

**TOWN OF SANFORD, BROOME COUNTY, NEW YORK
PROPOSED LOCAL LAW NO. 2 OF THE YEAR 2019, AS REVISED**

**A LOCAL LAW AMENDING LOCAL LAW NO. 1 OF THE YEAR 2017
ENTITLED "RENEWABLE ENERGY SYSTEMS"**

BE IT ENACTED by the Town Board of the Town of Sanford as follows:

Section 1.

Local Law #1 of 2017, entitled "Renewable Energy Systems," also known as Article XIV of the Town of Sanford Land Use Management Local Law (Local Law #1 of 1992) is hereby amended by this Local Law #2 of 2019 as follows:

Article XIV. Renewable Energy Systems

Section 1401. Legislative intent.

This Article is adopted to advance and protect the public health, safety, and welfare of the Town of Sanford, including:

- 1) Taking advantage of a safe, abundant, renewable, and low-carbon emitting energy resource;
- 2) Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses and farm operations; and
- 3) Increasing employment and business development in the region by furthering the installation and development of renewable energy systems.
- 4) Balancing the need to improve energy sustainability through increased use of renewable energy systems with concerns for preservation of public health, welfare, and safety, as well as environmental quality, visual and aesthetic values, and existing neighborhood social and ecological stability.
- 5) Minimizing any adverse impacts on the character of the neighborhoods, property values, scenic, historic, and environmental resources of the Town.

These renewable energy regulations are intended to supplement existing zoning ordinances and land use practices, and ensure these systems are appropriately designed, sited and installed. However, to the extent that a provision of this Local Law conflicts with any other local law or zoning regulation of the Town, the provision of this Local Law shall apply. ~~These regulations are in place to balance the need to improve energy sustainability through increased use of renewable energy systems such as solar energy systems and wind energy conversion systems with concerns for preservation of public health, welfare, and safety, as well as environmental quality, visual and aesthetic values, and existing neighborhood social and ecological stability. Further, the intent is to minimize any adverse impacts on the character of the neighborhoods, property values, scenic, historic, and environmental resources of the Town.~~

Section 1402. Wind Energy Conversion Systems (WECS).

A. Definitions.

ACCESSORY FACILITIES or EQUIPMENT: Any structure other than a wind turbine, including substations, meteorological towers, overhead and underground electrical lines, guy wires,

access roads, operations and maintenance building or other facility related to the use and purpose of deriving energy from such tower.

APPLICANT: Any individual, corporation, municipal corporation, municipal corporation-private entity cooperation, estate, trust-partnership, joint-stock company, association of two or more persons, limited liability company or other entity submitting an Application to the Town of Sanford for a Special Permit for a Wind Measurement Tower/Met Tower or a WECS, and its successors and assignees.

APPLICATION: The form approved by the Board, together with all necessary and appropriate documentation that an Applicant submits in order to receive a Special Permit for a Wind Measurement Tower/Met Tower or a WECS.

BOARD: The Planning Board of the Town of Sanford.

DECOMMISSIONING PLAN: A plan that includes all of the elements set forth in Section 1402.6.

NACELLE: The portion of the wind turbine that connects the rotor to the support tower, and houses the generator, gearbox, drive train, and breaking system.

~~NON PARTICIPANT~~PARTICIPATING PROPERTY: A parcel of land which is ~~not~~ subject to any lease, good neighbor agreement or other contract with the Applicant which authorizes WECS development by the Applicant.

NON-PARTICIPATING PROPERTY: A parcel of land not subject to any type of agreement with the Applicant.

RIGHT OF WAY: A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

SITE: The parcel(s) of land where a WECS, Wind Measurement Tower or Meteorological Tower is to be placed, as shown by the Applicant's Application. The Site can be publicly or privately owned by an individual or a group of individuals controlling single or multiple adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property that has a WECS, Wind Measurement Tower or Meteorological Tower, or is the subject of an agreement for the placement of such or a setback agreement, shall not be considered off-Site.

SPECIAL PERMIT: The official document or permit by which an Applicant is allowed to construct and use a WECS or Wind Measurement Tower/Met Tower as granted or issued by the Town.

TOTAL HEIGHT: The height of the tower and the furthest vertical extension of the WECS or Wind Measurement Tower/Met Tower.

TOWER FACILITY: Site where one or more wind energy-deriving tower(s) or wind turbines will be located, including all accessory facilities or equipment.

TOWN: The Town of Sanford, New York.

WIND ENERGY-DERIVING TOWER or WIND TURBINE: Any tower, pole, or other structure, whether attached to a building, guyed, or freestanding, designed to be used for the support of a rotor that consists of blades and hub, as well as a nacelle and generator for producing electricity.

