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Article I General Requirements

Section 1.01 Title

This local law may be cited as the “Town of Litchfield Wind Energy Facility Law.

Section 1.02 Purpose

The purpose of the law is to provide for the construction and operation of Wind Energy Facilities in the Town of Litchfield, subject to reasonable conditions that will protect the public health, safety and welfare.

Section 1.03 Authority

The Town Board of the Town of Litchfield enacts this local law under the authority granted by Section 10 of the New York State Municipal Home Rule Law and the New York State Town Law.

Section 1.04 Applicability

The requirements of this law shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this law, including modification of existing Wind Energy Facilities and Wind Measurement Towers erected for the purpose of testing the feasibility of wind energy generation.

Section 1.05 Severability

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

Section 1.06 Effective Date

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

Section 1.07 Definitions

As used in this law, the following terms shall have the meanings indicated; where terms are not defined by this section, such terms shall have ordinarily accepted meanings such as the context implies.

ACCESSORY FACILITIES OR EQUIPMENT – Any structure other than a Wind Turbine, related to the use and purpose of deriving energy from such turbines, located on the Wind Energy Facility Site.

AMBIENT SOUND – Ambient Sound encompasses all sound present in a given environment, being usually a composite of sounds from many sources far and near. It includes intermittent noise events, such as, from aircraft flying over, dogs barking, wind gusts, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road. The Ambient Sound also includes insect and other nearby sounds from birds and animals or people. The near-by and transient events are part of the Ambient Sound environment but are not to be considered part of the long-term Background Sound.

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APPLICANT – The Developer/Operator/Owner of the Wind Energy Facility, in conjunction with the Participating Landowners.

BACKGROUND SOUND – Background Sounds are those heard during lulls in the Ambient Sound environment and represents the quietest 10% of the time, for example the quietest one minute during a ten-minute test.

ENGINEERING REPORT, ENGINEERING STUDY, or ENGINEERING PLAN – A Document produced by a Professional Engineer, who is authorized by the New York State Education Department to practice in the State of New York. The Engineer’s Seal shall be prominently displayed on each document with the attesting signature and date in the manner prescribed by law.

NYISO – (NEW YORK INDEPENDENT SYSTEM OPERATOR) - NYISO is a not-for-profit organization formed in 1998 as part of the restructuring of New York State's electric power industry. Its mission is to ensure the reliable, safe and efficient operation of the State's major transmission system and to administer an open, competitive and nondiscriminatory wholesale market for electricity in New York State.

RESIDENCE - Any dwelling suitable for habitation existing on the date an application is received. A Residence may be part of a multi-family dwelling or multipurpose building, and shall include buildings such as hotels or motels, hospitals, day care centers, dormitories, sanitariums, nursing homes, municipal buildings, schools or other buildings used for educational purposes, or correctional institutions.

SHADOW FLICKER – the visual effect of viewing the moving shadow of the Wind Energy Facility 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 either directly or indirectly (as in a reflection off a light colored wall).

SITE and/or SITE BOUNDARY – The parcel(s) of land where a Wind Energy Facility is located or is proposed to be built, as well as any adjacent parcel(s) which are grouped together for purposes of meeting setback or noise requirements or are proposed or actual Sites for Accessory Facilities or Equipment. The Site can be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements.

SOUND PRESSURE LEVEL – The sound pressure in the atmosphere, which pressure is expressed in decibels. Sound Pressure Level is spectrally weighted to correspond to a spectrum of interest. For example, the A-weighted decibel scale dB(A) represents those frequencies most readily audible to the human ear. The C-weighted decibel scale dB(C), approximates response of the human ear to low-frequency sounds. The G-weighted decibel scale dB (G) is designed for infrasound. Sound Measurements shall use sound meters that meet the American National Standards Institute Specifications for Integrating Averaging Sound Level Meters, S1.43-1997 for Type I instruments and be capable of accurate readings (corrections for internal noise and microphone response permitted) at 20 dBA or lower. The measurement spectrum shall be 6Hz to 10kHz. The reference pressure is 20 micronewtons per square meter.

NAME PLATE RATING – The peak potential power output of a Wind Turbine or Small Wind Turbine.

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PROMINENT TONE – A Prominent Tone is a sound for which the sound pressure is a simple sinusoidal function of time, and characterized by its singleness of pitch.

PARTICIPATING LANDOWNER – Any and all landowners owning property within the Site Boundary.

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.

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

SMALL WIND TURBINE – A wind energy conversion system consisting of a turbine, a tower, and associated control or conversion electronics, which has a Name Plate Rating of not more than 100 kW, a tower height of not more than one hundred feet, and which is intended primarily to reduce consumption of utility power at that location.

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.

TRANSMISSION OWNER – The owner of the electric distribution networks. Examples include New York State Electric & Gas, National Grid, and Con Edison.

WIND ENERGY FACILITY – Any Wind Turbine, Small Wind Turbine or Wind Measurement Tower or combinations of these, including all related infrastructure, electrical lines and substations, access roads and Accessory Facilities or Equipment.

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

WIND TURBINE – A wind energy conversion system consisting of a turbine, a tower, and associated control or conversion electronics, which has a rated capacity of more than 100 kW and which is intended to produce power for distribution on the utility grid.

Section 1.08 Fees

- A. The Town Board shall establish by resolution, and from time to time modify, a schedule of fees for Wind Energy Facility Permit applications. Such Schedule of Fees shall include the following:
- 1) Wind Energy Facility Construction Permit (includes initial fee for a Wind Energy Facility Operating Permit)
 - 2) Wind Energy Facility Operating Permit Renewal (5 year)
 - 3) Wind Measurement Tower Permit (2 year)

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- 4) Wind Measurement Tower Permit (5 year)
- 5) Small Wind Turbine Permit

Section 1.09 Tax Exemption

The Town hereby does not exercise its right to opt out of the tax exemption provisions of Real Property Tax Law §487, pursuant to the authority granted by paragraph 8 of that law.

