least thirty (30) feet above the highest structure or tree within a two hundred and fifty (250) foot radius. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.

P. All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Prevention and Building Code.

Q. All small wind energy systems 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 manufacture.

Section 27 Standards

A Small Wind Energy System shall comply with the following standards:

A. Setback requirements. A Small WECS shall not be located closer to a property line than one and one half times the Total Height of the facility.

B. Noise. Except during short-term events including utility outages and severe wind storms, a Small WECS shall be designed, installed, and operated so that noise generated by the system shall not exceed ambient noise levels (exclusive of the development proposed) by more than 6 dBA at the nearest property line to any proposed Small WECS. Sites can include more than one piece of property and the requirement shall apply to the combined properties. In the event the ambient sound pressure level exceeds 50 dBA, the standard shall be ambient dBA plus a maximum of 5 dBA. Independent certification shall be provided before and after construction demonstrating compliance with this requirement.

Section 28 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 any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Planning Board. **If not removed within 90-days from revocation, the town shall have the right to remove the small WECS at the owners expense.**

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

Article V

Waivers

Section 29 Waivers.

A. The Planning Board may, after a public hearing (which may be combined with other public hearings on Wind Energy Facilities, so long as the waiver request is detailed in the public notice), grant a waiver from the strict application of the provisions of this Local Law if, in the opinion of the Planning Board, the grant of said waiver is in the best interests of the Town. The Planning Board may consider as reasonable factors in evaluating the request, which may include, when applicable, the impact of the waiver on the neighborhood, including the potential detriment to nearby properties, the benefit to the applicant, feasible alternatives, and the scope of the request.

B. The Planning Board may attach such conditions as it deems appropriate to waiver approvals as it deems necessary to minimize the impact of the waiver.

Article VI

Miscellaneous

Section 30 Reserved

Section 31 Fees

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

1. WECS Wind Energy Facility Permit: $85 per megawatt of rated maximum capacity.
2. Wind Measurement Towers Wind Energy Facility Permit: $200 per tower.
3. Small WECS Wind Energy Facility Permit: $50 per WECS
4. Wind Measurement Tower Wind Energy Facility Permit renewals: $50 per Wind Measurement Tower.

B. Wind Energy Facility Permits. The review of permits for Wind energy Facilities requires expertise and will require the Town to engage the services of professional consultants such as attorneys and engineers, the expenses for which can not be accurately established in advance. Therefore, in lieu of an established permit fee, the applicant shall be responsible for all of the Town's expenses incurred in the permit review process including, but not limited to, all administrative costs, attorney's fees and engineering fees, and the applicant shall be required to enter into an escrow agreement with the Town in advance of such review to provide for the payment of such costs and expenses of review as agreed by the parties.

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.

Section 32 Tax Exemption

The Town hereby reserves the right to opt out of the Tax Exemption provisions of Real Property Tax Law Section 487, pursuant to the authority granted by paragraph 8 of that law, or by any other provisions of law.

Section 33 Inspections.

A. Wind Energy Facilities shall not begin operation until all approvals required under this law are obtained and all required certifications are provided.

B. Following the issuance of any approval required under this Local Law, the Planning Board or its designee shall have the right to enter onto the Site upon which a Wind Energy Facility has been placed, at reasonable times in order to inspect such facility and its compliance with this Local Law.

C. After undertaking such inspection, the Planning Board or its designated representative shall provide notice of any non-compliance with the terms of this Local Law or the conditions of approval of any permit issued hereunder, and shall provide the owner or applicant with a reasonable time frame to cure such violation, such timeframe to be determined based upon the seriousness of the violation, its impact upon public safety, and the impact of the violation upon residents of the Town.

Section 34 Construction Related Damage.

The owner of every Wind Energy Facility constructed pursuant to this law shall, to the extent practicable, repair or replace all real or personal property, public or private, damaged during the construction of such facility.

Section 35 Enforcement; Penalties and remedies for violations.

A. The Town Zoning Enforcement Officer and such Town staff or outside consultants as appointed by the Town Board shall enforce and implement this Local Law.

B. Any person owning, controlling or managing any building, structure or land who shall undertake a Wind Energy Facility 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 $250.00. 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 $250.00 for each violation and each week said violation continues shall be deemed a separate violation.

C. 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.

D. Complaint Resolution Fines specific to WECS: (does not apply to small WECS) Fines for violations will be levied and reviewed on an annual basis by the Town Board and will include, but not be limited to, the following categories.

1. Shadow Flicker Complaint: If the developer does not comply within said time limits, the Town Board will impose a fine of$250. per day, starting from first day of complaint.
2. Setback Violation Complaint: If the developer does not comply with setback violation within said time limits, the Town Board will impose a fine of $250. per day, starting from first day of violation and/or revoke the permit to operate.
3. Electromagnetic-Stray Voltage Complaint: If the developer does not comply within said time limits, the Town Board will impose a fine of $ 250. per day, starting from first day of complaint,
4. Protection of Aquifers, Ground Water and Wells: If developer fails to comply, the fine will be$250. per day, starting from the first day of complaint.

Section 36 Fiscal Responsibility.

A. The Planning 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 Planning Board may, in its sole discretion, require a suitable alternative to demonstrate the financial responsibility of the applicant and its ability to comply with the requirements of this Local Law.

B. No transfer of any Wind Energy Facility or permit, or sale of the entity owning such facility, 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 written acceptance by such entity of the obligations of the permittee under this Local Law and the terms of the permit. Any such transfer shall not eliminate the liability of any entity for any act occurring during its ownership or status as permittee.

Section 37 Certification.

Prior to operation of any approved and constructed Wind Energy Conversion Facility, the applicant must provide a certification that the project complies with applicable codes, industry practices and conditions of approval (where applicable).

Section 38 Severability.

Should any provision of this Local Law be declared by a court of competent jurisdiction 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 39 Effective Date.

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