WIND ENERGY CONVERSION SYSTEM (WECS): Shall mean any mechanism including a wind turbine designed for the purpose of converting wind energy into electrical energy and all accessory facilities related thereto. A WECS may be:

a. Commercial - A WECS that primarily produces energy for off-Site sale or consumption, or any WECS that has a capacity of 200 kilowatts or more.

b. Non-Commercial - A WECS that is incidental and subordinate to another use on the same parcel and which primarily produces energy for on-Site consumption; provided, however, that if such parcel uses the WECS for net-metering with a utility company, such WECS may be considered non-commercial unless net revenue is produced.

WIND MEASUREMENT TOWER or METEOROLOGICAL TOWER (MET TOWER): A tower used solely for the measure of meteorological data such as temperature, wind speed, and wind direction.

Section 1402.1. Authority

No WECS shall be constructed in the Town except in accordance with this Article. ~~Unless a building permit, site plan approval and a Special Permit are received. Notwithstanding anything to the contrary, the Board is hereby authorized to approve, approve with conditions, or disapprove WECS Special Permit Applications in accordance with this Article.~~

Section 1402.2. Requirements for Commercial and Non-Commercial WECSs.

A. A Non-Commercial WECS may be permitted as a customary accessory use in all zoning districts, except the Special (S) District and the Lake Protection Overlay (LPO) District, and without the necessity of site plan review or Special Permit, subject to Town Code and Uniform Code requirements applicable to accessory uses, to the extent not inconsistent with this Article. In addition to any other building permit requirements or requirements applicable to accessory uses, the following shall apply to non-commercial WECSs:

(1) If any license, approval, permit, certification, or any type of registration or similar type of endorsement is required from any other agency, receipt of such agency approvals shall be a pre-condition to the building permit.

(2) All ~~wind turbine towers~~ Non-Commercial WECS shall comply with the following minimum setback requirements. If more than one setback applies, the most restrictive setback shall control: ~~be set back~~

a. 3.0 times the Total Height from all adjacent off-Site property lines, rights of ways, easements, public ways, power lines (not to include individual residential feed lines), gas wells and State lands;

b. 3.0 times the Total Height from all permanent structures located on-Site or off-Site; and any pre-existing structures by a distance at least equal to its fall zone as certified by a New York State Licensed Professional Engineer plus an additional twenty five percent (25%) of its fall zone.

c. 1,500 feet or 3.0 times the Total Height, whichever is greater from all schools, hospitals, places of worship, places of public assembly and residential structures located off-Site;

(3) The minimum distance between the ground and any part of the rotor blade shall be no less than ~~fifteen (15)~~ thirty (30) feet.

(4) An emergency telephone number shall be provided to the Town.

(5) All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point at least twelve (12) feet above the ground. Setbacks for any anchor point for guy wires or cables shall be a distance of thirty (30) feet from any adjacent property lines.

(6) WECS shall be sufficiently secure so as to prevent access by unauthorized individuals.

(7) The color of the WECS shall be a single, non-reflective matte finished color or other industry standard color which minimizes negative visual impact.

~~(+)(8)~~ Wind energy-deriving towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Use of nighttime and overcast daytime condition stroboscopic lighting to satisfy FAA lighting requirements shall be subject to Board on-Site review, with specific respect to Section 1402.5, subsection (F)1 of this Article.

B. A Commercial WECS is permitted where indicated in the Schedule of Regulations, but shall be subject to receipt of site plan approval and a Special Permit in accordance with this Section 1402.

Section 1402.3. Special Permit Required for Commercial WECS.

A. All Applicants for a Special Permit for a Commercial WECS shall, in addition to the other requirements in the Town Code, comply with the procedures set forth in this Section 1402. The Board is the officially designated agency or body of the community that is authorized to review, analyze, evaluate, and make decisions with respect to granting or denying Special Permits for commercial WECSs and facilities (except where the Application is subject entirely to Article 10 of the Public Service Law).

B. An Application for a Special Permit for a Commercial WECS shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The Applicant shall provide proof that the landowner, if different than the Applicant, consents to the filing of the Application or the Applicant shall provide a copy of the agreement between the Applicant and the landowner authorizing the Applicant to use the landowner's property as proposed in the Application. At the discretion of the Board, any false or misleading statement in the Application may subject the Applicant to denial of the Application without further consideration or opportunity for correction.

C. Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the Board.

D. Completed Applications for siting Commercial WECS shall be submitted to the Town Clerk at least ten (10) days prior to the regular meeting of the Board. Applications shall not be deemed "complete" until all requirements herein have been satisfied and a SEQR decision has been issued or a Draft EIS has been accepted and is satisfactory. The Applicant shall attend any Board meeting where it wishes the Application to be considered.

E. The decision of the Board on the Application shall be filed in the office of the Town Clerk and a copy thereof mailed to the Applicant.