Article II. Wind Energy Facilities

Section 2.01 Scope

This Article of this Law is applicable to Wind Energy Facilities containing one or more Wind Turbines having:

- A. Name Plate Rating (either singly or in aggregate) exceeding 100kW
- B. Turbine Height exceeding 100 feet from ground level

Section 2.02 Permits

- A. **Permit Requirements.** No Wind Energy Facility shall be constructed, reconstructed, modified, or operated in the Town of Litchfield except by first obtaining a Wind Energy Facility Construction Permit and a Wind Energy Facility Operational Permit as provided under this law.
- B. **Exemptions.** No permit or other approval shall be required under this law for mechanical, non-electrical wind turbines utilized solely for agricultural operations, and not exceeding 50 feet in height. Replacement in-kind or modification of a Wind Energy Facility may occur without Town Board approval when:
 - 1) No catastrophic failure has occurred (such as Blade release or Tower collapse).
 - 2) There shall be no increase in total height.
 - 3) There shall be no change in the of the Wind Turbine location.
 - 4) There shall be no additional lighting or change in facility color.
 - 5) There shall be no increase in noise produced by the Wind Turbine.
- C. **Transfer.** No transfer of any Wind Energy Facility or Wind Energy Facility Permit, nor sale of the entity owning such facility shall eliminate the liability of an Applicant nor of any other party under this law.
- D. **Construction Permits.** A construction permit shall be valid for such a period as defined in section 2.12 of this law, unless revoked or subject to abatement for lack of operation pursuant to the applicable sections of this law. The permit holder shall maintain required insurance per Section 2.18 of this law during the construction period.
- E. **Operation Permits.** An operation permit shall be required for operation of a Wind Energy Facility for the five-year period following the expiration of the operation phase of a construction permit or following the expiration of an operation permit. Such a permit shall remain valid for a period of five years or less, if a shorter time period is requested by the Applicant, unless revoked or subject to abatement for lack of operation pursuant to the

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applicable sections of this law. The permit holder shall maintain required insurance per Section 2.18 of this law during the operation period.

Section 2.03 Waivers and Additions

The Town 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 law to improve the quality of any Wind Energy Facility and better protect the health, safety and welfare of the Town. Area requirements (setbacks) and/or noise requirements shall not be waived by the Town Board except as described in § 2.11 of this law. The Town Board shall consider the impact of the waiver on the neighborhood, including the potential benefits or detriment to nearby properties, the benefits or detriments to the Applicant, feasible alternatives and the scope of the request. The Town Board may attach or add any such conditions, as it deems appropriate to waiver approvals to ensure public health, safety and welfare.

Section 2.04 Enforcement and Penalties

- A.** The Town of Litchfield Board shall designate a code enforcement officer to enforce the provisions of this law and may employ such professional expertise as may be necessary to support these enforcement efforts and assist the Town Board with application reviews. Such professional fees shall be the responsibility of the Applicant to pay (see § 2.17).
- B.** Any person owning, controlling or managing any building, structure or land who shall undertake a Wind Energy Facility in violation of this law or in noncompliance with the terms and conditions of any permit issued pursuant to this law, or any order of the enforcement officer, and any person who shall assist in so doing, shall be guilty of a violation of this law and subject to a fine of not more than \$1,000.00. The Town may institute a civil proceeding to collect civil penalties in the amount of \$1,000.00 for each violation and each week said violation continues shall be deemed a separate violation.
- C.** The Town may, in the case of any violation or threatened violation of any of the provisions of this law, including permit terms and conditions, 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. This shall be in addition to other remedies and penalties herein provided.

Section 2.05 Application Requirements

A complete application for a Wind Energy Facility Permit shall include:

- A.** A completed application for a Wind Energy Facility Permit.
- B.** A Site plan prepared by a Licensed Land Surveyor, Professional Engineer, Landscape Architect or Architect (as appropriate for the scope of practice and in compliance with New York State Education Law), including:

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- 1) Property lines and physical dimensions of the Site, as described herein.
 - 2) Location, approximate dimensions and types of major existing structures and uses on the Site, public roads, and adjoining properties within 6500 feet of any proposed Wind Turbines.
 - 3) Location and elevation of each proposed Wind Turbine.
 - 4) Location of all utility lines, as well as transformers, the interconnection point with transmission lines, and other ancillary facilities or structures
 - 5) Locations of buffers as required by this law.
 - 6) Location of residential structures within 6500 feet of each proposed tower. The distance from the center of the tower to any off-Site Residence within 6500 feet shall be noted.
 - 7) All proposed facilities, including access roads, electrical substations, storage or maintenance units, and fencing.
 - 8) A plan for ingress and egress to the proposed project Site, including:
 - (a) A description of the access route from the nearest State, county, and/or Town-maintained roads to include:
 - (i) Road surface material, stating the type and amount of surface cover.
 - (ii) Width and length of the access route.
 - (iii) Dust control procedures
 - (b) A road maintenance schedule or program.
 - 9) Landscaping plan, depicting existing land features and contours, trees, forest cover and vegetation, and describing all proposed changes to existing features, the area to be cleared and the specimens proposed to be added, identification by species and size of the specimen at installation, and their locations.
 - 10) Construction Access Plan, prepared by a Professional Engineer licensed to practice in New York State, approved in advance by the Town, in which the Access Plan shall include the following:
 - (a) Identification of all roads, including seasonal roads, and rights of way within the Town to be used for Site access during construction, and a plan for marked detours where necessary, so traffic to Residences and businesses can continue unobstructed,
 - (b) Estimate of the number of vehicle trips over each road by vehicle type and gross weight.
 - (c) Indicate any areas where clearing of trees, road widening, or realignment is necessary.
 - (d) The engineer shall provide an analysis of potential road damage.
 - (e) A video of the current condition of all roads to be used for construction access.
- C.** A vertical drawing of the Wind Turbine 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 Wind Turbine of the same type and total height. The make, model, picture and manufacturer's specifications, including noise decibels data, and Material Safety Data Sheet documentation for all materials used in the operation of the equipment shall be provided for each proposed Wind Turbine.