Section 1402.4. Special Permit Application Requirements.

A plan for the proposed development of a Commercial WECS shall be submitted with the Application and such plan shall show and include:

- A. Name and address of the Applicant., name of project, boundary lines of parcel that project will be located on, a location map showing proposed Site's location, date, north arrow, and scale of the plan.
- B. Application fee (non-refundable) of \$750.
- C. Name and address of all owners of record of abutting parcels and those within fifteen hundred (1,500) feet of the property lines of parcel where development is proposed.
- D. A description of the project, including the number and maximum rated capacity of each WECS

~~E.~~ A set of plot plans prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:

- (1) Physical dimensions of the Site and property lines, easements and rights of way located within the Site boundaries;
- (2) Existing and proposed topography of the Site at five-foot contour intervals;
- (3) Location, approximate dimensions and types of existing structures and uses on Site, public roads and adjoining parcels within two thousand (2,000) feet of any proposed WECS;
- (4) Location of all proposed facilities, including all WECS, guy wires, access roads, electrical lines, substations, other utility systems, storage or maintenance units, other accessory facilities and fencing;
- (5) Location of all aboveground and belowground utility lines on the Site, and all related transformers, power lines, interconnection points with transmission lines, and other ancillary facilities or structures
- (6) To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed WECS location equal to:
 - a. 3.0 times the Total Height radius
 - b. 1,500-foot radius or 3.0 times the Total Height radius, whichever is greater

~~A map showing all existing lot lines, easements and right of ways, and a sketch plan showing proposed road access including provisions for paving, if any, proposed transmission lines, guy wires and accessory facilities, and location of all existing and proposed utility systems to the facility.~~

~~E. — A survey of the parcel.~~

~~G. — A map showing existing and proposed topography at five foot contour intervals.~~

F. Elevation drawing showing each WECS height and design including a cross-section of the structure and components of the nacelle; each wind turbine's compliance with applicable structural standards; and the WECS' nameplate capacity. A copy of all manufacturers' specifications for the WECSs to be installed shall be included.

G. Documentation of the proposed intent as well as a justification for the height of any wind energy-deriving tower and justification for any clearing required.

H. A landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features including size and type of plant material and erosion control measures.

- I. A complaint resolution plan for the Applicant to address and resolve complaints regarding the WECS from local residents. The plan may utilize an independent mediator or arbitrator. The plan shall include a provision guaranteeing the Applicant's response to a complaint within ten (10) days and shall include a time limit for acting on a complaint. The Applicant shall make every reasonable effort to resolve any complaint.
- J. A Lighting Plan showing any FAA-required lighting and other proposed lighting. The Application should include a copy of the determination by the FAA to establish required markings and/or lights for the structure, but if such determination is not available at the time of the Application, the Application shall so state and such determination shall be submitted prior to final approval.
- K. Decommissioning Plan as described in Section 1402.6 of this Article.
- L. Completed State Environmental Quality Review Act (SEQRA) Full Environmental Assessment Form (FEAF) and Broome County General Municipal Law § 239 referral form, or reference to Public Service Law Article 10 for projects over 25 MW.

~~H. — Completed State Environmental Quality Review Act (SEQRA) Full Environmental Assessment Form (EAF) and Broome County GML 239 referral form.~~

~~I. — Photography assessing the visibility from key viewpoints, existing tree lines, and proposed elevations. Pictures shall be digitally enhanced to simulate the appearance of the as-built above-ground site facilities as they would appear from distances within a three (3) mile radius of such wind turbines. Pictures from specific locations may be required by the Board and all pictures shall be no smaller than 5" x 7".~~

~~J. — Documentation of the proposed intent as well as a justification for the height of any wind energy deriving tower and justification for any clearing required.~~

~~MK. Preliminary report prepared by the Applicant describing~~ If a positive declaration of environmental significance is determined by the SEQRA lead agency, the following information shall be included in the Draft Environmental Impact Statement (DEIS) prepared for a WECS or Tower Facility. Otherwise, the following information shall be submitted to the Board for its use in reviewing the Application:

- (1) Surrounding topography in relation to the capabilities for generation of electricity by wind;
- (2) A plan detailing proposed haul routes to be used in delivery of project components, equipment and building materials, and those to be used to provide access to the Site during and after construction. Such plan shall also describe anticipated improvements to existing state, county or town roads, bridges or other infrastructure within the public's right of way or located on land controlled by the Town of Sanford needed for construction, maintenance and decommissioning of the WECS or Tower Facility;
- (3) Soil logs, soil profile analyses and stormwater runoff calculations for the area(s) being disturbed;
- (4) A shadow flicker study, identifying locations where shadow flicker may be caused by the WECSs and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences and describe measures that will be taken to eliminate or mitigate impacts of the flicker. Adequate mitigation measures include, but are not limited to, temporary turbine shutdowns during periods that produce flicker, and shielding or blocking measures (such as landscape plantings and window treatments) for non-

participating residences that submit complaints for exposures that exceed the annual limit as described in Section 1402.5 (6) of this Article.