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- D. A lighting plan showing any FAA-required lighting and other proposed lighting. Lighting shall be directed up and out, not down.
- E. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Town of Litchfield Town Board on the recommendation of its Town Engineer or consultants.
- F. A construction schedule describing commencement and completion dates, including a traffic analysis with a description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.
- G. A “Wind Energy Facility” operations and maintenance plan, providing for regular periodic maintenance schedules, any special maintenance requirements, and procedures and notification requirements for restarts during icing events.
- H. Decommissioning Plan which shall include the following information at a minimum:
 - 1) The anticipated life of the Wind Turbine.
 - 2) The estimated decommissioning costs in current dollars.
 - 3) How this decommissioning estimate was determined.
 - 4) The method of insuring that funds will be available for decommissioning and restoration
 - 5) The method, such as by annual re-estimate by a licensed engineer, that the decommissioning and restoration costs will be kept current.
 - 6) The manner in which the Wind Energy Facility will be decommissioned and the Site restored in compliance with the Guidelines for Agricultural Mitigation for Windpower Projects published by the New York State Department of Agriculture and Markets, less any fencing or residual minor improvements requested by the landowner.
- I. List of property owners, with their mailing address, within 6500 feet of any proposed Wind Turbine.
- J. A complaint resolution process to address complaints from nearby residents. The Applicant shall make every reasonable effort to resolve any complaint, not to exceed sixty (60) days.
- K. A transportation plan (see § 2.09) describing routes to be used in delivery of project components, equipment and building materials and those to be used to provide access to the Site during and after construction. Such plan shall also describe any anticipated improvements to existing roads, bridges or other infrastructure, as well as measures, which will be taken to restore damaged/disturbed access routes following construction.
- L. A Full Environmental Assessment Form, as provided by the New York State Environmental Quality Review Act (SEQRA) shall be prepared for the Wind Energy Facility. This Full Environmental Assessment shall, at a minimum, include:
 - 1) A study of potential Shadow Flicker, including a graphic to identify locations where Shadow Flicker may be caused by the Wind Turbines and expected durations of the flicker at these locations. The study shall identify areas where Shadow Flicker may interfere with Residences and describe measures to be taken to eliminate Shadow Flicker problems. If Shadow Flicker impacts are of either high intensity or duration (more than 25 hours per year), then a second level analysis of Shadow Flickers modeling will occur, including an on-Site assessment of property conditions. If Shadow Flicker cannot be minimized to a shorter duration or intensity, project modifications may be required. It is desirable to have no Shadow Flicker on off-Site Residences.

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- 2) A visual impact study of the proposed Wind Turbines as installed, which may include a computerized photographic simulation and digital elevation models demonstrating visual impacts from strategic vantage points. Color photographs of the Site accurately depicting existing conditions shall be included as well as a map indicating areas where the Wind Turbines will be visible to a person at five (5) feet above ground level. The visual analysis shall also indicate color treatment of system components and any visual screening to be incorporated into the project to lessen the system's visual prominence.
- 3) A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed Site, as well as Herkimer County Emergency Service including but not limited to fire coordinator, emergency management, Sheriff.
- 4) A noise analysis performed by a competent acoustical specialist at the rated load for the total frequency range of 6.3 Hz to 10 kHz in one-third octave frequency bands tabulated to the nearest 1 dB including:
 - (a) A description and map of the project's noise-producing features which will include but not be limited to the range of noise levels expected (A-weighted, C-weighted and G-weighted), the tonal and frequency characteristics expected, the duration of sound, frequency of occurrence, and the effects of changes in wind speed and direction;
 - (b) The manufacturer's data and standards for all structures, including designed noise levels and the noise levels determined by testing in the field;
 - (c) A survey and report prepared by an independent, qualified, New York State engineer that analyzes the preexisting ambient noise including seasonal and twenty-four (24) hour variations at Residences within one (1) mile of the Site Boundary; The analysis must be accompanied by a topographic map showing, in increments of 5 decibels out to a level of 20 decibels, the noise level contours of the Site vicinity, in order to visualize the cumulative noise impacts from the Wind Energy Facility on surrounding properties. All Residences within the greater of one (1) mile of the Site Boundary or the twenty (20) decibel contour shall be clearly shown; Because Litchfield is hilly where noise can carry far and in unexpected directions, the study must consider sounds carried from hilltop to hilltop, hilltop to valley, and along valleys in a radius of ten miles from a Wind Energy Facility. The study must also produce an analysis of cumulative noise impacts; and
 - (d) The Applicant shall submit a design for post-development noise monitoring as well as a description of proposed noise control features, including specific measures to protect workers, and to mitigate noise impacts to a level of insignificance off-Site. A summary of the Applicant's proposed noise complaint resolution program must be included.
- 5) An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems, 911 and other wireless communication by

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an independent contractor as determined by the Town Board with the Applicant paying all fees.

- 6) An assessment of the impact of the proposed development on the local flora and fauna, including migratory and resident avian species and bat species. 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 a literature survey for threatened and endangered species and 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 post-installation studies.
 - 7) 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 including construction of access roads.
 - 8) An assessment of archaeological resources that may be impacted by the project. Such assessment shall be conducted in coordination with the New York State Office of Parks, Recreation and Historic Preservation.
 - 9) 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.
 - 10) 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.
 - 11) A geotechnical report that includes: 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.
- M.** A statement signed under penalties of perjury that the information contained in the application is true and accurate.
- N.** The application shall be signed by the Developer and all Participating Landowners.

Section 2.06 Application Review Process

- A.** Applicants may request a pre-application meeting with the Town Board and the consultants retained by the Town for application review.
- B.** Ten copies of the complete application shall be submitted to the Town Clerk, along with one electronic copy in portable document format (adobe.pdf). Payment of all application fees shall be made at the time of submission.
- C.** The Town Board shall, within 45 days of receipt, or such longer time as may be accepted by the Applicant, determine if all information required hereunder is included in the application.

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If the application is deemed incomplete, the Applicant shall be provided with a written statement listing missing data. If Applicant fails to provide data within 45 days, the application shall expire. Upon submission of a complete application, the Town Board shall proceed with its review.

- D. The Town Board shall hold at least one public hearing on the application. Notice shall be published in the Town's official newspaper, not less than 14, nor more than 31 days before any hearing, but where any hearing is adjourned by the Town Board to hear additional comments, further publication shall be required. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested waivers. All adjoining residential property owners within 6500 feet of any proposed Wind Energy Tower, whether or not said Residence is located within the Town of Litchfield, shall be given notice of a public hearing via certified mail at the expense of the Applicant.
- E. Notice of the project shall also be given, if applicable, to the Herkimer County Planning Commission, as required by General Municipal Law § 239-m.
- F. Following receipt of the recommendation of the Herkimer County Planning Commission (if applicable), the holding of the public hearing, and completion of the SEQRA process, the Town Board may approve, approve with conditions, or deny the Wind Energy Facility Permit application, in accordance with the standards in this law. The Town Board may also impose financial guarantee and inspection requirements and require permit renewals. Any denial shall be writing setting forth competent reasons for such denial with references to relevant sections of this law.