- (5) A visual impact study, which shall include a computerized photographic simulation demonstrating any visual impacts from strategic vantage points. Color photographs assessing the visibility from key viewpoints, existing tree lines, and proposed elevations shall also be submitted. All photographs shall be digitally enhanced to simulate the appearance of the as-built aboveground Site facilities as they would appear from distances within a ten (10) mile radius of such wind turbines. Photographs from specific locations may be required by the Board and all photographs shall be no smaller than 5" x 7" and be provided in color, hard copy format and digitally. The visual analysis shall also indicate the color treatment of the WECSs and related components, and any visual screening incorporated into the project that is intended to lessen the WECSs visual prominence.
- (6) A noise analysis prepared by a qualified acoustical consultant documenting the noise levels associated with each proposed WECS. The study shall document noise levels at the property line of the nearest non-participating property. The noise analysis shall provide pre-existing ambient noise levels and include low frequency noise.
- (7) A report detailing the potential impacts of ice-throw and blade-throw on structures and property within the Town, including proposed safety measures to mitigate such impacts.
- (8) A structural safety report, including proposed safety measures to mitigate wind energy-deriving tower structural failure.
- (9) A property value analysis prepared by a New York State licensed appraiser regarding the potential impact of values of non-participating properties in the Town of Sanford. The analysis should include a proposed means of protecting property owners from the potential decrease in property values caused by the establishment and operation of the proposed WECS or Tower Facility.
- (10) A fire protection and emergency response plan created in consultation with the fire companies having jurisdiction over the proposed Site.
- (11) An assessment of potential electromagnetic interference with microwave, radio, television, personal, official or emergency communication systems and other wireless communication.
- (12) A report including a description of the geologic and/or geotechnical conditions of the Site, a narrative of soil identification and classification throughout the Site, and engineering recommendations based on borings and laboratory testing pertinent to the design of tower foundations and other project components.
- (13) Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, and flooding of other properties, as applicable. The plans ~~should~~ shall include pre-construction and post-construction drainage calculations for the Site completed by a New York State licensed professional engineer. The plans must show no increase in runoff from the Site, or how such runoff shall be sufficiently mitigated.
- (14) Appropriate bird and bat ~~migration~~ impact studies. Such studies shall evaluate the impacts on local non-migrating bird and bat populations and impacts on migrating bird and bat populations. The Applicant shall solicit input from all relevant state and federal regulatory

agencies, as well as any local agencies with relevant expertise such as the Delaware Otsego Audubon Society (DOAS), on such studies.

(15) Proposed mitigation measures for each and every anticipated adverse visual/aesthetic, environmental, or health/safety impacts of the WECS.

~~(1) — Surrounding topography in relation to the capabilities for generation of electricity by wind;~~

~~(2) — Required improvements for construction activities, including those within the public's right of way or land controlled by the Town of Sanford;~~

~~(3) — Proposed mitigation measures for visual impacts and other environmental impacts of the WECS, if any;~~

~~(4) — Proposed safety measures to mitigate wind energy deriving tower structural failure.~~

~~L. Elevation map showing each wind energy deriving tower's height and design including a cross section of the structure and components of the nacelle; each wind energy deriving tower's compliance with applicable structural standards; and the WECS' nameplate capacity. A copy of all manufacturers' specifications for the wind turbines to be installed shall be included.~~

NM. A description of the general geographic areas that would be acceptable for wind projects within the Town of Sanford; furthermore, demonstration that the proposed Site is the most appropriate site within the immediate area for the location of the WECS.

ON. If the WECS is a "major electric generating facility" subject to Article 10 of the Public Services Law and its accompanying regulations, the Applicant shall provide all documents and information required to be provided to the Town, as well as any documents or information provided to the Public Service Commission or other public agency which are specifically requested by the Town.

~~O. Report showing soil logs, soil profile analysis, and storm water run off calculations for the area being disturbed.~~

~~P. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, and flooding of other properties, as applicable. There should be pre-construction and post construction drainage calculations for the site completed by a certified engineer. From this the engineer must show how there will be no increase in runoff from the site, or how such runoff is sufficiently mitigated.~~

~~PQ. Insurance certificates in compliance with Section 1402.5(H).~~

QR. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted, but may be in memo or summary form.

~~S. Appropriate geotechnical, vibration, structural safety, and noise studies prepared by qualified professionals.~~

~~R~~ F. Demonstrated compliance with, or inapplicability of, any Town road maintenance or road use local laws, which may include, but shall not be limited to, a proposed road use agreement.