Section 2.07 Wind Energy Facility Development Standards

The following standards shall apply to Wind Energy Facilities in the Town of Litchfield.

- A. All power transmission lines shall be located underground in accordance with National Electrical Code Standards.
- B. No television, radio or other communication antennas may be affixed or otherwise made part of any Wind Turbine, except with approval by the Town of Litchfield Town Board. Applications may be jointly submitted for Wind Turbine and telecommunications facilities.
- C. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.
- D. No tower shall be lit except to comply with Federal Aviation Administration (FAA) requirements. Minimum-security lighting for ground level facilities shall be allowed as approved on the Wind Energy Facility development plan.
- E. All Applicants shall use measures to reduce the visual impact of Wind Turbines to the greatest extent possible. Wind Turbines shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Wind Turbines within a multiple Wind Turbine project shall be generally uniform in size geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
- F. Guy wires shall not be permitted except to address unique safety issues and then only with specific permission by the Town Board in the form of a waiver.

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- G.** No Wind Turbine 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 communication systems would produce electromagnetic interference with signal transmission or reception. If it is determined a Wind Turbine is causing electromagnetic interference, the operator shall take necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of issues with the affected parties. Failure to remedy electromagnetic interference is grounds for revocation of the Wind Energy Facility Permit for the specific Wind Turbine or Wind Turbines causing the interference.
- H.** All construction debris shall be removed from the Site or otherwise disposed of in a manner acceptable to the Town Board.
- I.** Wind Turbines shall be designed to minimize the impacts of land clearing and the loss of important open spaces. Development on agricultural lands shall follow the Guidelines for Agricultural Mitigation for Windpower Projects published by the New York State Department of Agriculture and Markets.
- J.** Wind Turbines shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity.
- K.** Storm water run-off and erosion control shall be managed in a manner consistent with all applicable state and Federal laws and regulations and such standards as shall be applied by the Town Board on the advice of the Town Engineer and other Town consultants.
- L.** Wind Turbines shall be located in a manner that minimizes Shadow Flicker on off-Site Residences. It is desirable to have no Shadow Flicker on off-Site Residences.
- M.** If the proposed Wind Energy Facility is to exceed 200 feet in height above ground level or is proposed to be located within 10,000 feet of a public use airport or 5,000 feet of a heliport, the Applicant shall provide a letter from the Federal Aviation Administration indicating that the proposed structure “Does Not Exceed” obstruction standards, “Exceeds but OK” or indicates that a “Determination of No Hazard to Air Navigation” has been issued.
- N.** The maximum total height of a Wind Turbine shall not exceed 450 feet.

Section 2.08 Required Site Safety Measures

- A.** All Wind Turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding and excessive pressure on the tower structure, rotor blades and turbine components. In addition, these safety systems must be capable of remote activation from a safe distance.
- B.** All structures, which may be charged with lightning, shall be grounded according to applicable electrical codes.
- C.** Wind Energy Facilities shall be designed to prevent and discourage unauthorized external access. All accessory facilities and equipment shall be fenced and gated to prevent unrestricted access to the facilities and reduce any attractive nuisance aspects of the facility.
- D.** All access doors and gates to Wind Turbine towers and electrical equipment shall be lockable and shall remain locked at all times when operator personnel are not present.

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- E. Warning signs shall be posted at the entrances to the Wind Energy Facility, at the base of each tower, and on all electrical panels, warning of electrical shock or high voltage and containing emergency contact information, and contact numbers to the owner of the Wind Energy Facility, all in accordance with Local, State, and Federal codes
- F. Wind Turbine towers shall not be climbable for a minimum distance of 15 feet above ground level.
- G. The minimum distance between the ground and any part of the rotor or blade system shall be 30 feet.

Section 2.09 Traffic Routes and Road Maintenance

- A. Construction and delivery vehicles for Wind Energy Facilities shall propose, and the Town Board shall approve or modify, designated traffic routes to minimize traffic impacts from construction and delivery vehicles, wear and tear on local roads and impacts on local business operations.
- B. The Applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a Wind Energy Facility. A public improvement bond shall be required prior to the issuance of any building permit in an amount, determined by the Town Board, sufficient to compensate the Town, County or State for any damage to Town, County or State roads if any of these roads will be among the designated traffic routes. The Applicant shall consult with the Town Highway Superintendent and/or the Herkimer County Department of Public Works and/or the State Department of Transportation to obtain a written recommendation for bonding form and amount, which form and amount shall be approved by the Town Board.
- C. The Applicant shall provide pre-development and post-development photographic evidence of the condition of any Town, State or County roads along the proposed route.

Section 2.10 Setbacks & Noise

- A. **Setbacks.** Three (3) concentric Zones have been established around each Turbine. All radius dimensions are measured to the Tower center. Where zones overlap between adjacent Towers, the rules for the more restrictive Zone shall apply. A graphical representation of the three concentric zones is shown in figure 1.