~~S~~ U. If any license, approval, permit, certification, or any type of registration or similar type of endorsement is required from any other agency, the Applicant shall notify the Board of such requirement and the Board shall coordinate the review as deemed appropriate. A copy of any such license, approval, permit, certificate or registration shall be provided to the Board prior to approval of any Special Permit.

~~T~~ V. The Board, upon request in writing by the Applicant, may waive specific requirements of this Section when in its opinion such information is not necessary for the Board to take into account when considering an application. Any such waiver will not have the effect of nullifying the spirit and intent of these standards, the Comprehensive Plan, or any other regulations or ordinance, if such exist.

Section 1402.5 Standards for Design.

Every Commercial WECS shall be subject to the following requirements.

A. Location – Applicants for a WECS Special Permit shall locate, erect, and site wind energy-deriving towers in accordance with the following requirements:

- (1) WECS shall be located in a manner that minimizes significant negative impacts on existing microwave communications links. No WECS shall be installed in any location along the major axis of an existing microwave communications link where, when considering any mitigation strategies of Applicant, its operation is still likely to produce significant electromagnetic interference in the links operation.
- (2) WECS shall be located in a manner that minimizes significant negative impacts on existing fixed broadcast, or reception antennae (including residential reception antennae) for radio (including amateur short wave radio), television, or wireless phone or other personal communications systems. No individual Tower Facility shall be installed in any location where, when considering any mitigation strategies of Applicant, its proximity with existing fixed broadcast, or reception antennae (including residential reception antennae) for radio (including amateur short wave radio), television, or wireless phone or other personal communication systems is still likely to produce significant electromagnetic interference with signal transmission or reception.
- (3) WECS shall be located in a manner that minimizes significant negative impacts on bird and bat species. No individual Tower Facility shall be installed in any location where, when considering any mitigation strategies of Applicant, there are still likely to be significant, negative impacts on birds or bats. The Applicant shall present and implement a plan for such mitigation, which plan shall be approved by all relevant state and federal regulatory agencies, with consideration of input from local agencies with relevant expertise such as the Delaware Otsego Audubon Society (DOAS).
- (4) All Commercial WECS shall comply with the following minimum setback requirements. If more than one setback applies, the most restrictive setback shall control:
 - a. 3.0 times the Total Height from all adjacent non-participating property lines, rights of way, easements, public ways, power lines (not to include individual residential feed lines), gas wells and State lands;
 - b. 3.0 times the Total Height from all permanent structures located on participating and non-participating properties;

- c. 1,500 feet or 3.0 times the Total Height, whichever is greater, from all schools, hospitals, places of worship, places of public assembly and residential structures located on non-participating properties.
- ~~(4)~~ All WECS shall be set back from adjacent Non Participant property lines, right of ways, easements, public ways, power lines (not to include individual residential feed lines and not otherwise directly connected to the WECS), and any pre-existing structures by a distance at least equal to its fall zone as certified by a New York State Licensed Professional Engineer plus an additional twenty five percent (25%) of its fall zone.
- (5) The level of noise produced during WECS operation shall not exceed:
 - a. Exceed 45 (dBA) Leq (8-hour) 50 (dBA) measured from the property line of any non-participating property.
 - b. Exceed 40 (dBA) L (night-outside), annual equivalent continuous average nighttime sound level from the WECS or Tower Facility measured from the property line of any non-participating property.
 - c. Produce any audible prominent tones, as defined under ANSI S12.9 part 4-2005 Annex C at the property line of any non-participating property.
 - d. Produce human perceptible vibrations at the property line of any non-participating property that exceeds the limits for residential use recommended in ANSI Standard S2.71-1983 (August 6, 2012) "Guide of evaluation of human exposure to vibration in Buildings."
 - e. Exceed a maximum noise limit of 65 dB Leq at the full octave frequency bands of 16, 31.5 and 63 Hertz outside of any existing non-participating residence in accordance with Annex D of ANSI standard S12.9 – 2005/Part 4 Section D.2(1) (Sounds with strong low-frequency content)
 - ~~a.f.~~ Exceed a limit of 40 dBA Leq (1-hour) at the property line of any non-participating property from any collector substation equipment.
- ~~(6)~~ Shadow flicker caused by WECS operations shall be limited to a maximum of 30 minutes per day, not to exceed 30 hours annually at the property line of any non-participating property, subject to verification using shadow detection and operational controls at appropriate WECSs.
- ~~(6)~~ (7) With respect to the potential negative impacts described in this Section (A), Applicant shall present and implement a plan for mitigation.

B. Construction, Notice and Safety Considerations

- (1) An emergency telephone number shall be provided to the Board, and posted at the operations and maintenance building and on the project website, if any, so that the appropriate people may be contacted should any WECS need immediate attention.
- ~~(1)~~ (2) The Applicant's complaint resolution plan to address and resolve complaints regarding any WECS located within the Tower Facility from local residents shall be provided to the Board, posted on the project website, if any, and provided to any resident upon request.
- ~~(2)~~ (3) All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point at least twelve (12) feet above the ground. Setbacks for any anchor point for guy wires or cables shall be a distance of fifty (50) feet from any Non-Participant.
- ~~(3)~~ (4) A caution sign shall be placed at the primary entrance of each parcel where a Tower Facility is located. Signs shall be four (4) to six (6) feet high, i.e., at eye level. Said signs shall be a minimum of one foot square and no larger than two square feet in size and shall have the words "CAUTION: WIND TURBINES IN USE" printed thereon. In addition, the owner's name, address, and telephone number shall be printed thereon.
- ~~(4)~~ (5) WECS shall be sufficiently secure so as to prevent access by unauthorized individuals.

~~(5)~~(6) Each wind energy-deriving tower shall conform to the following specifications:

(a) WECS shall use tubular towers

(b) The color of all WECS shall be a single, non-reflective matte finished color or other industry standard color which minimizes negative visual impact.

(c) Each wind turbine within a WECS shall be generally uniform in size and geometry.

(7) All WECS shall be equipped with manual and automatic overspeed controls, whose design and fabrication, together with the design and fabrication of its rotors, shall conform to good engineering practices as certified by its manufacturer. Such controls shall be designed to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

(8) All WECS shall be located in a manner that minimizes the risk to public health and safety posed by ice-throw and blade-throw. All WECS shall be equipped with a nacelle-mounted ice sensor, a shaft vibration sensor or other available technology capable of directly or indirectly detecting blade ice formation. Such sensor(s) or technology shall cause the automatic shutdown of a WECS when blade ice buildup is detected at levels that pose a substantial risk to public health and safety.

(9) No chemical deicing agent of any kind shall be applied to any part of a WECS for the purpose of reducing blade ice buildup, or for any other reason.

~~(1097)~~—No communication antennae's may be affixed to or made part of any commercial WECSs. No advertising shall be depicted on any part of any commercial WECSs.

C. Lighting. Wind energy-deriving towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Use of nighttime and overcast daytime condition stroboscopic lighting to satisfy FAA lighting requirements shall be reviewed with specific respect to Section 1402.5, subsection (F)+ of this Article.

D. Utility Service. All collection lines from the wind generation electricity generation facilities to on-Site collection substations shall be underground to the maximum extent practicable given topography and other constraints.

E. Height

(1) The minimum distance between the ground and any part of the rotor blade shall be no less than thirty (30) feet.

(2) Any WECS (commercial and non-commercial) or Met Tower which is otherwise compliant with this Local Law shall be excluded from the requirements and restrictions of Section 520 of the Land Use Management Local Law.

F. Environmental Impact.

~~(1) Scenic / View Impact—Appropriate viewshed studies assessing potential impacts on scenic views within the Town shall be submitted for consideration by the Board. The wind turbines at a tower facility shall each be of substantially the same design, construction material, finishing and color.~~

(12) Visual Impact – Each of the WECS shall be of substantially the same design, construction materials, finishing and color treatment as described in Section 1402.5 (B), above. Visual screening intended to lessen the WECSs visual prominence shall be incorporated to the maximum extent possible.

(2) Access Roads - Whenever possible, existing roadways shall be used for access to the WECS Site. In the case of constructing roadways, they shall be constructed in a manner so that they are not conspicuous to the surrounding environment and mitigate any increased runoff.

(3) Accessory Structures / Facilities – Transmission facilities or buildings shall be located behind ridges or vegetation, where feasible, to screen from visibility.

(4) Wildlife – All potential impacts to local wildlife, especially threatened/endangered species, resulting from the design and siting of all WECS must be reviewed by all relevant state and federal regulatory agencies, with consideration of input from local agencies with relevant expertise such as the Delaware Otsego Audubon Society (DOAS). The Applicant must obtain all necessary state and federal wildlife permissions and permits, including, but not limited to incidental take permits prior to the commencement of construction of the WECS or Tower Facility.

(5) Open Space – All 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 practicable.

(4) Bird/Bat Migration Study – Appropriate bird and bat migration studies shall be submitted. The Applicant shall solicit input for the NYSDEC on such studies.

G. Operating Considerations.

(1) Building and Grounds Maintenance – Upon completion of installation the Site shall be returned as close as possible to its natural state. Any damaged, spare or unused parts, maintenance equipment, oil and all similar materials shall be removed from the premises within thirty (30) days or kept at a covered, on-Site storage facility.