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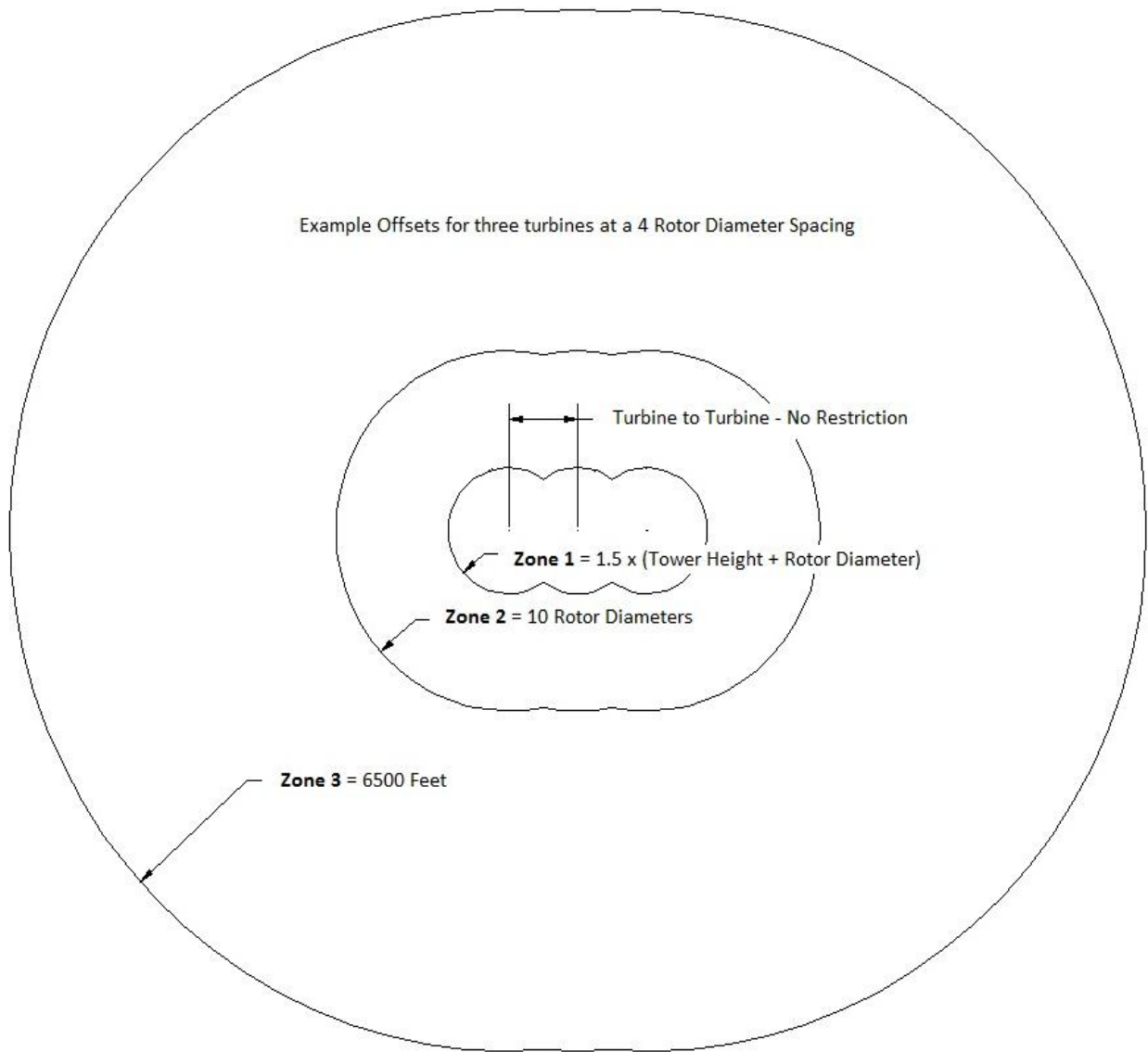


Figure 1

- 1) **Zone 1** shall be classified as a Danger Zone due to ice-throw potential, tower collapse, etc. This Zone shall have a radius equal to the Tower Height to the Rotor center, plus the Rotor Diameter, all times a factor of 1.5. [1.5 x (Tower Height + Rotor Diameter)] No permanent non-utility structures shall be erected in this Zone. No Public Highways, Parks, Trails or other Public-Use facilities shall fall within Zone 1.

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- 2) **Zone 2** shall be classified as a Hazard Zone. This area falls within the potential range of debris thrown from a disintegrating blade and within the critical range of Shadow Flicker. Zone 2 shall begin at the outer edge of Zone 1 and have a radius of Ten (10) Rotor Diameters, measured from the Tower center. Zone 2 shall fall completely within the Site Boundary and within the borders of the Town of Litchfield. All property owners within Zone 2 must be on record as Participating Landowners. The only Residences allowed within Zone 2 must be owned by Participating Landowners. Non-residential buildings, Public Highways, Parks, Trails and other public venues having short-term visitation are permitted.
- 3) **Zone 3** shall be classified as a Risk Zone. Zone 3 shall begin at the outer edge of Zone 2, and shall have a radius of 6500 feet from the Tower center. Residences are allowed, if the Applicant has obtained an easement from the existing property owner as outlined in Section 17, whether or not said Residence is located within the Town of Litchfield.

B. Noise. The Sound Pressure Level shall not exceed B1, B2, B3 or B5 as follows. Permissible Sound Pressure Levels of B1, B2 and B3 shall be modified per B4 if the sound includes Prominent Tones.

- 1) A-weighted SOUND PRESSURE LEVEL shall be less than or equal to the sum (A-weighted BACKGROUND SOUND + 5 dB) as measured at the SITE BOUNDARY
- 2) C-weighted SOUND PRESSURE LEVEL shall be less than or equal to the sum (C-weighted BACKGROUND SOUND + 5 dB) as measured at the SITE BOUNDARY
- 3) Maximum SOUND PRESSURE LEVEL at an existing, pre-construction, non-participating Residence of 35 dBA and 55 dBC between the hours of 10:00pm and 6:00am and 45 dBA and 65dBC at other times.

Otherwise permissible levels per 1), 2) and 3) above shall be modified by the Prominent Tone Penalty if Prominent Tones are present in the Wind Turbine generated sound as follows:

- 4) Prominent Tone penalty as defined in IEC 61400-11 shall not exceed 5dBA and 5dBC at the SITE BOUNDARY. IEC 61400-11 shall not be used for any other purpose.

Sound shall not be spectrally unbalanced as follows:

- 5) The SOUND PRESSURE LEVEL at the SITE BOUNDARY shall not be spectrally imbalanced (C-weighted minus A-Weighted) by more than 20dB as measured by taking the SOUND PRESSURE LEVEL in dBC minus the BACKGROUND SOUND in dBA + 5dB (C-(A+5dB)) \leq 20 dB).

C. Sound Measurement Methods. Sound Measurements shall use sound meters that meet the ANSI Specifications for Integrating Averaging Sound Level Meters, S1.43-1997 for Type I instruments and be capable of accurate readings (corrections for internal noise and

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microphone response permitted) at 20 dBA or lower. The measurement spectrum shall be 6Hz to 10kHz. The testing method shall include the following provisions:

- 1) The BACKGROUND SOUND is the pre-construction Sound Pressure Level measured during the quiet time for the soundscape under evaluation (for example between 10pm and 4am) and with test duration of ten continuous minutes. Several contiguous ten-minute tests may be performed in one hour to determine the statistical stability of the sound environment. Measurement periods such as at dusk or dawn when bird or insect activity is high are not acceptable measurement times. Test results are only valid when the A-weighted level exceeded 10% of the time is no more than 10dB above the A-weighted level exceeded 90% of the time during the same period. Furthermore, the C-weighted level exceeded 10% of the time minus the C-weighted level exceeded 90% of the time are not to exceed 10 dB to be valid. The Background Sound levels documenting the pre-construction baseline conditions shall be determined when the 10 minute maximum wind speed is less than 2m/s as measured within 5 m of the microphone and at the microphone height of 1.5m and the atmosphere is considered stable with no vertical heat flow to cause air mixing. Sound measurement points shall be taken between inflection points of the Site survey and at locations nearest Residences. For example, a rectangular parcel contains 4 inflection points (the corners) and would result in a minimum of four measurement points, one along each side of the property. A five-sided parcel would have a minimum of five measurement points, etc. Measurement points shall be quiet locations remote from streetlights, transformers, street traffic, flowing water and other local noise sources. The Background Sound may be measured following construction using the above method but with the WES turned off if, with the consent of the Town, it is determined that the Background Sound level (both A and C weighted) exceeded 90% of the time has increased by more than 3dB from those measured under the pre-construction nighttime conditions.
- 2) The SOUND PRESSURE LEVEL during turbine operation shall be measured when the maximum wind speed, sampled within 5m of the microphone and at its height, is less than 4 m/s. The wind speed at the WES blade height shall be at or above the nominal rated wind speed and operating at its highest sound output mode. For purposes of enforcement, the wind speed and direction at the WES blade height should be selected to as nearly as possible reproduce the conditions leading to the enforcement action while also restricting maximum wind speeds at the microphone to less than 4 m/s.

Section 2.11 Noise and Setback Easements

- A. Easements.** An Applicant may, with approval from the Town Board, meet noise and setback standards in Zone 3 by obtaining written consents from affected property owners stating they are aware of the Wind Energy Facility and the noise and/or setback limitations imposed by this law, and that consent is granted to allow noise levels to exceed the maximum limits provided herein or reduce Zone 3 setbacks to less than required.

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- B. Form of Easements.** Such consents shall be in the form required for easements and be recorded in the County Clerk's Office of the respective County describing the benefited and burdened properties. Such easements, if within the Town of Litchfield shall be permanent and shall state that they may not be revoked without the consent of the Town Board, which consent shall be granted upon either the decommissioning of the benefited Wind Turbine in accordance with this law, or the acquisition of the burdened parcel by the owner of the benefited parcel or the Wind Turbine. In the event that an easement is obtained outside of the Town limits, the easement shall be of duration not less than the lesser of the rated life of the Wind Energy Facility or 20 years. No such easement shall permit noise levels at any other location within or outside the areas prescribed to exceed the limitations of this law.

Section 2.12 Issuance of Wind Energy Facility Permits

- A.** The Town Board shall, within 120 days of determining the application is complete, and upon consideration of the standards in this law and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated. This time period may be extended with consent of the Applicant. Should the Applicant not consent to such an extension and the time period elapse without a decision, the application shall be considered approved without conditions.
- B.** If approved, the Town Board shall direct the Town Code Enforcement Officer to issue a Wind Energy Facility Permit upon satisfaction of all conditions for said Permit, and upon compliance with the New York State Building Code.
- C.** The decision of the Town Board shall be filed within 15 days in the office of the Town Clerk and a copy mailed to the Applicant by first class mail.
- D.** If any approved Wind Energy Facility is not substantially commenced within two years of issuance of the Wind Energy Facility Permit, the Wind Energy Facility Permit shall expire, unless the Town Board shall have granted an extension.

Section 2.13 Abatement and Decommissioning

- A.** If any Wind Turbine remains non-functional or inoperative for a continuous period of twelve (12) months, the owner shall remove said system at its own expense following the requirements of the decommissioning plan. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the owner demonstrates to the Town that it has been making good faith efforts to restore the Wind Turbine to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after public hearing.
- B.** Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA, New York Independent System Operator, or by lack of income generation. The Applicant shall make available (subject to a nondisclosure agreement) to the Town Board all reports to and from the purchaser of energy from individual Wind

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Turbines, if requested and necessary to prove the Wind Turbine is functioning, which reports may be redacted as necessary to protect proprietary information.

- C. The Applicant, or successors, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town for the removal of non-functional towers and appurtenant facilities, in an amount to be determined by the Town, for the period of the life of the facility. All costs of the financial security shall be borne by the Applicant. All decommissioning bond requirements shall be fully described in the decommissioning plan.
- D. Decommissioning shall restore the Site in compliance with the Guidelines for Agricultural Mitigation for Windpower Projects published by the New York State Department of Agriculture and Markets less any fencing or residual minor improvements requested in writing by the landowner.

Section 2.14 Limitations on Approvals

Nothing in this law shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any Wind Energy Facility. It shall be the sole responsibility of the facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation. Nothing in this law shall be deemed to give the 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.

Section 2.15 Permit Suspension and Revocation

- A. The Applicant/Operator/Owner shall fund periodic noise testing by a Qualified Independent Acoustical Consultant, which may be required as often as biannually, or more frequently upon request of the Town Board in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Wind Energy Facility Permit and this law and shall also include an evaluation of any complaints received by the Town. The Applicant shall have 90 days after written notice from the Town Board, to cure any deficiency. An extension of the 90-day period may be considered by the Town Board, but the total period may not exceed 180 days.
- B. A Wind Turbine 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 Wind Turbine become inoperable, or violate a permit condition, or should any part of the Wind Turbine be damaged, or In the event of a catastrophic failure, the Town Board reserves the right to suspend the operating permit until the permit holder has performed a complete evaluation of the incident and presented an Engineering Report to the Town Board, outlining the following:
 - 1) The root cause of the failure or the reason for the proposed change.
 - 2) The extent of the repairs and replacements required.
 - 3) The changes to be performed to minimize risk of future failures.

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4) The Action Plan and Timetable to perform said repairs or alterations.

The owner or operator shall remedy the non-operational or non-compliant situation within 90 days after written notice from the Town Board. An extension of the 90 day period may be considered by the Town Board, but the total period may not exceed 180 days.