(2) Ownership Changes – If the ownership of a WECS operating under a Special Permit changes, subject to the requirements of Section 1405, the Special Permit shall remain in force and all conditions of the Special Permit will continue to be obligations of succeeding owners. The Town Clerk shall be notified and the ownership change registered with the Town. All signs required under provisions of this Article shall be changed accordingly.

(3) Modifications – Subject to Section 1405, any and all substantial modifications, additions, or changes to a WECS authorized to operate under this Article, whether structural or not, shall be made by application to the Board except where modification is required for routine maintenance and repairs which become necessary in the normal course of use of such WECS or become necessary as a result of natural forces, such as wind or ice. Additionally, any modification resulting in significant modifications to the public health, safety, welfare, environment, of the Town or the visual or sound impacts of the project, ~~must~~ shall be reviewed and approved by the Board.

H. Certifications.

(1) Post-Installation - A post-installation field report identifying the facilities generation of electricity and any unanticipated impacts upon the environment shall be submitted to the Town within ~~ten sixty~~ (160) days of when such information becomes available.

(2) Insurance / Liability – Prior to the commencement of construction of the WECS or Met Tower, the Applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of public liability insurance, of a level to be determined by the Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or towers or any other part(s) of the generation or transmission facility. The public liability insurance policy shall specifically include the Town and its officers, boards, employees, committee members, attorneys, agents, and consultants as additional named insureds (using endorsement # CG2026), with coverage of at least \$24,000,000 per occurrence / \$42,000,000 aggregate (\$52,000,000 and \$105,000,000, respectively, for WECS subject to Article 10 of the Public Service Law).

(3) National and State Standards – The Applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation, and maintenance of the proposed wind turbine have been met or are being complied with. Wind turbines shall be built, operated, and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI). The Applicant shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such wind turbine is in compliance with such standards.

(4) Lightning Strike / Grounding – The Applicant shall show that all applicable manufacturers specifications, New York State and U.S. standards for the construction, operation, and maintenance of the WECS have been or are being complied with.

(5) Wind Speed / Wind Load – Certification is required by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State.

(6) Continuing Obligations – All requirements detailed in Section 1402.5(H) shall remain in force for the life of the Special Permit.

I. Public Hearing. Upon a majority vote of the Board, the Board ~~may~~ shall hold a public hearing on the Commercial WECS Application, if one is not otherwise required.

Section 1402.6. Abandonment of use.

A. All Applications for a Commercial WECS or a Wind Measurement Tower shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the WECS or Met Tower.

(1) Prior to issuance of a building permit, the owner or operator of the WECS or Met Tower shall post ~~an performance bond~~ irrevocable letter or letters of credit or other suitable financial guarantee in a face amount of not less than ~~120~~ 140% of the estimated cost of complete decommissioning and removal to ensure proper, safe removal of the WECS or Met Tower and accessory facilities in accordance with the decommissioning plan described below. Each said letter of credit shall state on its face that it is held by and for the sole benefit of the Town. The Certificate Holder shall not encumber or create any security interest(s) in the letter of credit in favor of any third party. The amount of the financial guarantee shall be reviewed by the Applicant and the Board every five years and may be changed based upon majority vote of the Board. The form of the guarantee must be reviewed and approved by the Town Attorney, and the guarantee must remain in effect until the system is fully removed and final inspection is completed by the Code Enforcement Officer. Prior to removal of a WECS or Met Tower, a demolition permit for removal activities shall be obtained from the Town of Sanford.

(2+) The Applicant shall submit a decommissioning plan that ensures that the Site will be restored to a useful, nonhazardous condition, which plan shall be implemented without delay if (1) the Applicant ceases operation of the WECS or Met Tower for a period of 18 months, (2) begins but does not complete construction of the project within 18 months after receiving Special Permit approval, or (3) the Special Permit for the WECS or Met Tower expires or is not renewed. The plan shall include but not limited to the following:

(a) WECS and Met Tower removal shall include removal of all aboveground equipment, and removal of foundations to a depth of four (4.0) feet below grade. Below ground accessory facilities, such as collection lines, are not required to be removed, unless otherwise required by applicable law. In addition, access roads may be left in place if written consent is received by the Town from the landowner. However, all WECS equipment or materials or accessory facilities installed underground must be fully removed and the land reclaimed where such equipment or materials will (i) interfere with or prevent continued compliance by the landowner with any Environmental Laws, (ii) give rise to any liability to the Town or the landowner under any Environmental Laws, or (iii) form the basis of any claim, action, suit, proceeding, hearing or investigation under any Environmental Laws. "Environmental Laws" shall mean any applicable law (including common law), statute, regulation, ordinance, order, code, guidance standard recognized by regulatory authorities, or other legal requirement relating to protection of the environment, Hazardous Material(s) and/or worker health and safety adopted by any applicable federal, state, or local governmental authority. "Hazardous Material" means any pollutant, contaminant, hazardous or toxic substance, waste, and any other material (a) subject to regulation or governed by any Environmental Law; and (b) the presence, or discharge of,

or exposure to which could result in liability as a result of its impact or potential impact on human health or the environment; and including asbestos and asbestos containing material; petroleum, petroleum products and waste oil; any flammable explosives, radioactive materials, or toxic mold.