- C. Should a Wind Turbine not be 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, order either remedial action within a particular timeframe, or order revocation of the Wind Energy Facility Permit for the Wind Turbine and require its removal within 90 days. If the Wind Turbine is not removed, the Town Board shall have the right to use the security posted as part of the decommission plan to remove the Wind Turbine and Accessory Facilities or Equipment

Section 2.16 Operation Permit Renewals

- A. An application for issuance of an operation permit for a Wind Energy Facility may be submitted to the Town Board if a construction or operation permit is scheduled to expire within six months.
- B. The Applicant shall notify all land owners within 2000 feet of the Wind Energy Facility property boundaries via certified mail that an application for a permit to operate is being submitted.
- C. An application for an operation permit shall include:
- 1) A copy of all periodic noise testing results.
 - 2) Evidence that any noise deficiency occurring within the previous permit period was abated in a timely fashion and is not currently deficient.
 - 3) A list of all complaints received in the previous operation period including the name and address of the complainant, the nature of the complaint and the action taken to resolve the complaint, if any.
 - 4) Evidence that all Wind Turbines in the Wind Energy Facility are either in operational condition, are the subject of a board approved remedial action plan, are presently being removed or are scheduled to be removed under a decommissioning plan previously approved by the board.
 - 5) A report from a Licensed Professional Engineer certifying that the turbines are in good structural condition and suitable for safe operation for an additional five year period as evidenced by field inspection and non-destructive examination of critical components for which a component/joint failure would likely result in catastrophic failure of the tower structure, hubs or blades under design load conditions. Design load conditions shall be clearly stated in the report. Where non-destructive examination is not feasible for reasons of safety, the report shall so note and provide other reasoning, calculations or data to support the Engineer's findings.
 - 6) A report from a Licensed Professional Engineer updating the decommissioning cost estimate, and if necessary any recommended adjustment to the decommissioning fund balance or bond value.

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- 7) A certification that as of the date of the application all lease, royalty, tax and other payments due to participating landowners, or land owners for which a recorded easement has been filed, or any taxing authority are not in arrears.
- 8) A report describing actual field experience regarding environmental impacts contained in the Environmental Impact Statement, if any, that may have been issued by the Town Board prior to construction.

Section 2.17 Application Expenses

- A. The Town Board may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the application, including but not limited to Site inspections, the construction and modification of the Site, once permitted, and any requests for recertification. An Applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the review of the application.
- B. The initial deposit shall be \$7,500 and shall be placed with the Town preceding the pre-application meeting. The Town shall maintain a separate escrow account for all such funds. The Town's consultants/experts shall invoice the Town for their services on a monthly basis, which amounts will be charged to the escrow account with notice to the Applicant. If at any time during the process this escrow account has a balance less than \$2,500, the Applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of at least \$5,000. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application.
- C. Should the amount held in escrow by the Town be more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the Applicant. The total amount of the funds required for these services may vary with the scope and complexity of the project, the completeness of the application, and other information as may be needed to complete the necessary review, analysis and inspection of construction.

Section 2.18 Insurance

- A. Holders of Wind Energy Facility Construction Permits or Operation Permits shall maintain or cause to be maintained throughout the term of the Permit, insurance of the types and in the amounts specified in part B of this Section. All such insurance shall be evidenced by insurance policies, each of which shall:
 - 1) Name or be endorsed to cover The Town of Litchfield as an additional insured party;
 - 2) Provide that such policy may not be canceled or modified until at least 30 days after receipt by The Town of Litchfield of written notice thereof; and
 - 3) Be reasonably satisfactory to The Town of Litchfield in all other respects.
- B. The types and amounts of insurance required to be maintained under this Article are as follows: Commercial general liability insurance for bodily injury liability, including death, and property damage liability, incurred in connection with the construction or operation of a

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subject Wind Energy Facility, with minimum limits of \$1,000,000 in respect of claims arising out of personal injury or sickness or death of any one person, \$1,000,000 in respect of claims arising out of personal injury, sickness or death in any one accident or disaster, and \$1,000,000 in respect of claims arising out of property damage in any one accident or disaster.

Article III. Wind Measurement Towers

Section 3.01 Scope

This Article of this law pertains to the installation and operation of Wind Measurement Towers.

Section 3.02 Permits

- A. Installation or operation of a Wind Measurement Tower shall require a public hearing and the issuance of a Wind Measurement Tower Permit.
- B. Wind Measurement Tower Permits shall be issued for a period of two years and shall be renewable upon application to the Town Board for renewable period of five years.
- C. The Town Board shall establish by resolution, and from time to time modify, a Schedule of Fees for Wind Measurement Tower Permit applications

Section 3.03 Standards

- A. Wind Measurement Towers, also known as Anemometer Towers, shall be instrumented to determine wind speed and Site feasibility only.
- B. The distance between a Wind Measurement Tower and the property line shall be at least 1-1/2 times the total height of the tower.
- C. Wind Measurement Towers shall be designed to withstand one half inch of ice accretion and a 90 mile per hour wind gust (which is the 50 year recurring wind gust of 3-second duration for the Town of Litchfield), though these loads need not be considered in combination.
- D. Decommissioning shall restore the Site in compliance with the Guidelines for Agricultural Mitigation for Windpower Projects published by the New York State Department of Agriculture and Markets less any fencing or residual minor improvements requested in writing by the landowner.

Section 3.04 Application Requirements

An application for a Wind Measurement Tower shall include:

- A. Name, address, telephone number and signatures of the Applicant and agent for the Applicant, if any.

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- B.** Name, address, telephone number and signature of the property owner, along with written authorization by the property owner to submit the application.
- C.** Proposed development plan, prepared and sealed by a Licensed Land Surveyor, Professional Engineer or Architect (as appropriate for the scope of practice and in compliance with New York State Education Law), including:
 - 1) Property lines and physical dimensions of the Site, as described herein.
 - 2) Location, approximate dimensions and types of major existing structures and uses on the Site, public roads, and adjoining properties within 1000 feet of any proposed Wind Measurement Towers.
 - 3) Location and elevation of each proposed Wind Measurement Tower.
 - 4) Location of all ancillary facilities or structures
 - 5) Structural details including foundation plans
- D.** Decommissioning Plan for removing the tower after the permit period expires, including a security bond for removal.
- E.** Other develop standards as set forth for Wind Energy Facilities shall be applied to the maximum extent practicable, as determined by the Town Board, recognizing the potential temporary nature of Wind Measurement Towers.
- F.** If a proposed Wind Measurement Tower is greater than 100 foot in overall height, a Full Environmental Assessment Form, as provided by the New York State Environmental Quality Review Act (SEQRA) shall be prepared. This Full Environmental Assessment shall, at a minimum include a visual impact study of the proposed Wind Turbines as installed, which may include a computerized photographic simulation and digital elevation models demonstrating visual impacts from strategic vantage points. Color photographs of the Site accurately depicting existing conditions shall be included as well as a map indicating areas where the Wind Measurement Tower will be visible to a person at five (5) feet above ground level.
- G.** A letter certifying that either:
 - 1) The Wind Measurement Tower does not require Federal Aviation Administration notification because per Section 77.15 (a) of Title 14 Code of Federal Regulations, CFR Part 77, Objects Affecting Navigable Airspace, notification is not required,
 - or
 - 2) If the proposed tower may potentially exceed the Federal Aviation Administration Standards that the FAA has been notified and has issued a letter indicating either “Does Not Exceed” obstruction standards, “Exceeds but OK” or indicates that a “Determination of No Hazard to Air Navigation” has been issued. A copy of an FAA letter shall be included with the application if so issued.

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Article IV. Small Wind Turbines

- A. **Scope** -This Article pertains to the Construction and Operation of Small Wind Turbines.
- B. **Permits** - Construction or Operation of a Small Wind Turbine system shall require a Small Wind Turbine Permit.
- C. **Fees** - The Town Board shall establish by resolution, and from time to time modify, a schedule of fees for Small Wind Turbine Permit applications
- D. **Application Requirements** - A complete application for a Small Wind Turbine Permit shall include:

- 1) A Site Plan and report by a Licensed Land Surveyor, Professional Engineer or Architect (as appropriate for the scope of practice and in compliance with New York State Education Law), Including the following:
 - (a) Location of the proposed Wind Turbine or turbines relative to property lines and locations of structures and improvements on the Site.
 - (b) Overall height, type and rated capacity of each proposed Small Wind Turbine.
 - (c) Location of anchoring points for each guy wire or structural support used. Foundations plans for towers, guy wire anchor points and structural supports.
 - (d) If the rated capacity exceeds 5kW, or if the Tower Height exceeds 40 feet, the application shall include a structural analysis for the tower, guy wires and/or structural supports attesting that the design will withstand a 90 mph gust (which is the 50 year recurring wind gust of 3-second duration for the Town of Litchfield). This requirement may be met by supplying a statement from the manufacturer certifying that the design meets this requirement.
- 2) A statement certifying that the Turbine does not require Federal Aviation Administration notification because per Section 77.15 (a) of Title 14 Code of Federal Regulations, CFR Part 77, Objects Affecting Navigable Airspace, notification is not required, or if the proposed tower may potentially exceed the Federal Aviation Administration Standards that the FAA has been notified and has issued a letter indicating either "Does Not Exceed" obstruction standards, "Exceeds but OK" or indicates that a "Determination of No Hazard to Air Navigation" has been issued. A copy of an FAA letter shall be included with the application if issued.
- 3) Written evidence that the appropriate Site provider of Electric utility Service has been informed of the Applicant's intent to interconnect with their Electric Utility Grid,

-or-

If the Applicant does **not** intend to connect this system to the Utility Grid, a statement of such intent shall be included in the application.

A. Standards

- 1) Total height shall not exceed 100 feet.
- 2) The Small Wind Turbine shall be set back from the Site Boundary a minimum distance of one and one-half (1.5) times its overall height.
- 3) The Nameplate Rating shall not exceed 100 kW.

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- 4) Tower climbing apparatus shall be located no closer than 12 feet from the ground. A locked anti-climb device shall be installed on the tower -or- a locked protective fence of at least six feet in height that encloses the tower shall be installed to restrict tower access.
- 5) Anchor points for tower guy wires, if so equipped, shall be located within the Site boundaries and shall be no closer than 25 feet from any property line. Guy wires shall not cross or enter the “right-of-way” of any electric transmission lines, gas lines, or any public highway. The point of attachment for guy wires shall be enclosed by a six-foot high fence -or- sheathed in a bright orange or yellow sleeve, covering from the ground up to a minimum of eight feet.
- 6) Except during short-term events such as power outages and severe storms, Small Wind Turbines shall not exceed a Sound Pressure Level at a non-participating Residence of 35 dBA and 55 dBC between the hours of 10:00pm and 6:00am, and 45 dBA and 65 dBC at other times. If the sound contains a Prominent Tone, the maximum Sound Pressure Level defined herein shall be decreased by 5 dBA and 5 dBC.
- 7) The Small Wind Turbine shall not create any disruptive interference with RADAR, radio, television wireless phone signals, or other communications systems. If interference is created, the permit holder shall take immediate corrective action as needed, including relocation or removal of the Small Wind Turbine system, or resolution of issues with the affected parties. Failure to remedy the interference problem is grounds for revocation of the Small Wind Turbine Permit.
- 8) The Small Wind Turbine shall be equipped with both manual and automatic over-speed controls.
- 9) The Small Wind Turbine structure shall not be used for radio frequency transmission or reception.
- 10) The small Wind Turbine structure shall not be used to display advertising except that the manufacturer’s name or logo may be displayed if not greater than one foot in height.
- 11) The Small Wind Turbine shall be of a neutral and uniform color, such as white, gray, light blue or light tan.
- 12) Small Wind Turbines shall be maintained in operational condition.
- 13) Violation of these Standards shall be cause for revocation of the Small Wind Turbine Permit.

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Schedule of Fees

Wind Energy Facility Construction Permit **\$XXXXX**

Suggested to be \$1000.00 per rated Mw (up to a limit of \$....max?)
Includes first 5-year Operation Permit
These funds to cover costs not otherwise recoverable from the applicant,
Such as legal fees, SEQRA Review Consultant fees, etc...

Wind Energy Facility Operation Permit Renewal (5-Year) **\$XXXXX**

Fee should be sufficient to cover Engineering Review Consultant fees,
Complaint Resolution Performance Review, Decommissioning Fund
Balance Review, etc...

Wind Measurement Tower Permit (2-year) **\$XXXXX**

Initial Test Tower Permit

Wind Measurement Tower Permit (5-year) **\$XXXXX**

5-year Renewal to coincide with Operation Permit

Small Wind Turbine Permit **\$XXXXX**

One-time construction permit