(b) Restoration of the surface grade and soil after removal of equipment.

(c) Revegetation of restored soil areas with native seed mixes, excluding any invasive species.

(d) A reasonable timeframe for the completion of Site restoration work.

(32) In the event that construction of the WECS or Met Tower has been started but is not completed and functioning within 18 months of the issuance of the final site plan approval, the Town may notify the Applicant to complete construction and installation of the facility within 90 days. If the Applicant fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of such notification by the Town.

(43) Upon cessation of activity of a fully constructed WECS or Met Tower for a period of 18 months, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within 140 days of notice being served, the owner and/or operator can either restore operation equal to 50% of approved capacity, or implement the decommissioning plan which must then be fully complete within 12 months of the beginning of its implementation.

(54) Upon revocation, termination or non-renewal of the Special Permit for a WECS or Met Tower, the Applicant, owner and/or operator must fully complete the decommissioning plan.

(65) If the owner and/or operator fails to fully implement the decommissioning plan within the a 12 month time period (or 180 days, in the case of (A)(32) above) and restore the Site as required, the Town may, at its own expense, provide for the restoration of the Site in accordance with the decommissioning plan and may, in accordance with the law, recover all expenses incurred for such activities from the ~~bond-irrevocable letter or letters of credit or guarantee~~ and from the defaulted owner and/or operator. Any cost incurred by the Town which has not been fully paid by the owner and/or operator shall be assessed against the property, shall (in addition to any other available remedies) become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes. The decommissioning plan shall provide for the ability of the Town, or its assignee or designee, to access the property owners' land in order to complete decommissioning if necessary.

Section 1402.7 Wind Measurement Towers.

A. 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 shall be permitted in accordance with this Section.

B. Applications for Wind Measurement Towers. A Met Tower shall be permitted as a customary accessory use in the Agricultural-Residential zoning district and without the necessity of site plan review, subject to Town Code and Uniform Code requirements applicable to accessory uses, to the extent not inconsistent with this Article. A Special Permit Application for a Wind Measurement Tower shall include:

1. Building permit application, including all materials required thereby.
2. 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.
3. 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.

4. Address of each proposed wind measurement tower location, including Tax Map section, block and lot number.
5. Proposed development plan and map, including a site plan for the property as described in Section 524 of this Local Law.
6. Decommissioning Plan, including a security bond for removal.
7. If any license, approval, permit, certification, or any type of registration or similar type of endorsement is required from any other agency, evidence indicating the Applicant's receipt of such agency approvals.

C. Standards for Wind Measurement Towers.

(1) All ~~Mmet~~ towers shall comply with the following minimum setback requirements. If more than one setback applies, the most restrictive setback shall control:

- a. 1.25 times the Total Height from all adjacent off-Site property lines, rights of way, easements, public ways, power lines (not to include individual residential feed lines), gas wells and State lands;
- b. 1.25 times the Total Height from all permanent structures located on-Site;
- c. 1,500 feet or 2 times the Total Height, whichever is greater, from all permanent structures located off-Site

~~shall be set back from adjacent property lines, right of ways, easements, public ways, power lines (not to include individual residential feed lines), and any pre-existing structures by a distance at least equal to its fall zone as certified by a New York State Licensed Professional Engineer plus an additional twenty five percent (25%) of its fall zone.~~

(2) All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point at least twelve (12) feet above the ground. Setbacks for any anchor point for guy wires or cables shall be a distance of fifty (50) feet from any Non-Participant.

(3) Wind Measurement Towers shall be sufficiently secure so as to prevent access by unauthorized individuals.

(4) Wind Measurement Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Use of nighttime and overcast daytime condition stroboscopic lighting to satisfy FAA lighting requirements shall be subject to Board on-Site review to determine visual impact on adjacent parcels.

(5) Special Permits for Wind Measurement Towers shall be issued for a period of up to three (3) years. Permits shall be renewable upon Application to the Planning Board.

(6) Upon expiration of the Special Permit, the Wind Measurement Tower shall be fully removed and the land reclaimed in accordance with the Decommissioning Plan.

Section 2. Separability

The provisions of this local law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this local law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the local law or part thereof is held inapplicable, had been specifically exempt therefrom.

Section 3. Repealer

All Ordinances, Local Laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 4. Effective Date

This local law shall take effective immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.